PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 22 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)

Premier	The Hon. D. M. Andrews, MP
Deputy Premier, Minister for Education and Minister for Emergency Services	The Hon. J. A. Merlino, MP
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Minister for Industry and Employment, and Minister for Resources	The Hon. W. M. Noonan, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
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Minister for Training and Skills, and Minister for Corrections	The Hon. G. A. Tierney, MLC
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Thomas, MP

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

President:
The Hon. B. N. ATKINSON

Deputy President:
Mr K. EIDEH

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

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The Hon. G. JENNINGS

Deputy Leader of the Government:
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Leader of the Opposition:
The Hon. M. WOOLDRIDGE

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

Leader of The Nationals:
Mr L. B. O'SULLIVAN

Leader of the Greens:
Mr G. BARBER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
Bath, Ms Melina [2]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	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

CONTENTS

THURSDAY, 22 JUNE 2017

Thursday, 22 June 2017

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.35 a.m. and read the prayer.

RETIREMENT OF CLERK OF THE PARLIAMENTS

The PRESIDENT — Order! It is my pleasure on the one hand, but with a tinge of sadness in some respects, to make a short statement to the house in regard to the retirement of Mr Ray Purdey, Clerk of the Legislative Assembly and, impacting on this house, Clerk of the Parliaments.

I wish to advise that this week is the final sitting week for Mr Ray Purdey, Clerk of the Legislative Assembly and Clerk of the Parliaments. Ray has announced his intention to retire. Ray's announcement comes after more than 46 years of public service — more than 40 of those years in the Parliament, where Ray commenced as an administrative assistant in 1974.

At the point of his announced retirement, Ray was the second-longest serving clerk in Australia and New Zealand. But not only has Ray been Clerk of the Assembly for eighteen and a half years, he has also served as Clerk of the Parliaments for 17 years.

Ray is highly regarded throughout the Australian and broader Pacific community of parliaments. He has not only led the Department of the Legislative Assembly with great distinction but has also been a significant contributor to the development of parliaments in the Pacific, particularly our twinned parliaments of Fiji, Tuvalu and Nauru. He has similarly led the work of the Victorian branch of the Commonwealth Parliamentary Association for many years.

I am pleased to say that the Victorian Parliament is regarded by other Parliaments as an exemplar of the three department model of the two houses and the Department of Parliamentary Services. This structure was put in place during Ray's earlier years as Clerk, and its success is in no small measure due to Ray's positive approach to building a co-operative parliamentary executive.

I am sure I speak for all members and staff in wishing Ray and his wife, Kaye, all the best for the next phase of their life.

I remind members that there is an afternoon tea in the members dining room today between 2.30 p.m. and 3.30 p.m. to mark Ray's service to the Parliament.

PETITIONS

Following petitions presented to house:

Homeschooling

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that the Victorian Education and Training Reform Regulations 2017:

force children who are struggling, self-harming, suicidal, being bullied, or anxious to stay in the school environment for 28 days or more while permission is sought to remove them;

fine parents $155.46 per day for removing their children from school without permission, even if they are protecting them from harm;

impinge on human rights under both the Victorian Education and Training Reform Act 2006, and the Universal Declaration of Human Rights;

give bureaucrats with no knowledge of home education unlimited powers to review home educators' plans, progress and learning styles, and to make decisions affecting their registration;

were drafted without consultation with significant stakeholders, including home educators and home educator peak such as the Home Education Network; and

will put a significant and unacceptable financial and psychological burden on home educating families.

The petitioners therefore request that the members of the Legislative Council move to disallow the Victorian Education and Training Reform Regulations 2017 pertaining to homeschooling (part 6).

By Ms BATH (Eastern Victoria) (2319 signatures).

Laid on table.

Ordered to be considered next day on motion of Ms BATH (Eastern Victoria).

Norsemans Road Beach, Coronet Bay

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the horse/people access at Norsemans Road Beach, Coronet Bay, with regard to human health and safety.

The petitioners therefore request that the horses be moved to a more suitable area so as to protect the local community and surrounding citizens that use the beach from further health and safety issues and make safe and healthy again access to the beach for the local community and surrounding citizens to enjoy the beach without the threat of horses, that are spooked

from time to time, and the constant environment of horse urine and defecation that is present on the access track, beach and car park.

By Mr O'DONOHUE (Eastern Victoria) (293 signatures).

Laid on table.

Timber industry

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the proposed logging of native forests of far south-west Victoria by the government's logging agency, VicForests. Western Victoria is over 85 per cent cleared of original vegetation and the remaining far south-west forests and woodlands are extremely important for biodiversity. Surrounded by cleared agricultural and plantation lands, these forests are survival places for plants and animals isolated from forests in the east. Western animals and plants could well be critical stores of species' genetic diversity. Jobs are currently available, and needed, in the local plantation industry and in the world's largest woodchip facility in port of Portland. There is no need to revive native forest logging, an industry that ended by 2002 because it was commercially unviable, the slow-growing forests were already overlogged, and a series of regional community meetings concluded that 'biodiversity is the highest priority'. Post-logging recovery has barely begun.

The petitioners therefore request that the Legislative Council of Victoria oppose and reverse the reintroduction of logging in far south-west Victoria, remove the planned logging coupes, cease logging in other areas of western Victoria, remove VicForests management in the west, and work instead to place the remaining native forests and woodlands in secure parks and conservation reserves.

By Ms TIERNEY (Western Victoria) (264 signatures).

Laid on table.

STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Fire season preparedness

Mr DAVIS (Southern Metropolitan) presented final report, including appendices, extracts from proceedings and minority reports, together with transcripts of evidence.

Laid on table.

Ordered that report be published.

Mr DAVIS (Southern Metropolitan) — I move:

That the Council take note of the report.

I want to thank particularly the committee staff for the enormous work that has been involved in the 86 submissions, 111 witnesses and 27 hearings in Melbourne and country Victoria. I want to record the efforts of those committee staff: Michael Baker, Keir Delaney, Joel Hallinan, Richard Willis, Prue Purdey, Michelle Kurrle, Annemarie Burt and Anthony Walsh.

This was a large inquiry. We moved around the state. It had a number of significant aspects to it. We looked at burning practices. We looked at a whole range of approaches that can be adopted across the state. There were areas of agreement and there were areas of disagreement. Some of the areas of agreement included the matters around Indigenous burning. Evidence was also taken about the approach to planned burning of various types. The committee had a range of different views on planned burning. It accepted the risk-based approach, but in the minority report prepared by the Liberal and Nationals members there is clear support for not only the risk-based burning but in parallel a hectare-based target and for the reporting of both of those.

Another aspect of the report related to the Country Fire Authority (CFA**)** and United Firefighters Union (UFU) operational staff enterprise agreement 2015 and its impact on Victoria and community safety. I have got to say that the evidence we took there left me with a very significant concern about the impact of this agreement on country Victoria and on the safety of all Victorians. Certainly the minority report prepared by the Liberal and Nationals members reflects that view. The committee overall found that it was concerned about the impact of the Country Fire Authority-UFU staff enterprise agreement on country Victoria and community safety.

I am particularly concerned about surge capacity and the changes on the edge of the city that will see surge capacity reduced. We heard very clear evidence that pointed to the fact that the surge capacity for Gippsland often comes from Country Fire Authority areas on the eastern side of metropolitan Melbourne. The takeover of those areas by the UFU that is proposed would see a demolition of the volunteer base in those areas and a loss of that critical surge capacity. It is my strong view that we would be in a much weaker position.

I should also thank the many submitters to the inquiry — and there were a huge range of them — particularly the country ones who came from very far to give evidence. I pay tribute to their enthusiasm.

In the coalition minority report we made the point that both risk reduction targeted burning and a

hectare-based target similar to that implemented post the 2009 Victorian Bushfires Royal Commission should form the basis of the state's planned burning approach and that the targets should be reported annually. That is what we have said.

I should also indicate that chapter 5 has been inserted in its entirety in our minority report, with only minor corrections made, because of the committee's decision to remove it from the majority report. Given the amount of time the committee spent on that section and given that witnesses provided very significant evidence in relation to it, the minority report attaches the entirety of that chapter.

There were some important points concluded in that section. Certainly the coalition members were particularly struck by the evidence relating to the UFU-CFA arrangements around the payment of $484 000. We heard that it was improper, and the committee would have been asked to make a finding on the potential aspect of corruption in this. It is certainly my view that this is a very concerning matter. The minority members of the committee have asked that this be investigated by IBAC, and we have also said that the broader agreement should quite appropriately be investigated by a particular board of inquiry.

Ms SHING (Eastern Victoria) — I rise to make a contribution on the Standing Committee on the Environment and Planning's final report of its inquiry into fire season preparedness. I note from the outset that the secretariat provided an enormous amount of assistance to the process of hearings and transcripts as we attended the many hearings in metropolitan Melbourne and regional parts of Victoria. The terms of reference always intended that the committee look at fire season preparedness; however, we spent a disproportionately large amount of time on the subject matter covered in the coalition's minority report, including its chapter 5.

There is a very good reason for why this chapter 5 has been added to a minority report and does not form part of the majority report that has been published today. In effect the Labor members of the committee in our minority report have noted that there was not any impact on public safety as a consequence of the terms or proposed operation of the enterprise agreement as it has been referred to throughout the report. We also noted that in fact there has been a significant degree of politicisation around services that need to be given the resources and attention they deserve to improve our fire preparedness now and into the future.

The minority report issued by Labor members of the committee indicates that the contribution being made by career and volunteer firefighters across the board continues to be exemplary, that Victoria continues to have a world-class fire service and that, despite the politicisation of various issues around industrial and workplace relations which are referred to in our minority report, people continue to turn out to protect lives, to protect property and to protect livestock, and this has not in fact changed. Despite the scaremongering, the fearmongering, the naysaying and the doomsdaying, we have seen people continue to contribute to their communities and to the health, wellbeing and safety of the people who live in their areas.

Again we look forward to further productive discussions on how we can continue to honour the work of our firefighting services in Victoria. We thank the secretariat for their work, and we note that Victoria — —

Mr Davis — On a point of order, President — —

The PRESIDENT — Order! I listened to you for longer than 5 minutes. Please! Ms Shing to finish.

Ms SHING — Victoria remains in a good position to combine the work of risk-based assessments along with more equipment, resources and training to help to continue our firefighting efforts here in this state.

Ms BATH (Eastern Victoria) — I rise to make a contribution on the Standing Committee on the Environment and Planning's final report on its inquiry into fire season preparedness. The opening line of the report says:

> Victoria is one of the most bushfire-prone regions in the world.

Historically, mega-fires have devastated homes and lives, properties and livestock and native animals across the state. For millennia fire for the Indigenous people was used as a tool to manage and cultivate the landscape. Fire for the early settlers and the mountain cattlemen was a way of gently clearing away undergrowth and keeping tracks clear, but for most Victorians the announcement of 'Fire' brings fear and alarm, for good reason. The announcement of fire is also a call to arms. It is a call to arms for our Country Fire Authority (CFA) volunteers and paid firemen; it is a call to arms for our State Emergency Service and other agencies. They drive toward the flames, frequently in the path of danger, as we drive away. Victorians are indebted to them for their ongoing commitment to our safety and our survival. Surge

capacity within the CFA is important, and it needs to be maintained by keeping the CFA in the current format and not splitting the CFA. Victoria has a lush landscape, and it needs to be managed carefully to protect the primacy of life and property.

The committee received 86 submissions and held many hearings right across Melbourne and in regional Victoria, and I am particularly grateful to the community members and organisations from Gippsland that provided valuable information at hearings in Morwell and Bairnsdale. In collating and presenting this vast array of concepts and opinions into a workable document, our committee secretary, Michael Baker, has done a master of work. He has been patient and enduring, and we thank him for his work for the committee. I also thank all the other committee staff as well, and there are many of them that I will not name at this point.

In subsequent sitting weeks I will comment in depth about chapter 5 and why it should have been included in this report. I thank fellow members of the committee for their often collegiate, useful and productive work. At times of course by the nature of this work there will be opposing views.

Ms DUNN (Eastern Metropolitan) — I rise to speak on the inquiry into fire season preparedness, and members will note that there is in fact a minority report from me as well in relation to some of the findings. What is important to note is that we spent considerable time on this inquiry — longer, I think, than ever anticipated — and it broached a whole lot of areas that we probably did not anticipate in relation to the exploration of the United Firefighters Union-Country Fire Authority enterprise agreement negotiations. I would suggest perhaps that those matters were not completely in alignment with the terms of reference of the inquiry. However, I think it was reasonable to explore those issues in relation to fire preparedness in this state because of course it is a very important issue given the fire-prone nature of Victoria.

I am satisfied in terms of the evidence I heard that at no time was Victoria not prepared for fire in relation to those negotiations over the enterprise agreement. In fact I am reassured that regardless of the flux that might be going on there, at all times we were prepared for fire, and that is a relief to me and of course to all citizens of Victoria. There are a range of other matters that I am in disagreement with, particularly where the report talks about risk to community safety. My disappointment is that many of the points of the terms of reference were not explored to the fullest extent, particularly those around environmental matters, climate change and air quality.

Just briefly, I would like to thank the secretariat. When you look at the committee staff involved in this particular inquiry, we have actually had two secretaries, an acting secretary and many, many research assistants and officers helping us, so I thank them and also my fellow committee members very much for what has been a very long and extensive inquiry.

Mr RAMSAY (Western Victoria) — I just wish to make a few brief comments on the fire season preparedness report as a participating member of the committee, and I thank the staff also. It was a very detailed and lengthy inquiry but a very important one. I also thank the committee members and the chair, David Davis. The issues I want to put on the table in relation to the work that was done on that inquiry were, as has been mentioned, the quite new, inventive work in relation to fire-stick burning, which Ms Bath referred to — —

Mr Davis interjected**.**

Mr RAMSAY — It is a very old technique but quite new to the modern world in relation to going back to using old techniques used by our Indigenous communities over a long, long period of time. It has been very effective in cold burning, which we need to look at more in relation to our preparedness. I note that this year — in fact it was reported yesterday in the *Herald Sun* — we are well below the targets for fire prevention burning, and one of the reasons of course is the climatic conditions have not allowed us to do the significant strategic burns that have been allocated for the year, so cold burning or firestick burning has a significant part to play.

I also want to make mention of the risk-based approach, which David Davis discussed in relation to that, and the target approach. I think a combination of both would perhaps yield better results than the current hectare approach and would probably identify the hot spots that need to have more work done on them.

I turn now to the minority report in relation to chapter 5 and the United Firefighters Union and Country Fire Authority arrangements. Regardless of what the Labor members of the committee might think, it certainly has had an impact on the capacity to be prepared and provide community safety for regional communities, particularly not knowing what arrangements and what authorities will be oversighting the country fire brigades.

Also I would like to note the issue around native vegetation. Native vegetation laws are actually restricting many local fire brigades in being able to do fire preparation burn works, particularly traditional roadside burning. Removal of some of the fuel loads has been inhibited by the fact that we have these native vegetation laws and guidelines that stop many brigades being able to do that work.

Mr MELHEM (Western Metropolitan) — I also rise to speak on the report. First of all, I would like to thank the committee staff, who have done a tremendous job. They were led by Michael Baker, the secretary of the committee. They were under enormous pressure in trying to meet all these deadlines on the various references, so I am grateful for the good work they have done.

I also recognise the good contributions from various stakeholders who made submissions to the committee, particularly in relation to the terms of reference about fire preparedness. I am grateful for these various community groups and Country Fire Authority (CFA) personnel who made submissions and gave evidence. It really showed us that Victoria, based on the evidence, is very well prepared for the fire season. Again it is a credit to the emergency services personnel and everyone involved.

In relation to the rest of the report, unfortunately it took a lot of unnecessary time to talk about politically charged issues. They were particularly led by the chair of the committee in relation to the CFA enterprise bargaining agreement and the legal fees for the United Firefighters Union (UFU). To me that was not relevant to the terms of the reference. Nonetheless the coalition members chose to basically go through that for months and months and months.

One thing is missing because it was not based on evidence. Even looking at the minority report, there was no evidence given in relation to a payment, for example, where the court made a decision that costs should be paid to the UFU, yet Mr Davis chose to talk about corrupt payments and to use parliamentary privilege in committees to basically drive a political agenda. I find that a bit below the belt. It is disgraceful in my view. I think committees should be sticking to evidence and not be using political lines all the time. We should be sticking to evidence, but unfortunately the coalition members on this committee decided that evidence does not really matter — they do not worry about the truth and basically run a political agenda.

Apart from that, the rest of the report, the four chapters, is good work, and I commend that part of the report to the house.

Mr DALLA-RIVA (Eastern Metropolitan) — I also rise as one of the committee members to make a brief contribution. I also wish to acknowledge the staff for the amount of work that has been undertaken, as has been outlined by previous speakers. In respect of that, can I just indicate the amount of work that has been done in recent times by the Standing Committee on the Environment and Planning. We have undertaken a plastic bags inquiry, the report of which was tabled in the last sitting week, a rate capping report was tabled this week and now we have a significant report on the inquiry into fire season preparedness.

We heard from various speakers about the size of this inquiry. It was almost bordering on the size of a joint parliamentary committee inquiry, such was the level of detail and work, without the necessary amount of resources that you would normally see allocated to a joint party committee. The fact is that Mr Baker and others have done an extensive amount of work combining huge amounts of information. Within that information there are certainly some concerns that I particularly raised. I would take issue with the fact that the CFA dispute will have an impact on fire season preparedness. I thought it was relevant to the terms of reference in the sense that it was about Victoria being ready.

Given that the CFA is such a large human resource and fire response mechanism, it will have an impact, and unfortunately that was outlined. We could have removed chapter 5, which is in our minority report, and perhaps gone through with the committee members to work out a way of dealing with it. But notwithstanding that, Labor and the Greens decided to crush that out of the report, and hence it is in the minority report. Other than that, it is extensive reading. It will take more than the 2 minutes everyone has been allocated, except for the chair, to go into detail a bit further. I encourage members of the house to have a look at the report.

Motion agreed to.

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Services for people with autism spectrum disorder

Mr FINN (Western Metropolitan) presented report, including appendices, together with transcripts of evidence.

Laid on table.

Ordered that report be published.

Mr FINN (Western Metropolitan) — I move:

That the Council take note of the report.

In doing so I wish to thank my fellow committee members in the other place, in particular the chair, Maree Edwards, who I think did a particularly good job as chair. Ms Edwards may not get too many compliments from me from this point on, as I am sure she will understand, but on this occasion you have got to give credit where it is due. Indeed the deputy chair, Ms McLeish, also did an outstanding job. I also thank my fellow committee members, Ms Christine Couzens from Geelong, Mr Paul Edbrooke from Frankston and Ms Roma Britnell from South-West Coast, who joined us a bit later in the piece to replace Emma Kealy, who had been on it previously. Suzanna Sheed was also on the committee, and she disappeared. I am not sure what happened there.

The people that I would really like to thank are the staff, because they have really been the backbone of putting all this together. I would like to thank Dr Greg Gardiner, the executive officer; Ms Rachel Macreadie, the research officer; Dr Kelly Butler, who was the research officer prior to Ms Macreadie; and Dr Pamie Fung, the inquiry assistant. I would also like to make particular mention of Ms Helen Ross-Soden, the administrative officer. If there ever was an award for herding cats, Ms Ross-Soden should get that because this is not a large committee in terms of numbers, so to actually get a certain number in the same room that qualifies as a quorum is quite a challenge from time to time, and Ms Ross-Soden was exceptionally good at doing that even though it was quite challenging.

This report is an extraordinarily important report. I would like to thank Ms Wooldridge, who put this reference up. I think what we have come up with justifies her concern and her reasons for putting up this reference to begin with. So I acknowledge Ms Wooldridge and the interest that she has had in this area from day one. This is, as I say, a very important report. It covers an enormous range of areas. Whilst it is quite a substantial report, you would have to say it is really just the beginning. Whilst we did spend many months investigating, reading, listening, travelling and covering a whole range of issues in this particular area, you would have to say that it is really just the beginning, because we are only now starting to understand the enormity of the challenges that we face with regard to autism spectrum disorder.

I think that was proven yesterday when an individual stood up in the Australian Senate and made some particularly insensitive and outrageous comments.

Ms Shing — Shame, shame!

Mr FINN — I almost despaired when I heard that. It is extraordinary that a member of the commonwealth Parliament could be so backward thinking; it is just staggering. I suppose we can only look forward to Senator Hanson's next book, *Fifty Shades of Ignorance*. It should be hitting the book stores very, very soon.

This Parliament should be very proud of this report, because we cop a lot of flak in here for being partisan, for sledging, for a whole range of things.

Mr Dalidakis interjected.

Mr FINN — You do particularly, and rightly so. But this committee worked extremely hard to produce a report which is all about providing for people who need the support that we are talking about. I compliment the report and I compliment the committee. I am very, very proud to be a member of the committee, but I am also very proud to have been a part of a committee that has produced such an extraordinarily important report. I sincerely hope that the government will take it seriously, will adopt it and will not use it to keep a door open somewhere.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Auditor-General's Reports on —

Follow Up of Selected 2014–15 Performance Audits, June 2017 *(Ordered to be published)*.

Maintaining State-Controlled Roadways, June 2017 *(Ordered to be published)*.

Members of Parliament (Register of Interests) Act 1978 — Summary of Variations Notified between 8 May and 19 June 2017 *(Ordered to be published)*.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule No. 43.

Victorian Government Report in Multicultural Affairs — Whole of Government Report, 2015–16.

MINISTERS STATEMENTS

Wyndham youth justice facility

Ms MIKAKOS (Minister for Families and Children) — I rise to update the house on the Andrews Labor government's new youth justice facility being built at Cherry Creek. On Monday night I attended the first meeting of the community advisory group at Wyndham. The Department of Justice and Regulation has established a community advisory group to help guide development of the new youth justice centre and ensure the local community is informed and engaged as the project progresses. The community advisory group will use their local connections to share information about the project with the Wyndham community and provide feedback from community members to the youth justice redevelopment project team and the government.

Four community representatives have been appointed to the group following a competitive expression of interest process, as well as three City of Wyndham councillors and one council officer. The local Indigenous community, Victoria Police and staff from the Department of Justice and Regulation are also represented in the group. The independent chair is Mr Justin Giddings, who brings a wealth of experience on advisory boards and committees. As the CEO of Avalon Airport and a Lara local, Justin has a deep knowledge of the region and community. I thank Justin and all the members of the community advisory group for agreeing to be part of this process. It was very interesting to hear their views at the inaugural meeting on Monday.

The appointment of the community advisory group also follows two community information sessions held in April. The sessions consisted of different information booths and displays, with representatives from various departments and agencies providing information on different aspects of the project and the youth justice system more broadly.

There is a lot of work to do and the government is getting on with it. Construction is due to begin on the project next year, with a range of stakeholder consultations to take place this year as well as with groups who work with young offenders. I would encourage anyone wanting further information on the project to visit the government's 'Engage' website at www.engage.vic.gov.au.

After four years of a do-nothing Liberal government, which shelved a youth justice master plan for Parkville and which botched every part of the youth justice system they touched, our government is getting on with rebuilding Victoria's youth justice system.

Fish stocks

Ms PULFORD (Minister for Agriculture) — I would like to update the house on our efforts to encourage fishing across Victoria and in particular in a number of locations in regional Victoria. An important part of our plan to get more people fishing more often is boosting fish stocks to 5 million fish annually. Last season we stocked almost 3.9 million fish, including 845 000 trout and 3 million native fish. This season we are on track to have 4 million native fish, such as Murray cod and yellowbelly, and 1 million trout.

We stock more than 250 waterways across the state, including 70 family-friendly waters, prior to the school holiday periods. This is a wonderful activity for mums, dads and kids on holiday, and it is a particularly enjoyable activity during the school holiday period. Rainbow trout are a good option for children or those trying fishing for the first time as they are relatively easy to catch and take a variety of baits and lures.

Ms Symes — Is that true?

Ms PULFORD — It is true, Ms Symes. The school holiday trout stocking program stocks nearly 80 waters across the state, and our team at Snobs Creek and Fisheries Victoria work hard to make this possible. More than 50 000 own-grown, ready-to-catch rainbow trout are stocked into these lakes over the school holiday periods.

Mr Ramsay interjected.

Ms PULFORD — Yes, we are working on carp too, but we are not stocking those — there are far too many of those.

To help people locate the lakes, there is an interactive map of locations available on the Fisheries Victoria website. Popular locations include Victoria Lake, Shepparton, where I was last week; Kennington Reservoir, Bendigo; Lake Pertobe, Warrnambool; Felltimber Creek Wetlands, Wodonga; Alexandra Lake, Ararat; Cato Lake, Stawell; Euroa Arboretum Dam, Euroa; and Lake Numurkah, Numurkah. There are also a number of locations in and around Melbourne, including Darlingsford Lake, Melton; Don

Lake, Healesville; Emerald Lake, Emerald; Garfield Lake, Garfield; Roxburgh Park Lake, Roxburgh Park; Navan Park Lake, Melton; Casey Fields Lake, Cranbourne; Karkarook Lake, Moorabbin; Yarrambat Park Lake, Yarrambat; and Albert Park Lake, Albert Park. I would encourage people to wet a line over the September school holidays.

MEMBERS STATEMENTS

Goulburn-Murray Water Connections Project

Mr GEPP (Northern Victoria) — Today I rise to talk about the winter works program. For my first official event in northern Victoria as a member for Northern Victoria Region, I was pleased to accompany the Minister for Water, Lisa Neville, to the property of the Hall family in Mooroopna to launch the Goulburn-Murray Water Connections Project winter works program. We were able to see firsthand the work being done to upgrade irrigation channels and to hear from orchardist Mr Hall about the benefits to irrigators of the modernisation project and particularly the benefits of the modernised automated water delivery system, which allows for 24-hour, seven-day-a-week watering during the irrigation season. The environment is also a winner, as water savings are delivered through upgrades, not buybacks, and this means we will have healthier waterways due to environmental flows.

It is great to see that the modernisation project is back on schedule, is within budget and is helping to increase productivity in northern Victoria not just for our ag sector but also through major investment in local jobs and infrastructure. The works to be undertaken this winter include the upgrading of 33 kilometres of channel, the installation of 35 kilometres of pipeline, the installation of automation at 271 sites and the carrying out of works on over 500 metres of outlets. The winter works program does not rely on complex farm works, and it gives some quick water-saving wins while the engagement process with irrigators continues. The modernisation project is the most significant upgrade to irrigation infrastructure seen in the region in 100 years.

Eastern Metropolitan Region crime

Ms WOOLDRIDGE (Eastern Metropolitan) — Overall the crime statistics released last week reflect a very concerning and ongoing trend since the Andrews Labor government was elected, with crime rising nearly 35 per cent in Nillumbik and 10 per cent in Banyule. Drug offences have risen nearly 66 per cent in Nillumbik and by over 57 per cent in neighbouring Banyule since this government was elected. In particular there has been a very dramatic rise in methamphetamine offences, with Banyule recording a 332 per cent rise since 2014 and Nillumbik an increase of 280 per cent. Drug taking has serious impacts like violent crime and aggravated burglary issues, as well of course as the direct impact on the individuals themselves.

These issues are of great concern to Eltham residents. Residents are reporting to me that they are concerned about these law and order issues, particularly home invasions and burglaries. They believe drug-related crime is a very big problem, and they are afraid that drug-affected people will accost them on buses and trains or that they will be hassled in the streets and shopping centres.

Residents' perceptions of their personal safety have changed, and not for the better. They tell me they feel they are unable to walk their dogs at night. They want to feel safe in their homes, they want tougher sentences and they want more police on patrol, but they are not getting these things from the Andrews Labor government. This is an unacceptable state of affairs, and Daniel Andrews and his government need to take action to change this.

London mosque terrorist attack

Mr BARBER (Northern Metropolitan) — On Sunday night I had the great pleasure of attending an iftar dinner hosted by federal Greens leader Senator Richard Di Natale and attended by many people from all over Melbourne — Muslim and non-Muslim — at the Coburg town hall, just up the road from my place. After the meal and the time of contemplation of course the talk in the group turned to the current challenges that we face. There were many leaders from the community — —

Mr Dalidakis interjected.

Ms Pennicuik — On a point of order, President, Mr Barber is trying to make his members statement and is being interjected on by Mr Philip Dalidakis. I wonder if you could bring Mr Dalidakis to order so that Mr Barber can continue with his members statement.

The PRESIDENT — Order! I think Mr Barber should start again.

Mr BARBER — I do not think I need to start again, but I need a few seconds to address this sensitive topic that I am working up to with my introduction here, and that cheap shot is really not appreciated.

Mr Dalidakis interjected.

The PRESIDENT — Order! Mr Barber, without assistance.

Mr BARBER — Leaders from the Islamic community were able to provide explanations and advocate, with words of peace, solutions to the problems that we face. Unfortunately after leaving the event all of us saw the absolute horror of the incident at the Finsbury Park mosque in London. As the information about what was occurring unfolded we also heard an incredible story of peace from the same incident which is described in a story in the *Huffington Post*. The headline and introduction to the article read:

> Even after being attacked, London imam responds to violence with peace. He shielded the assailant from an angry crowd and asked the police to step in.

Members should really try and read the press conference of this particular imam, Mohammed Mahmoud, aged 30, because this man should be given the Nobel Peace Prize right now for an incredible act of bravery. The imam said:

> 'We told them the situation —

this is the police —

> said there's a man, he's restrained … if you don't take him, God forbid he might be seriously hurt …

The article also says:

> 'By God's grace we managed to surround him and to protect him from any harm', he told reporters … 'We stopped all forms of attack and abuse towards him that were coming from every angle'.

There is even mobile phone footage of this happening — you can see the imam intervening. This is such an inspiring story to me. It is nothing short of a modern-day version of the good Samaritan from the Holy Bible, Luke 10:30–37, which itself was an answer to the Gospel of Matthew and the command to love one's enemy. I think it is an example that we should all be bringing to mind here.

Sale Field and Game Association

Mr BOURMAN (Eastern Victoria) — On Sunday I headed off to the Sale Field and Game Association to be there for the opening of their new clubhouse, which was made possible by a grant from the government. Whilst I was there I had the pleasure of seeing the late arrival of Ms Shing, who had a very extensive tour of the plantation surrounding the clubhouse, I believe. Mr O'Brien, formerly a member of this place and now member for Gippsland South in the other place, was also present. The clubrooms are a credit to the club. They are actually big enough that members will not have to worry about going through this again for another few years. They have managed to put a lot of their own time and effort into this whole thing. Whilst I was there I also shot a couple of rounds and discovered I am still not ready for the Olympic team, so I will continue to be here for at least another 18 months.

Construction, Forestry, Mining and Energy Union secretary

Mr RAMSAY (Western Victoria) — John Setka is the secretary of the CFMEU for Victoria and Tasmania. Mr Setka told a trade and construction workers rally in Melbourne on Tuesday that the union was going to expose all Australian Building and Construction Commission (ABCC) inspectors and make their children 'ashamed of who their parents are'. He also said on Tuesday:

> Let me give a dire warning to them ABCC inspectors, be careful what you do. You're out there to destroy our lives …

He also said:

> We will lobby their neighbourhoods, we will tell them who lives in that house and what he does for a living, or she, and we will go to their local footy club. We'll go to their local shopping centre. They will not be able to show their faces anywhere.
>
> Their kids will be ashamed of who their parents are when we expose all these ABCC inspectors.

What sort of unionist threatens to intimidate working people and victimise their families for lawfully and ethically doing their jobs? Federal Labor leader Bill Shorten dissociated the party from Mr Setka's comments, saying:

> That's not the way to advance your cause.

Labor frontbencher Anthony Albanese also said the police referral was appropriate, telling Adelaide radio station FIVEaa the comments were offensive. Mr Albanese said:

> I completely repudiate them.

Premier Daniel Andrews told reporters it was not appropriate to bring people's families into a highly charged and emotional debate about workers' safety. He said:

> I think that if we were having to knock on doors and tell loved ones that their husband or wife or their family member wasn't going to be coming home from work today because there had been an accident, maybe we'd have a different perspective on these things.

> That debate is a fair and proper one to have, but let's not drag people's families into it.

Federal Minister for Justice Michael Keenan said Mr Setka had 'the rap sheet of a career criminal' and had been charged with or convicted of more than 40 offences. He pointed out that Mr Setka was a guest of honour at Mr Shorten's election night party last year. Keenan said:

> If you want to repudiate the remarks of John Setka, if you want to repudiate the CFMEU, stop taking their money.

Opposition frontbencher Tony Burke said Labor would not sever links with the CFMEU because it represented thousands of — —

The PRESIDENT — The member's time has expired.

Maryborough IGA Biggest Morning Tea

Ms PULFORD (Minister for Agriculture) — I would like to put on record my admiration for the dozens of community groups and businesses across my electorate that have volunteered to hold Biggest Morning Tea events. This annual tradition has turned into a large fundraising event for the Cancer Council, and I know how much work is put in by the various organisers and volunteers. In particular I would like to praise the management and staff of Maryborough IGA supermarket. To their credit the staff got together and decided they would volunteer their services and cooking skills to raise money for cancer research. The result was an impressive $600. Congratulations to all staff at Maryborough IGA and in particular Jodie Young, Lucinda Jones, Leah Elliott and Terry Rae.

Lions Club of Stawell

Ms PULFORD — On another matter, I would like to mention the great work done by local service organisations in western Victoria. Each year service clubs like Lions, Rotary and Apex do an amazing job, and today I would like to acknowledge the hard work of the Lions Club of Stawell. The Stawell Lions Club recently donated $5000 to the Stawell Hospital auxiliary to purchase medical equipment. The donation helped purchase a new laparoscopic rigid telescope used in general and gynaecological surgery. It is not the first time the Stawell Lions have made a generous donation to the hospital auxiliary and I do not imagine it will be the last. It is just another example of the invaluable work done by dozens of service clubs across western Victoria.

Emma Downie and Jordyn McCallum

Mr PURCELL (Western Victoria) — It gives me great pleasure to rise today to congratulate two members of my local community, Warrnambool dental nurses Emma Downie and Jordyn McCallum, who have volunteered their time to support the people of Papua New Guinea. Emma and Jordyn volunteered on board the Youth with a Mission training and medical vessel. The pair were part of a dental team that treated 265 patients, including 87 children, on the ship over a three-week period. Congratulations to Emma and Jordyn for volunteering their time for this important work.

Wallan Secondary College

Ms SYMES (Northern Victoria) — My statement today is in regard to the Doctors in Secondary Schools program that has been introduced to Wallan Secondary College and also in regard to the school's expansion. Wallan Secondary College was one of the first secondary schools chosen by the Andrews Labor government to be involved in the program, which promotes and offers without cost health care to young people. The doctors in schools initiative will benefit the school hugely and help Wallan secondary to provide its students with the most relevant and appropriate medical support possible. The school will have a GP and a nurse on site every Tuesday when the program commences. The construction of facilities at the college for the doctors in schools program recently commenced to much excitement, with the school hoping to launch the program at the beginning of term 3.

Wallan secondary is also benefiting from an expansion that has been paid for by the Andrews Labor government, with a new building for senior students currently being built and upgrades to and an expansion of the food technology wing. The $5 million upgrades and expansions will ensure that students are learning in the best facilities possible and will help accommodate Wallan secondary's growing number of students.

Year 10 student Ruby Sommerville has said:

> The new building will be a great place for the senior students to study without being disrupted, which will allow more space in our resource centre for other classes to use. The expansion and upgrade of the food technology facilities will allow there to be more food classes offered in all year levels, meaning nobody has to miss out.

It is fantastic to see Wallan secondary's development and the way that the doctors in schools program and the expansion of facilities will be beneficial to current and future students. I would also like to thank my current

work experience student, Ruby Sommerville, for helping to prepare this members statement today.

Guide Dogs Victoria

Mr ONDARCHIE (Northern Metropolitan) — This year marks the diamond jubilee for Guide Dogs Victoria and Guide Dogs Australia. As a proud ambassador for guide dogs I congratulate Guide Dogs Victoria on 60 years of superb breeding and training innovation to constantly improve our iconic guide dogs; 60 years of unsurpassed orientation and mobility services, including leading the development of Australian training; 60 years of expert, uniquely qualified practitioners; and 60 years of life-changing teamwork between Guide Dogs Victoria clients, volunteers, staff, our dogs and the Victorian public.

The ongoing challenge we have right now is access for guide dogs. Working guide dogs and guide dogs in training, including pups with their handlers, have a legal right to access all businesses, public premises and public transport in Victoria, with the exception of operating theatres and some areas of the zoo. Yet our guide dogs still get refused access on a weekly basis. This distresses our clients and impacts directly on their ability to be independent, be mobile and achieve a good level of self-esteem. My call today is for all members of Parliament and indeed the Victorian public to champion the right to access for guide dogs and guide dogs in training. They do a wonderful job. I congratulate the association on 60 wonderful years.

John Stanford

Mr LEANE (Eastern Metropolitan) — I pay tribute to recent Queen's Birthday honour recipient Mr John Stanford, OAM, who successfully ran Dairy Bell Ice Cream factories from 1970 until 2015. During that time the company was wholly Australian owned and all the manufacturing was undertaken in Australia. The company employed 230 people and produced over 1.5 billion litres of ice cream in that time.

The company ran two production plants, one in Melbourne and one in Sydney. Mr Stanford prided himself on being an excellent employer and maintained very good relationships with the relevant unions. He was proud of his record that during the entire time of his company's operation no production time was lost to industrial disputes.

Dairy Bell was unusual in the 1970s — I think it is sad that it was unusual — in that its female machine operators received pay equal to that of the male personnel, which was not a requirement under law. But John believed unequal pay was not right, and from the time his company started he made sure everyone got paid equally for the work they did. John started off as a refrigeration mechanic and stayed in that industry and helped to tutor young apprentices the whole time he was running his factories.

Multicultural affairs

Mrs PEULICH (South Eastern Metropolitan) — Confusion reigns in our Victorian multicultural communities and, it seems, within government ranks. Multiculturalism seems to have taken a back seat, with Labor nobbling the Victorian Multicultural Commission (VMC) and gutting the former Office of Multicultural Affairs and Citizenship which, we learned yesterday from the Government Whip, Jaclyn Symes, no longer exists. However, Mr Hakan Akyol, the director of the Office of Multicultural Affairs and Citizenship, attended a Public Accounts and Estimates Committee hearing on 2 June 2017 and was referred to by name and title by the minister, indicating that the office existed three weeks ago. The VMC website also currently refers to the 'Office of Multicultural Affairs and Citizenship'. Is the Office of Multicultural Affairs and Citizenship in existence or not? Why has the VMC been nobbled?

In the meantime the government resorts to stunts such as rolling propaganda truck Tricky Vicky out to every neighbourhood to convince Victorians that the values drafted in the dim offices of the DPC — the Department of Political Correctness — without any consultation with Victorians are values that they should own. In the meantime critical issues in multicultural affairs remain neglected and unresolved, but Labor says, 'Trust us'. A message to Labor: Victorians, including our multicultural and faith communities and the broader community, are not mugs and deserve better.

London mosque terrorist attack

Mrs PEULICH — I would like to commend the imam who protected the alleged perpetrator of terrorism in the London mosque incident. He is clearly an example to all other Muslims, and the broader community as well. Any loss of life, no matter whose, is unacceptable and should be condemned. In particular, given it is the holy month of Ramadan, I condemn violence and hope that the world sees a better way to resolve its issues.

National disability insurance scheme

Ms SHING (Eastern Victoria) — On 13 June it was a great pleasure and privilege to attend a meeting of the men's and women's disability self-advocacy group at the Mitchell House in Wonthaggi. In particular I heard from Kev, Paul, Amanda, Barry, Peter, Marnie, Josephine, Emily, Stuart, Philip, Ben, Pete and Andrew about the importance of self-advocacy for them in making sure that they get the services, assistance and care they need as we transition to the national disability insurance scheme. It was a wonderful meeting. I look forward to attending further group meetings to discuss how that work is proceeding.

Men's Health Week

Ms SHING — On another matter, last week was Men's Health Week, and the focus was 'Healthy body, healthy mind'. In this regard I wish to pay tribute to the many organisations and their staff and the community efforts that go into making sure that our men and boys throughout Victoria take good care of their health and wellbeing. Just under two years ago my brother was dying from prostate cancer. He was diagnosed at the age of 39 and he died at the age of 42. His case was extremely unusual. However, it remains to be said that understanding symptoms or feeling something unusual is always good grounds to go to see a doctor.

The same thing applies to mental health and wellbeing. In this regard my late brother and his friend, neither of whom are with us any longer, are the reason for the establishment of the White Owl for Men's Health Awareness organisation, which fundraises because of the tireless efforts of my brother's friend Travis Strong to make sure that the Australian Prostate Cancer Research Centre and Beyondblue receive further funding, engagement and assistance for men's health initiatives.

My late brother would be proud of the work that continues to be done in his name. I commend everybody who was involved with men's health initiatives in this year's Men's Health Week, and I look forward to making sure that people can continue to seek advice, information and help about their health when and as they need it. We want our men to be old, to be happy and to be well cared for, and the way to achieve that is to have the best access to medical advice and assistance and the best support from within our communities.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Thank you, Ms Shing. There were some very important messages there. That was a good members statement.

Southern Metropolitan Region crime

Ms CROZIER (Southern Metropolitan) — Victorians awoke to the news this morning that four teenagers armed with knives had carjacked an Uber driver at a service station in Elwood, which is in my electorate of Southern Metropolitan Region. This is just symptomatic of what is going on right across the state, as shown by the latest crime statistics. We have got home invasions, carjackings, aggravated burglaries and violence increasing, which is totally unacceptable.

In my area, Southern Metropolitan Region, there are a number of local government areas, including Glen Eira, which has seen a 45.16 per cent increase in total offences since the Andrews government came to power. In Stonnington, it was 22.4 per cent; Boroondara, 26 per cent; Port Phillip, 12.4 per cent; Monash, 18.18 per cent; and Kingston, 21.98 per cent. These are symptomatic of what we are seeing in local government areas in communities and suburbs right across the state, and they demonstrate that Daniel Andrews has lost control of law and order. As I said earlier in my notice of motion to the house, the top 10 postcodes that have had a huge change in this area include Malmsbury at number one, with a 176.58 per cent increase — no wonder why, with what is happening there under Jenny Mikakos and Daniel Andrews — and Parkville down at number nine, with a 78.56 per cent increase. This is symptomatic of the law and order crisis not only in youth justice but right across our community in so many areas.

Bombardier

Mr SOMYUREK (South Eastern Metropolitan) — I rise to congratulate Bombardier on yet another delivery of locally manufactured transport for the benefit of all Victorians and visitors to Melbourne. The first of 30 new E-class trams ordered by the government began operating on the world's biggest tram network last week. The E-class trams are the biggest and most accessible in Melbourne, with low floors, more Myki readers, better information and space for more than 200 passengers. Proudly, these trams were built right here in Victoria, supporting 500 local jobs at Bombardier in Dandenong and the local supply chain. Trams 51 and 52 will be the first to enter service of 20 E-class trams ordered by our government in 2015, and they will operate on routes 96, 86 and 11. Our recent budget funded a further 10, taking the total

number of E-class trams to be purchased to 80, with all to be in service by mid-2019, catering for 17 000 extra passengers.

Beyondblue

Mr SOMYUREK — I would like to highlight a new program developed by Beyondblue specifically for culturally and linguistically diverse residents in Dandenong, and in doing so I congratulate Beyondblue for this work. In explaining the driver behind the development of this program, Beyondblue said:

> The City of Greater Dandenong has the highest rate of psychological and socio-economic distress in the south-eastern Melbourne primary health network (SEMPHN) region, along with high unemployment rates, housing distress and financial insecurity.
>
> About 60 per cent of Greater Dandenong residents were born overseas — mostly in non-English speaking countries — and the area is home to almost 30 per cent of Victoria's asylum seekers.

STATE TAXATION ACTS AMENDMENT BILL 2017

Committee

Resumed from 20 June; further discussion of clause 1.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I was just wondering, Minister, if we are able to go back to the discussion we had on Tuesday night with regard to the assumptions that underpin the revenue estimates for the measures that I included in this bill. I indicated at that time that we would seek to understand the assumptions that underpin those estimates, and I wonder if you are now able to provide that information to the committee.

Mr JENNINGS (Special Minister of State) — The costing assumptions, as I indicated the other day, were based upon Australian Bureau of Statistics data, and the new car sales figure was calculated on how many new vehicles — passenger and sports utility vehicles — were purchased in Victoria in 2015–16. There were around 264 000 new passenger vehicle sales in Victoria in that year. The number of vehicles and the average price of a car above and below the luxury threshold was used to estimate the amount of revenue gained in 2015–16 under both scenarios. Revenue was assumed to grow from 2016–17 in line with revenue forecasts for motor vehicle duty. These forecasts were driven by the outlook for Victorian population growth and consumer sentiment. There are a number of caveats to the costing. Firstly, the average vehicle price was used. This could result in some upward or downward bias in the estimates. However, the Department of Treasury and Finance does not have access to any better unit records, so although rough, this method is the best currently available. Secondly, the data used for the average price of a car was car sales data of the 100 most purchased vehicles in Australia by car type, price and quantity sold. In this case that data was provided by the Department of Premier and Cabinet.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister; that is very helpful. Essentially, the growth factor used is a population estimate. Can I ask then: is that the consistent basis for the other revenue estimates — largely population driven as the growth factor across the forwards?

Mr JENNINGS (Special Minister of State) — As a general rule, let us say yes, and it would probably be better for me to keep to the general rule, although you may draw attention to other items where you believe and others may believe there may be some impact. We might do that by exception.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. I do not know whether you want to do those now or do them at the relevant specific clauses. I guess we may as well do them now. On the next revenue item, which is the removal of the exemption from duty on certain spousal property transfers, the budget forecasts a $20 million revenue gain from that initiative, and it is $20 million a year flat over the forward estimates. Can I ask: what are the assumptions that underpin that line item and why is it flat? It is the line item with respect to removing the exemption from duty for certain spousal property transfers.

Mr JENNINGS (Special Minister of State) — In the costing of these assumptions the Department of Treasury and Finance estimates the change will impact on a small number of transactions affecting an estimated 3000 transactions per year. The estimate is based on State Revenue Office data on duty exemptions provided in 2016. The profile has been kept flat until further analysis increases confidence in the estimates. The rationale for that assumption is that property transfers between spouses are often undertaken for tax and financial planning reasons. This exemption is not underpinned by an equity or efficiency rationale, unlike for instance the pensioner stamp duty concession or the principal place of residence concession.

Removing this exemption may impact decisions to transfer property between spouses at the margin, but such transfers may still be undertaken where the benefits outweigh the stamp duty costs. The exemption for the principal place of residence and for transfers following a relationship breakdown will not be removed. We note that in New South Wales, Queensland and Western Australia levied duty on transfers between spouses already occurs.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. I will move onto the vacant residential property tax, and you can see the line item in the estimates there — $10 million in the first year, rising to $20 million, then $25 million and $25 million. Can you outline what assumptions underpin those estimates, please?

Mr JENNINGS (Special Minister of State) — The reason I did a double take is that the revenue impacts are based upon water usage data. It is estimated that up to 20 000 residential properties in metropolitan Melbourne use no water in a calendar year. The revenue impact estimates are based on these figures but are discounted for the narrow geographic boundary of the tax as well as the impact of exemptions proposed in the bill.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. So water use is the basis on which Treasury identified the number of properties it believes are subject to this land tax provision. What is the basis of the escalating revenue estimate over the four year, which doubles from this financial year to the next year and then increases a further 25 per cent in the subsequent years?

Mr JENNINGS (Special Minister of State) — I will take some further advice, but my instincts tell me — perhaps it is never wise to operate on instincts — that this is a new method that will be adopted and the confidence level of the identification and then the application of this tax regime I would think will be subject to refinement and reflection and improvement of identification and then compliance with it. So I would suggest in fact that in the early part of the forward estimates there is that issue in relation to building that confidence in terms of the ability to identify and comply, and then there is property rise growth that would be anticipated in terms of the value of properties over the forward estimates that would also mean that the value would increase in accordance with the increase in properties.

Mr BARBER (Northern Metropolitan) — I have just got one or two concerns about how the enforcement and determination of evidence will occur with this new tax. The provision seems to say that a property is vacant if it is vacant for six months and that can be either continuous or aggregate. Of course that could mean that I actually rented out my house on Airbnb on 183 nights of the year, although they would be separate nights. It seems to me that this is going to actually encourage what we have seen as a bit of a problem, which is that properties are being rented out on an almost permanent basis on Airbnb or other short-term rental platforms.

Parliament is looking at the problem that this sort of short-term rental is causing. The way this has been structured, it actually encourages you to rent out your property even more on a short-term rental, whereas the equivalent tax that has been introduced in Vancouver actually requires you to rent it out for six months to not be considered vacant, but it needs to be six months worth of 30-day periods. Is my reading of this correct, and is the government concerned that this is going to actually exacerbate the problem of properties being turned over almost permanently to short-term rentals? People will want to do it even more so now in order to avoid the tax, because some body corporates are actually talking about rules that limit the amount of nights when a property can be listed for short-term rental.

Mr JENNINGS (Special Minister of State) — The policy intent is twofold. One is in fact, yes, it does raise revenue. It would be stupid for me to deny that in fact this tax raises revenue, but its major contribution in public policy terms is to increase the availability of hopefully affordable housing stock across Victoria. That is the policy intent. Mr Barber may be — I think quite rightly — questioning the best way in which the legislation, the regulatory environment and the compliance regime should work to deliver that outcome as distinct from adverse outcomes. I think he is quite right to indicate that we should not turn a blind eye to the issues that he has raised.

Within the local council areas where this tax is likely to be applied in the first instance there are only two or three of them that I would have thought would have been an extremely desirable location for Airbnb properties, because normally if they are rented out for a very short period of time they would be pretty much proximate to the CBD and surrounds or suburbs that actually may seem to be more attractive to the tourism trade. I think as Mr Barber would know, the majority of the areas that have been identified here would be seen as more within residential suburbs across Melbourne.

Probably in the catchment it is more likely to apply to the majority of properties that would be hopefully available for longer term lease.

With the impact upon the legislation in relation to consumer protection, tenants' rights and consumer rights in relation to Airbnb, I know my colleague the Minister for Consumer Affairs, Gaming and Liquor Regulation has been mindful of ways, as indeed has the planning minister, of trying to find a regulatory environment that does not exacerbate the somewhat disruptive nature of Airbnb within the housing market in Victoria. I know that we are alive to those policy settings, so in future years, from my perspective, I would hope there will be an alignment of the mechanisms that are contained within this act and the mechanisms that may have been taken up within the regulatory environment to mitigate the circumstances that you are worried about.

Mr BARBER (Northern Metropolitan) — Thank you. I will just leave it there on that one. I just wanted to raise that as an issue. There is another issue in terms of the eligibility for the tax and the compliance with the tax. With the question of a residential property or residential land being vacant by virtue of the fact that a renovation or construction is underway, there appears to be about a two-year window from commencement of the renovations until it is expected they will be completed, and therefore it is more or less determined that the property starts to become eligible for tax. Is the government concerned that in those instances where we have had — and we have seen unfortunately too many of them — major disputes going on between builders, properties half constructed and stalled, and individuals out by huge sums of money as they try to get their construction back on track, under the terms or the way this provision has been written in fact those sad cases would also be dragged into this regime and therefore on top of their many other problems people engaged in those disputes would find themselves attracting a vacant residential land tax? Is the government reading their legislation the same way I am reading it?

Mr JENNINGS (Special Minister of State) — I certainly would believe that in terms of looking at specific provisions of the act, which I can do if necessary, it may be that in theory an exposure could be created to the tax from the issues that Mr Barber has outlined, although I am pretty confident that in fact it would not be the intention of the State Revenue Office to undermine the integrity of the intent of this policy by inappropriately roping in properties that may be subjected to those delays. In terms of the way in which the regulatory and compliance regime would be undertaken to prevent that outcome, I will probably talk to the people in the advisory box about the way in which we might be able to provide you with some comfort in relation to that outcome being prevented by the way in which the act will be implemented.

The advice that I have received is that whilst there are not necessarily any specific provisions within this bill, there are conditions laid out in the existing Land Tax Act 2005 which will not be amended by this bill and which will then account for the circumstances that Mr Barber is concerned about. With the discretion that is available to the state revenue commissioner, there would be a normal expectation in circumstances such as those he described that the tax would not be charged.

Mr BARBER (Northern Metropolitan) — Just in relation to the holiday homes provision and the kind of evidentiary requirements there, the provision seems to suggest that the holiday house would have to be used and occupied for at least four weeks continuously or in aggregate by the owner of the holiday house — that means the owner in the sense of the titleholder. If the owner's spouse or the owner's kids or the owner's mates are using the holiday house, that does not add up towards the four weeks necessary to avoid the tax. Am I right in my reading of that?

Mr JENNINGS (Special Minister of State) — The way in which this scheme works is it is deemed to be unoccupied if it is not the principal place of residence of the owner, which I am sure you are not worried about; it is not the principal place of residence of the owner's permitted occupier; it is not used by a tenant on a lease; and then those other provisions. It is a combination of who was in the property under what circumstances. If it is subject to a lease, it does not trigger the application of the tax during the course of that period. If the circumstance is that extended members of the family would be in that property for an extended period of time, it would not apply to that time. Basically it is the interlocking elements of the provisions in terms of what is the tenure or authority of the person in the property and the coincidence of the time frame that actually applies during the course of the year. Both of those will be measured in evaluating whether the property generates the tax provision.

Mr BARBER (Northern Metropolitan) — I am just a bit concerned about the evidentiary requirement, whether it be from the owner of the house or from the State Revenue Office itself. It would be easy enough to demonstrate that there were people in the holiday house on certain nights. We could get our wonderful new smart meters and get the electricity data to show that the lights were going on and off, but the requirement appears to demonstrate that the owner of the land was

occupying the holiday house for four weeks — easy enough to prove, if you need to, that someone was staying there, but a bit harder to prove who that person was.

I understand there is this theory that there are these 20 000 empty houses. We are basing that on the water bills. When it comes to proving who did or did not meet these requirements, it is actually a lot harder. Is the SRO going to issue 20 000 vacant property bills à la the Centrelink robo-debt fiasco and then ask everybody to prove that they meet the requirements? Because then it is going to be quite difficult for some of those people to prove or disprove their eligibility for the tax. How does the SRO plan to approach this once the tax has been running?

Mr JENNINGS (Special Minister of State) — Earlier on in the conversation we had a few minutes ago in the committee, I indicated that this tax has two policy objectives. One is to raise revenue from properties that may be either a lazy capital accumulation of assets or may be not available to public tenant occupancy, and that is what it is driving the policy. If in fact this means that all properties are tenanted out and we do not need to raise any revenue, that is probably a better outcome for the Victorian community and the economy. In terms of the measurement of the water meters ticking over, we hope they are ticking over in a sustainable way, as with the light switches coming on and off. We hope that it is a valid use of a precious resource as well.

Basically we are hoping to get the situation where there will be a pass-through, in terms of a regulatory environment and a compliance regime, that will have some test capacity and rigour in the system. But if this leads to a higher degree of occupancy rates in residential properties across Victoria, the government would be very happy that the revenue projections are not acquitted, because we would be happy with that policy outcome.

There will be a variety of ways in which we try to encourage property owners to be informed about the way in which we will be embarking upon that assessment process. There will be data matching and mail-outs to those property owners. We will be having seminars with real estate agents and body corporate administrators. We will be putting relevant information into industry newsletters. We will be releasing information to the media. We will be putting reminder notices out to properties in the affected local government areas. We will not be doing by design the robocalls that occurred at Centrelink. We would never want to replicate that in Victoria. If we can possibly avoid it, we will avoid it.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, I just want to take you to the off-the-plan stamp duty concessions, again looking at the issue of the assumptions which underpin those revenue estimates. In committee on Tuesday we discussed the fact that the estimates of motor vehicle duty did not involve any form of modelling of demand or changes in demand. Obviously the off-the-plan stamp duty changes are far more significant in terms of their financial impact. Are you able to indicate what the assumptions are that underpin those forward estimates and in particular what the modelling of demand impacts have been?

Mr JENNINGS (Special Minister of State) — The revenue impact was estimated based upon actual off-the-plan stamp duty concession claims and other stamp duty data. The three different categories — investors, principal place of residence and first home buyer splits — are based upon the current split of buyers who claim their stamp duty concessions as well as the off-the-plan stamp duty concession. Cost estimates over the forward estimates period are indexed to expected growth in the property market and historical contract settlement lag periods. We believe that up to 13 500 transactions per annum being settled by the fourth year of the operation of this measure in 2020–21 could potentially be affected by this change.

If you want to go on to ask a question about the impact this may have on the construction industry, which would be a logical question, let me answer that one. To the extent that developers currently price the concession into their products — and in the government's view this may have a very slight detrimental effect on developers — this initiative cannot be viewed in isolation. The government commissioned SGS Economics & Planning to model the impact of the entire housing strategy on the construction sector and on the broader community. This modelling indicated that the overall strategy will lift gross regional product by $3.7 billion in net present value terms. It will also lift construction sector employment by 16 000 full-time equivalent jobs at its peak and result in an increase in dwelling construction of around 3700 in the peak year.

So basically on balance, in relation to all the measures regarding the abolition of stamp duty for first home owners across regional Victoria — the net effect of this measure and other measures within the overall housing affordability strategy — we believe that whilst the item you are asking me about will have a downbeat in relation to the development industry overall, there will

not be a dampener on construction. Indeed the impact on the economy and jobs will be enhanced by the overall effect of the elements in the package.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. A couple of things arise from that. You referred to the positive impact on what you defined as gross regional product, and I do not know if there is a particular definition of gross regional product in that consultant's report you referred to. I assume it relates to economic activity outside some defined boundary of metropolitan Melbourne, which presumably is included in the report. Can you indicate whether there is going to be a net positive impact to gross state product — i.e., when you include the metropolitan element which is presumably excluded from that gross regional product you have referred to, noting that most of the impact of the abolition of off-the-plan stamp duty concessions relates to apartment developments, which are obviously almost entirely CBD related? I would be interested to know what the net state effect is, not just the regional effect.

Mr JENNINGS (Special Minister of State) — They just wanted the opportunity for me to confirm that it is the state version of gross domestic product. They chose to use the term 'regional', which gave you the quite reasonable impression that it may have actually been quarantining the metropolitan area from the outer regions in Victoria. No, it is the Victorian economy taken as a whole.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. That is helpful. It is good to know that your chosen consultants have made up their own definitions. If we all understand it is gross state product they are referring to, that is useful. Nonetheless, in your response you spoke about the impact in regional Victoria and the impact of the other initiatives in the package which those consultants were asked to determine the economic impact of. You talked about regional construction. That is obviously different. Standalone dwelling construction is obviously very different construction activity to the type of high-rise construction activity which typically has been reliant on the off-the-plan stamp duty concessions. So are you able to indicate the estimated impact on the high-rise construction sector, which is the sector that will be directly impacted by removal of the off-the-plan stamp duty concession?

Mr JENNINGS (Special Minister of State) — In terms of the advice that I have actually received, the best I can share with the committee at this point in time, and indeed it may be the limit of the advice that I can give to the committee, is that the overall effect of the measures across the Victorian economy has been reported in a document released by the government, *Homes for Victorians*, which you may or may not have, but I am happy to share it with you. It shows over a period the impact of the homes package on construction sector jobs, which would be commensurate with the level of economic activity that would occur across the metropolitan area and regional Victoria. This is disaggregated in a graph that appears on page 6 of that document, *Homes for Victorians*, which was released by the government in the lead-up to the budget. The growth projections overall are delineated for regional Victoria and Melbourne, and in both cases they increase over the term of the policy. I am happy to share that with Mr Rich-Phillips or other members of the committee now or in the future just to indicate that the net effect of these policy settings is an estimated increase in construction activity and jobs across the Victorian landscape.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. Without dwelling on those numbers, and I have not seen that publication, I take it from that that the government does not have estimates that separate out the high-rise construction sector from all residential construction across Melbourne. Obviously the bulk is detached housing. If I take that as a given, and the minister might respond subsequently, I then move on to ask: has the government done any modelling on the behavioural change impacts of this particular measure, given it is likely to impact substantially, if not entirely, on high-rise residential construction?

One of the propositions that has been put to the coalition is that high-rise construction will not take place if it is not financed; it will not achieve finance unless it can demonstrate that it has on any given project presales of 60 to 70 per cent; and it will not get presales if it cannot offer the incentive of off-the-plan stamp duty concessions for committing to a purchase prior to construction. So the view of the industry, those participants in the high-rise construction sector, is that the off-the-plan element driving purchase commitments prior to construction is absolutely critical to construction subsequently taking place.

Mr JENNINGS (Special Minister of State) — In terms of the issues that you are encouraging us to unpack, clearly as you would understand, in my previous answer I talked about the impact upon the decisions that may be embedded in this bill in terms of what is anticipated to occur and how many transactions are likely to be affected between now and 2020–21. We estimate that in relation to what will be deemed to be the abolition of the stamp duty concession for

non-principal places of residence and non-first home buyers there would actually be a catchment of about 13 500. I am getting some subsequent advice about what we believe the number of transactions may be that would actually continue to be subject to other forms of concessions and tax relief that continue to exist. Of the three interlocking elements of tax concessions there is one that has been removed and two continue to exist.

As you would also know, in terms of the construction industry, in high-rise development there are a lot of preloaded developments that are at various stages leading to construction through the planning schemes with financing arrangements that are already in place, so it may well be a cumulative effect of what has already been pre-locked in through existing policy settings and through existing planning and financial decisions that have already been made. The impact upon the high-rise sector, which you have indicated, may in its own right have quite some lag time before a diminution of the amount of effort in that construction is seen. It is really about the future projects that may be impacted. We believe that it is a comparatively modest change. We understand that the development industry for those dwellings has got used to those settings.

In terms of the configuration of the new mix of policy settings, they may predict the worst case scenario and they may be pessimistic about that. The government is less pessimistic about that in light of our desire to keep demand up, if we can, through some precinct management decisions that we may make as a government now and into the future to provide affordable housing for first home owners in close proximity to the CBD and surrounding suburbs. We may keep demand up through a variety of measures and also because of how we incentivise that either via decisions that we make as the development agencies or the planning regulator or through ongoing financial support for first home owners. This is something that the government is not blind to, and we are looking at what those effects may be. We are not as pessimistic as the developers may be.

I have been given some further evidence to that which I outlined to you. There are 31 major inner-city multistorey projects currently under construction as we speak. That is $7 billion of activity. There are 13 000 dwellings currently under construction and there are a further 24 projects with permits which are expected to commence within two years. These projects are worth $5.6 billion. It is considered that the pipeline of work will be strong over the next two or three years in accordance with these policy settings and only marginally variant from what was considered to be the boom construction period that we have seen over the last few years. That is just a little bit of detail in accordance with the frame that I have outlined to you.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. I guess it is reasonable to expect that the 31 projects which are under construction will continue. They have obviously achieved finance if they are under construction. We would expect nothing to change there. You said there are a further 24 with permits which are expected to commence within the next two years, or $5.6 billion worth. Again, if the construction time frame is expected to be within two years, the odds are they have had the pre-sales and they have the finance so they are not affected by this measure. It is really the next tranche of projects beyond those which are already under construction or about to commence construction which still need to achieve finance.

You spoke about the two tiers that are unaffected and the one tier of purchases that will be affected by this measure. I will ask the question another way: has the Treasury estimated a reduction in that level of investor purchase — the volume of investor purchases — as a consequence of this measure? It is not so much whether the level of activity is going to continue but is activity not going to occur as a consequence of this measure? Has that been factored into the four-year estimates for those projects which are not yet at the stage of imminent construction?

Mr JENNINGS (Special Minister of State) — I am aware that this has been at the nub of your series of questions. I have not avoided answering the questions, but we may have been working with a bit of subtext around what you are trying to achieve and what I am trying to convey to you. The government believes that whilst there may be some minor adjustment — and we acknowledge the potential for that to exist — we are not as pessimistic in terms of what that effect may be. We believe that that will have a marginal effect on the segment of the developments in the sector that you are talking about.

Mr Rich-Phillips — Have you quantified your pessimism?

Mr JENNINGS — I was not actually given any detail about that. I was given a description of what our policy intention is. I am always grateful to be reminded of that, but it does not actually assist you in getting your answer. The policy intent is to try to shift the coincidence of the interests of the development community and the interests of Victorians to have housing affordability available to them. It is to shift the incentive from investors to owner-occupiers, if we can.

That is our priority policy perspective. We think there are a lot of potential owner-occupiers out there at the moment who do not believe they have access to the market. They believe the products that have been developed by the development industry are not necessarily in accordance with their needs. We are trying to realign the profile and the offering of the development sector with the housing needs of Victorians.

In terms of the swings and roundabouts in the policy settings — how they are actually worked through in terms of what their level of supply may be — we are not that pessimistic. We actually think there are a lot of potential home owners out there who would be supportive of the government's intention to increase the stock, the nature of the stock and the nature of the product that is available to them.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister, and thank you for the outline of the policy intent. You said the government is not overly pessimistic about the impact of this measure. I guess my final question on this matter would be: can you quantify the government's pessimism?

Mr JENNINGS (Special Minister of State) — Only in a qualitative sense. No, not in a quantified sense.

Clause postponed.

Clause 2

The DEPUTY PRESIDENT — Order! Mr Rich-Phillips's and Mr Jennings's clause 2 suggested amendments are consequent to their substantive amendments and are in effect the commencement provision of the bill. I therefore propose that consideration of clause 2 be postponed until after the substantive amendments are dealt with.

Clause postponed.

Division heading preceding clause 3

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I invite members to vote against this division heading as detailed in my suggested amendment 12. It is essentially a consequential amendment related to the abolition of the off-the-plan stamp duty concession, which is a matter we have just been canvassing. As indicated in the second-reading debate on Tuesday, the coalition does not believe that this is an appropriate measure due to the impact it is going to have on the high-rise residential construction sector, and therefore I might just say at the outset that the intent of this amendment and the intent of the majority of the subsequent amendments is to omit the tax increases which are proposed through this legislation. We have been through the different measures in clause 1, so the intent of our amendments, and in particular the substantive ones, being the omission of clauses, is to omit the tax increases, except for the final set of amendments, which relate to the valuation provisions, which we will deal with later in the bill. So in moving this amendment the intent is to omit the proposed removal of the off-the-plan stamp duty concession.

Mr JENNINGS (Special Minister of State) — The government does not support the suggested amendment by Mr Rich-Phillips. There is a combination of the policy intent that the government has outlined from the government's perspective, as I indicated in the committee on Tuesday, and there are a number of concessions that are being increased that have been netted off — in revenue terms — from a number of taxes, whose profile has been changed in accordance with this package in the name of greater stimulus to housing affordability in the state and the ability for owner-occupiers to get a place in the market. Without these offsetting arrangements the government believes the effectiveness of the package would be diluted, so we will not be supporting this amendment by Mr Rich-Phillips or any other amendment that he moves in relation to reducing the tax arrangements, as he is seeking to do here.

Mr BARBER (Northern Metropolitan) — The Greens will not be supporting this suggested amendment. We are alive to the volatile nature of the property market at the moment. Let us face it, there are a number of very large drivers that are occurring at the moment that I think create a great deal of uncertainty about what is going to happen in the property market soon, but at the same time we see prices continuing to surge. So we are alive to the concerns about any particular measure and how it might impact on the property market, but on balance we will be opposing this amendment that is supporting the government's proposal as it stands in the bill.

The political reality is that if this amendment was to be agreed to, it would significantly reduce the government's revenue which they are using to offset other tax cuts. It would punch a large hole in the government's budget, and the government will not accept that. We can understand that if that were the case — if this amendment was successful — it is likely the bill would bounce between houses for some time, but the government is not in a position to restructure its budget to make up for the lost tax revenue on which

their other tax cuts depend, so it is true to say that supporting this measure is tantamount to destroying the other measure, because the money would have to be found, and that is not going to be found at this late stage. For those two reasons we are not going to support the coalition's amendment, but we are of course, as most decision-makers are, very much alive to the changes that are occurring in the property market and want to keep a very close eye on what it is that is coming next and the impact of public policy on that.

Division heading agreed to.

Clause 3 — no question put pursuant to standing order 14.15(2).

Clauses 4 to 6

The DEPUTY PRESIDENT — Order!
Mr Rich-Phillips is inviting the committee to omit clauses 4 to 6 with his suggested amendment 13.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Just quickly, these are the clauses that give effect to removing the off-the-plan stamp duty concessions, so the coalition will be opposing them and dividing.

Mr JENNINGS (Special Minister of State) — I will stick to the argument that I have already mounted in relation to the previous matter — that is, the government does not accept these amendments given the effect they would have on balancing items within the package.

Committee divided on clauses:

Ayes, 20

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

Noes, 18

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

Pairs

Elasmar, Mr	Lovell, Ms

Clauses agreed to.

Clauses 7 to 11 — no question put pursuant to standing order 14.15(2).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My suggested amendments 14 and 15 are consequential on the matter we have just tested with the proposal to omit clauses 4 to 6, as are my suggested amendments 16 to 22. My suggested amendment 23 to clause 30 is also consequential on my suggested amendment 12 concerning the off-the-plan stamp duty concessions, and therefore I will not need to proceed with it. From my perspective on amendments, we could skip forward to clause 41 and my suggested amendment 24.

Clauses 12 to 40 — no question put pursuant to standing order 14.15(2).

Division heading preceding clause 41

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My suggested amendment 24 invites members to omit the division heading preceding clause 41. This is a consequential amendment, but it relates to the intention to remove the provisions which change the dutiable standing of transactions between spouses, as we previously considered on clause 1 and during the second-reading debate. The coalition does not support the removal of the current exemption from duty on certain spousal transactions, as is proposed by the bill, and the purpose of this amendment is to exclude that provision.

Mr JENNINGS (Special Minister of State) — The government does not accept this amendment. The policy intent of this brings us into line with other jurisdictions. Three states other than Victoria currently apply this standard, and the Victorian government is happy to fall into line with that consistent approach.

Division heading agreed to.

Clause 41

The DEPUTY PRESIDENT — Order!
Mr Rich-Phillips is inviting the committee to omit clause 41 with his suggested amendment 25.

Committee divided on clause:

Ayes, 20

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

Noes, 18

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

Pairs

Elasmar, Mr	Atkinson, Mr

Clause agreed to.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Wild dogs

Ms BATH (Eastern Victoria) — My question is to the Minister for Agriculture. Minister, do you stand by your appointment of Euan Ritchie to the Wild Dog Management Advisory Committee, especially given he was a vocal critic of baiting and bounties, believing that they are 'economically and environmentally ineffective approaches'?

Ms PULFORD (Minister for Agriculture) — I thank Ms Bath for her question and her interest in the work of the new Wild Dog Management Advisory Committee. This committee has now been appointed and will be capably chaired by Ron Harris, who is a former senior public servant and a producer. In fact he has received recognition for his work in transforming the lamb industry into the modern, export-oriented industry that it is today.

The committee comprises a number of members: Mr Alan Brown, Mr Simon Lawlor, Mr Michael McCormack, Mr Paul Carroll, Dr Ernest Healy and Dr Euan Martin Ritchie. The members of the committee were chosen from a range of well-qualified and experienced candidates. The committee has a majority of landholders, and the selection process has, I think, resulted in what will be a very good outcome for wild dog management.

As Ms Bath and members would probably be aware, wild dog control is best made up of a range of different measures and initiatives. To that end we have Labor's wild dog bounty, which is bigger and better than it has ever been before; we have doubled aerial baiting, as compared to the frequency and rate of funding and support for aerial baiting from the former government; and we continue to support a number of professional wild doggers, who work for the Department of Environment, Land, Water and Planning.

Community involvement is a really important part of this. A review that was undertaken throughout last year has, I think, largely concluded that the measures that we have in place are an effective suite of measures and that there is a really important role for community engagement. The local community networks that provide advice to support our wild dog control activities have been ongoing since the temporary committee that the former government put in place lapsed until now, with the new permanent committee established by our government in place.

Supplementary question

Ms BATH (Eastern Victoria) — I thank the minister for her response. I note that she mentioned a number of appointees. Minister, not only was Mr Ritchie appointed, but you also appointed Ernest Healy, who considers Victoria's wild dog bounty 'a politically opportunistic move designed to appease extremist farmers'.

Honourable members interjecting.

Ms BATH — It is incredible. Minister, why does the wild dog advisory committee need two dingo conservationists who clearly oppose control methods?

Ms PULFORD (Minister for Agriculture) — I thank Ms Bath for her question. I can certainly assure Ms Bath that the government is very committed to the retention of our bigger, better bounty. This is a bounty that was introduced by the former Labor government and has been strengthened by our government. We think that it does play a part among a suite of measures. But of course a bounty on its own does not do the job, the same way that aerial baiting on its own does not do the job and community engagement and consultation in these matters does not do the job — it is a suite of measures that is what gets us the most effective results.

The members of the committee no doubt have among them a variety of views on these matters that they have expressed. I have not been furnished with all of the quotes these people have ever said about wild dog control, but I can certainly assure Ms Bath that the committee has been selected for its knowledge and expertise in these matters and that I am confident that it will serve rural Victorians well.

Questions interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! I take this opportunity to welcome to the public gallery today Her Excellency Dr Farah Al-Siraj, an MP in the Iraqi Parliament and a member of the parliamentary Legal Committee in Iraq. We extend a very warm welcome to you to our proceedings today.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Wild dogs

Mr O'SULLIVAN (Northern Victoria) — My question is to the Minister for Agriculture. Minister, as well as criticising the inclusion of two dingo conservationists, stakeholders including the Victorian Farmers Federation (VFF) are concerned about the omission of Peter Starr from your Wild Dog Management Advisory Committee. Will you listen to those criticisms from groups like the VFF and appoint Mr Starr as an observer to the committee?

Ms PULFORD (Minister for Agriculture) — I thank Mr O'Sullivan for his interest in this matter. The appointment of observers to the committee is a matter for the chair of the committee, not a matter for me, so the involvement of any other observers would be a matter for Ron Harris.

Supplementary question

Mr O'SULLIVAN (Northern Victoria) — Minister, how can farmers have faith that the Andrews government will start helping them to control wild dogs when you have appointed two dingo conservationists to your advisory committee and left out knowledgeable and experienced people of the calibre of Peter Starr?

Ms PULFORD (Minister for Agriculture) — In relation to the wild dog committee that Mr O'Sullivan has sought some information about, five of the members of the committee are landholders — Mr O'Sullivan clearly has an interest in the views of two of the members of the committee. The committee has been selected from a broad range of applicants. The members have been selected for their knowledge, expertise and firsthand experience of these matters.

As for the question Mr O'Sullivan asked about what our government is doing to support farmers, I can certainly assure Mr O'Sullivan that we do a great deal to support farmers. We are fixing the biosecurity budget black hole that was created by the former government. We are reinstating the Rural Women's Network that was slashed by the former government. We have funded again and brought back from near extinction the National Centre for Farmer Health. I am out of time, but I would happily go on.

Child protection

Ms CROZIER (Southern Metropolitan) — My question is to the Minister for Families and Children. Minister, it has been revealed by the Department of Health and Human Services (DHHS) that child protection workers are exposing vulnerable children to more risk by leaving them with extended family, often without scrutiny, in emergency — and I quote — 'drop and run' placements. In the same DHHS report it states that department staff were failing to report critical incidents involving child safety. Minister, without disclosing personal information, what is the exact number of children that were identified in this report as having had critical incidents involving their safety that were not reported?

Ms MIKAKOS (Minister for Families and Children) — I thank the member for her question. Yet again Ms Crozier is basing her question purely on a media report. What that media report did not accurately reflect is that what this report was speculating on was the potential for under-reporting to have occurred in relation to kinship care placements. The report itself, to the best of my recollection, did not actually state an exact number. It was talking about a hypothetical — —

Honourable members interjecting.

Ms MIKAKOS — If you just let me explain to you, it was referring to a hypothetical scenario around potential under-reporting. The point that I would make to the member is our kinship carers are an incredibly important part of our out-of-home care system. This is why since we have been in government not only have we delivered in our first budget the first real increase in carer allowances, which benefited kinship carers, foster carers and other carers, but we have put in place in every budget more funding for home-based placements,

including kinship care. We have in fact had fewer children being placed in residential care.

The previous government's out-of-home care plan, put out by Ms Wooldridge in fact, envisaged a growth in residential care. We, through our targeted care packages, have now had 365 children in residential care or at risk of going into residential care transition into home-based placements like kinship care.

The other point that I make is that we have legislated to ensure that our kinship carers will now be subject to working with children checks for the first time. That has already commenced for our new kinship carers, and there is now a transition process as we go forward as this legislation takes effect and all existing kinship carers become subject to this requirement.

We have also embarked upon a very big reform agenda in out-of-home care. We are working very closely with organisations like Kinship Carers Victoria and our community sector agencies to make sure that we can provide more support to our kinship carers. We have already funded Aboriginal community organisations to take on more kinship care placements, and we are working very closely with the Aboriginal community to make sure that more Aboriginal children can be placed with either their Aboriginal families or members of the broader Aboriginal community.

The member should not come in here and base her questions entirely on media reports that do not accurately reflect the contents of a report. We are just seeing lazy work from Ms Crozier here. She has shown no interest whatsoever in issues to do with out-of-home care. We are getting on with the job of providing more support for our kinship carers and our other carers and are actually reforming the out-of-home care system to make sure that children who go into out-of-home care can get every possible opportunity to thrive and fulfil their potential in life.

Supplementary question

Ms CROZIER (Southern Metropolitan) — I note the minister's response to the question, and my supplementary question is: Minister, this DHHS report states that a review was conducted a year ago and that there have been delays and incomplete assessments, which as you are aware clearly breach DHHS guidelines. Why have you failed to act, knowing for over a year that serious breaches were occurring on your watch that have put thousands of children's safety at risk?

Ms MIKAKOS (Minister for Families and Children) — Actually I commissioned this independent review.

Ms Crozier interjected.

Ms MIKAKOS — We commissioned a review — —

Ms Crozier interjected.

Ms MIKAKOS — You clearly failed to listen to anything I said in the substantive answer. You have mishmashed issues around assessments with incident reports; you have no idea what you are even asking. We are getting on with the job of reforming our kinship care system, working with care organisations and working with the community sector. The model that you are criticising is the model that did not get reformed for four years by Ms Wooldridge and the previous coalition government.

Yes, there are failures when it comes to assessments of carer needs. This is why we are putting in more supports for kinship carers and other home-based carers than we have ever seen before, and we have embarked upon a major reform agenda to transform what our out-of-home care system looks like. You have no idea what you are talking about, Ms Crozier. You reveal every day your ignorance about these issues. We are getting on with the job.

Government business office proposal

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Minister, why has the Andrews government abandoned its plans to establish a permanent Victorian government business office in Turkey as promised and subsequently announced by then Minister Somyurek on 5 February 2015 and progressed by Minister Eren during his ministerial visit to Turkey in April 2015?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank the member for his question. In fact we have not abandoned the desire to locate an office there. I have been on the record on this particular issue on numerous occasions saying that I will not put the safety and security of people employed by Victoria to do work on behalf of the Victorian government in harm's way.

When we had an opportunity to look at progressing the establishment of our office in Turkey we decided on setting it up in Istanbul. Unfortunately over the last 12 months there have been activity and security

concerns both in Ankara and in Istanbul, the two locations of preference to locate an office. In fact let me advise the chamber that the Department of Foreign Affairs and Trade (DFAT) are scaling back their representation in Turkey as we speak. They are reducing the numbers of their staff both in Ankara, which is where the embassy is located, and in Istanbul, where there is a consular posting. So what I say to the member is that whether we engage with locally based staff or whether we take Victorian employees from here and locate them overseas, safety and security is of paramount importance to us, well beyond an election commitment of opening the office there. This is an issue that we continue to monitor, and should the safety and security circumstances change in Turkey then the Victorian government will be looking to absolutely set up an office there. But for the moment we do not believe that the safety and the security of anybody that we employ are worth risking at this point in time.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — Minister, you are talking about activities that happened post-February 2016. This announcement was made in February 2015, some 12 months before that. Minister, the member for Broadmeadows in the other place has previously detailed his concern that the permanent Turkey office has not yet been opened, and at the Public Accounts and Estimates Committee (PAEC) hearing you detailed there was — and I quote — 'everlasting tension' between you and the Treasurer. Is the real reason the office in Turkey has been abandoned — and the budget confirms this — that more than $10 million, almost 30 per cent, has been cut from the trade portfolio each and every year since the Andrews government was elected and there is simply not enough funding to open this office?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I appreciate the opportunity, if nothing else, to set the record straight. The member has misinformed the chamber. My answer at PAEC was in relation to the tension as a service line minister with the Treasurer always wanting to get more for the portfolio. It was not in any way — —

Honourable members interjecting.

Mr DALIDAKIS — No. The context was provided at the time. At no stage was there ever an implication that we have been short-changed in the portfolio. But I would always love to obviously get more funding for what we do to have the ability to expand international education, the ability to expand our trade and export programs, the ability to expand our inward-bound programs and the ability to expand all of our offerings across all of our portfolios, innovation and indeed small business alike. In fact I completely reject out of hand the assertion by Mr Ondarchie, because that is simply not true.

Construction, Forestry, Mining and Energy Union secretary

Mr DAVIS (Southern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Minister, the building and construction sector is one of the largest employers in Victoria, comprised of many small building businesses. I refer to the extraordinary comments made by John Setka at a public rally threatening commonwealth officials. Mr Setka said he would lobby inspectors' local communities and reveal their home addresses, and he said:

> We will lobby their neighbourhoods, we will tell them who lives in that house … They will not be able to show their faces anywhere.
>
> Their kids will be ashamed of who their parents are when we expose all these ABCC inspectors.

This is not the first time he has made threats to a range of people. I therefore ask: as minister for small business, do you support the role of the Australian Building and Construction Commission (ABCC) in moderating the cost of construction in Victoria and the protection of small businesses in Victoria, or do you support Mr Setka's intimidation tactics which seek to constrain the role of the ABCC, with consequent negative effects on the building and construction industry in Victoria?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Let me make it very clear: I support legality over and above all people's words of choice or conduct at all stages. People must always remain within the law. Whether they be union officials or whether they be union-busting employees, they both deserve the protection of the law.

Supplementary question

Mr DAVIS (Southern Metropolitan) — I therefore ask as a supplementary question, as many small traders, including builders, in the building and construction industry are vulnerable to the bullying and thuggish tactics of the CFMEU: can you tell the chamber what protections or codes or rules of behaviour, if any, apply to the negative CFMEU conduct towards small building businesses undertaking Victorian government contracts?

Mr Dalidakis — On a point of order, President, I look for guidance from you because I do not believe that this supplementary question is apposite. Mr Davis is now asking in terms of either policing or industrial relations powers — —

Honourable members interjecting.

Mr Dalidakis — The supplementary is now asking about powers that can be defined within either the police portfolio or the industrial relations portfolio, so I do not believe that that question is apposite to the main question.

Mr DAVIS — On the point of order, President, my question is directly responsive to the minister's answer to the first question. He indicated that the law and rules should be obeyed at all times. I am consequently asking him, with respect to the construction industry and small businesses within it, what rules, codes and laws apply to protect them and ensure that they are not intimidated.

The PRESIDENT — Order! On the basis on which the minister did answer the substantive question I think that it is fair to have the supplementary question put to the minister.

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Again I reflect and refer to the substantive answer, which was that the rule of law governs people's conduct, whether that rule of law be state or federal. As the member, Mr Davis, would be aware, our industrial relations powers were ceded to the commonwealth under a government in which he served when Jeffrey Kennett was the Premier. In terms of industrial relations powers, obviously they are responsive to the federal government. Where Victorian statutes are breached, then obviously Victoria Police are the responsible authority. Mr Davis should direct future questions to the Minister for Police in the other place or the minister here representing the Minister for Police.

Regional community consultation

Mr PURCELL (Western Victoria) — My question is to the Minister for Regional Development. Lack of consultation in regional Victoria is becoming a very disturbing fact. An example of this, and there are many of them, is that last week the speed limit on a large proportion of the Princes Highway between Port Fairy and Warrnambool was reduced from 100 kilometres per hour to 80 kilometres per hour without any consultation. This is a very busy road, and this impacts thousands of people. A lack of consultation seems to be a recurring theme in regional Victoria, and local issues are constantly being decided without any consultation. Therefore I asked the minister: does the government have a protocol they follow for community consultation in regional Victoria?

Ms PULFORD (Minister for Regional Development) — I thank Mr Purcell for his question and certainly reassure Mr Purcell that our government is very deeply engaged in the issues that matter to people in regional Victoria and consults closely with different communities on different matters all the time. I certainly spend time every week working with and discussing matters of importance to people in regional Victoria. There is no better example of this than the new regional partnerships, which are soon to celebrate their first birthday. This is the most inclusive program of community involvement in government decision-making in our state's history.

In fact the first of the 2017 regional assemblies, where ministers and other members of the government meet with members of the community who wish to come and talk to us about matters of importance to them, is to be held in Swan Hill next week. This has been a broad and a far-reaching reform and goes to the question of the highest priorities for communities and the way that government both hears from and responds to them.

Mr Purcell's question, though, did go to a specific road project. If it may assist Mr Purcell, I could take that part of the question about what specific protocols VicRoads might have in place, which is beyond my usual remit as Minister for Regional Development, on notice for the Minister for Roads and Road Safety.

Timber industry

Ms DUNN (Eastern Metropolitan) — My question is for the Minister for Agriculture. VicForests reported to the Forest Industry Taskforce that they need to apply a declining model of timber sales and can only offer three-year contracts as part of a model which builds in fire risk. Can the minister explain why a six-year contract with Auswest indicating supply of 36 000 cubic metres for the first two years, growing to 40 000 cubic metres for the next two years and 50 000 cubic metres for the subsequent two years, was signed contrary to advice provided by VicForests?

Ms PULFORD (Minister for Agriculture) — I thank Ms Dunn for her question and her ongoing interest. I note Ms Dunn is yet to take up the standing offer of a briefing with VicForests on any and all matters relating to their operations. The offer stands; I make it again.

VicForests carefully and conscientiously manage our native timber resource. As everyone in this chamber and many others in the community are well aware, this is a resource that is not without its constraints. VicForests negotiate with different organisations at different points, and contracts and their expiries occur at different times.

As I have indicated in the house before, the commercially sensitive nature of those individual arrangements for individual companies means they are not something that I am prepared to be drawn on in the house. If I am able to provide further information to Ms Dunn, I will, but the question very much pertained to confidential matters between VicForests and the company, so I think it is probably unlikely.

Supplementary question

Ms DUNN (Eastern Metropolitan) — Thank you, Minister. My supplementary question is: given the declining supply of timber, can the minister confirm that the only way to supply increased amounts of timber under this contract is to see the closure of smaller mills in East Gippsland?

Ms PULFORD (Minister for Agriculture) — I know the Greens would love nothing more than to see small mills in rural Victoria close. That is most definitely not the government's view. We want the timber industry to be as strong and as sustainable as it possibly can be. This involves VicForests having arrangements and processes in place to carefully manage the resource. That stands in some contrast to the arrangements that my predecessor entered into with one company in particular, where they were promised the world in spite of what could only have been reasonable assumptions that could be made about an available resource going into the future.

Timber industry

Ms DUNN (Eastern Metropolitan) — My question is for the Minister for Agriculture. Early last week volunteer surveyors from the conservation group Wildlife of the Central Highlands recorded the presence of a Leadbeater's possum near the Floater coupe in Toolangi. The Floater coupe comprises forest that was not affected by the Black Saturday fires of 2009, and it is part of an area of forest that is immensely important to the tourism industry of Toolangi. Despite all this, VicForests has just started logging the Floater coupe. Will the minister listen to the local community and the local tourism industry of Toolangi and cease the logging of the coupe?

Ms PULFORD (Minister for Agriculture) — I thank Ms Dunn for her question. There are many, many logging coupes in the state. There are arrangements in place that ensure the very careful management of our forest resource and sustainable harvesting, which Ms Dunn is very, very well aware of. In relation to a coupe-by-coupe account of what is going on at any given moment in time, I will probably fall short of Ms Dunn's expectations about that, but if I am able to provide Ms Dunn with further information about the coupe that she has inquired about on this occasion, then I will do so.

Supplementary question

Ms DUNN (Eastern Metropolitan) — Thank you, Minister. To assist in terms of the location, the boundary of the Floater coupe goes right up to the much-loved Tanglefoot picnic ground, which is the gateway to the amazing Kalatha Giant, a tree estimated to be 300 to 400 years old, and the trailhead of the Myrtle Gully walking track. Does the minister enjoy picnicking next to the devastation of a logged tract of forest and recommend it as part of a suite of tourism activities for Toolangi?

Ms PULFORD (Minister for Agriculture) — So yesterday it was all about Molly and today it is about my picnicking habits. President, you might have some observations to make about a minister's responsibilities to the house and members crossing a line beyond that. Typically when I am in Toolangi I am visiting my brother-in-law.

The PRESIDENT — Order! I felt that in responding to the picnic question you were not unduly hampered.

National firearms amnesty

Mr YOUNG (Northern Victoria) — My question today is for the Minister for Police, represented in this place by the Minister for Corrections. Minister, a national firearms amnesty has been declared to start as of 1 July. Without debating the merits of the amnesty, we have concerns about information being distributed in relation to its application. We have been told that there are restrictions on who can participate as a dealer, unreasonable criteria that they have to meet in order to do so and a prohibition on the payment of any money for firearms handed in. Minister, what information is being circulated by Victoria Police to firearms dealers about the amnesty?

Ms TIERNEY (Minister for Corrections) — I thank the member for his question. These issues obviously are the province of the Minister for Police. I understand that the Shooters, Fishers and Farmers Party have concerns in this area and in particular are wanting to know what has been provided to gun franchise owners. Is that right?

Mr Young — Yes.

Ms TIERNEY — I will make sure that the minister provides that answer.

Supplementary question

Mr YOUNG (Northern Victoria) — I thank the minister for her endeavour to do so. Regulations control what dealers can charge for the transfer of a firearm, but it appears there is confusion in relation to transfers under the amnesty. Has Victoria Police made an arrangement with dealers in relation to transfer fees or the sale of firearms handed in?

Ms TIERNEY (Minister for Corrections) — I thank the member for his question. Again, I will seek clarification from the Minister for Police on that matter.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have two answers to questions on notice: 11 099 and 11 058.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! In respect of today's questions, for Ms Crozier's substantive question to Ms Mikakos, it is one day. For Mr Purcell's question to Ms Pulford in respect of the possibility of protocols that VicRoads specifically has, it is obviously the jurisdiction of a minister in another place, so that is two days — there was only a substantive question. For Ms Dunn's first question to Ms Pulford, the substantive question, that is one day. For Mr Young's question to Ms Tierney representing a minister in the other place, the substantive and supplementary, that is two days.

CONSTITUENCY QUESTIONS

Eastern Metropolitan Region

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is for the Minister for Public Transport in the other place. Will she guarantee that Eltham's famous timber trestle bridge will be preserved in any plans for the duplication of the Hurstbridge rail line from Greensborough to Eltham? According to the National Trust of Australia database, this bridge, built in 1902, is the only railway bridge built predominantly of timber that is still in regular use in Melbourne's metropolitan electric railway network, and it is one of extremely few timber rail bridges in the state that still carries trains. When it was built it was close to the terminus point of what was then the Heidelberg–Eltham rail extension. It was on the route of the proposed Diamond Valley Railway that was planned to continue up the valley towards Kinglake.

Since the government's announcement of $5 million of planning works for the duplication of the railway line from Greensborough to Eltham, several residents have contacted me asking about the future of this local landmark. No-one I have spoken to wants the modernisation of the rail line to result in any degradation to the bridge. It not only links Eltham with earlier days of steam locomotive transport but is also set in the magnificent parklands that highlight the area's natural beauty. Eltham residents want to make sure this special piece of history is maintained, and I ask the minster to give a cast-iron guarantee that the future of the trestle bridge is assured.

Northern Metropolitan Region

Ms PATTEN (Northern Metropolitan) — My constituency question is for the Minister for Public Transport. Today I have had a number of constituents contact me regarding the closure of the Oxford Scholar Hotel on Swanston Street. It follows an article in the *Age* today, in which Malcolm Wulf, who has operated the pub for the past 25 years, says business has dropped by between $3000 and $5000 a week. The article says the government has offered no compensation.

Expert witness Terry Rawnsley in his *Melbourne Metro Rail Project Business Impact* report identified the problem when he said that environmental performance requirements were not detailed enough in regard to businesses in the north of the CBD, particularly around A'Beckett Street. He felt that foot traffic would fall by up to 80 per cent due to the footpath closures. Despite this the minister's published *Melbourne Metro Rail Project: Assessment under Environment Effects Act*

1978, dated December 2016, states that a compensation process has not been proposed for the businesses that will be affected. The assessment was that these businesses will not need compensation. My constituents want to know, now that the pub will close: will compensation be paid?

Southern Metropolitan Region

Mr DAVIS (Southern Metropolitan) — My constituency question today is for the attention of the Minister for Transport in the other place. It concerns the sky rail that is being built in my electorate between Caulfield and Dandenong — the level crossing removal project. There is a significant CFMEU presence on that site amongst some of the construction workers.

There are also small contractors that are involved in this process of constructing parts of the government's level crossing removal project. What I am seeking from the Minister for Public Transport is information. I am particularly wanting to know whether all Australian Building and Construction Commission rules have been complied with in terms of the relationships with and protections for small business operators involved in the sky rail project.

Western Victoria Region

Mr PURCELL (Western Victoria) — My constituency question is for the Minister for Emergency Services. I have raised in this place before the issue regarding the replacement of the Australian Volunteer Coast Guard vessel in Warrnambool. On 5 May last year I was advised that the current Warrnambool vessel would be retained; however, it has come to my attention that there is still an issue with that and there are moves afoot to actually remove this vessel and replace it with a smaller one. I therefore ask the minister to explain why the vessel is now being replaced despite the commitment that was made last year to retain it in Warrnambool.

South Eastern Metropolitan Region

Mrs PEULICH (South Eastern Metropolitan) — My constituency question is for the Minister for Public Transport in another place. It is in relation to the Labor government's controversial and deeply unpopular sky rail project, especially the Frankston line proposals. Following a motion that was passed by this chamber the government has, through the Level Crossing Removal Authority, approached the federal Department of the Environment and Energy in relation to its obligations under the federal Environment Protection and Biodiversity Conservation Act (EPBC) Act 1999 and its referrals. The department has apparently been in discussion, suggesting that:

> Further public comment opportunities will be available through that process. The acceptability of impacts to nationally protected matters will be considered carefully under the EPBC act at the conclusion of the state's assessment.

However, I am concerned that a number of matters have not been named, including the government's other proposal, so what they are referring to is the rail-under-road solution and not the sky rail solution. I urge the minister to make sure that all matters are considered as part of that process of environmental impact assessment.

Southern Metropolitan Region

Ms FITZHERBERT (Southern Metropolitan) — My question is to the Minister for Public Transport. Residents on St Kilda Road have just received a works notification informing them that major works are scheduled to take place on a continuous 24-hour cycle between 30 June and 11 July. Residents are reminded in the notification that there is no entitlement to relocation despite the significant noise they are going to be experiencing overnight. They have, however, been offered some free earplugs by the Melbourne Metro Rail Authority. That is the full extent of the compensation and assistance that is on offer to these residents, who are going to have to contend with what is already very significant and loud noise overnight in their neighbourhood when they are trying to sleep. I believe it is pathetic that this is all that local residents are being offered. I ask the minister: is this the best that you can do for the residents of the Domain area as they contend with this significant loud noise that is going to be a major intrusion in their lives?

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question is to the Minister for Public Transport. It is in relation to an adjournment matter I raised with the minister through this chamber regarding the Geelong rail line duplication business case. As we know, the state government provided $3 million to do the work for a business case in relation to the duplication between Waurn Ponds and South Geelong. The federal government actually committed $1 million as well to that work. We now know through the federal budget process that the federal government has committed $100 million to that duplication, but we have yet to see a business case from the state government. My question to the minister, even though she has not responded directly my adjournment matter,

is exactly when can we expect to see the business case so we know how much money this duplication will actually cost?

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My question is for the Minister for Roads and Road Safety, and it is regarding the funding for and commencement of works on the Shepparton bypass. Greater Shepparton City Council are eager to progress this long overdue project swiftly, and they would like to bring forward the preparation of the business case for construction of stage 1 in readiness for the 2018 budget rather than the 2019 budget as anticipated. Council are hopeful that the initial $10.2 million funding in this year's state budget will pave the way for a future funding commitment in next year's state budget to deliver stage 1 of the project. They seek to discuss with the minister the timing of future funding to deliver the full stage 1 as well as the upgrade to Ford Road to provide an east–west bypass of the Shepparton CBD. Will the minister give a commitment to fund the total cost of stage 1, which is estimated to be $260 million? That includes all preparatory works, land acquisition and construction as well as providing funding to complete the east–west link route along Ford Road to remove heavy vehicle traffic from the Shepparton CBD.

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Planning. The outrage continues in the west about Minister Wynne's decision to expand the stinking, dirty great hole in the ground in Ravenhall. If the minister doubts the depth of anger on this matter, he should check his inbox. There is a need for information on this decision. The community in Caroline Springs, Deer Park and surrounds is demanding to know why the minister has condemned them to a long future of life with this foul tip. Will the minister make public all information on which he based this appalling decision on this matter?

STATE TAXATION ACTS AMENDMENT BILL 2017

Committee

Resumed.

Clauses 42 to 45 — no question put pursuant to standing order 14.15(2).

Division heading preceding clause 46

The DEPUTY PRESIDENT — Mr Rich-Phillips is inviting the committee to omit the division heading with his suggested amendment 26.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Suggested amendment 26 is a consequential amendment on the subsequent amendment in relation to removing the provisions around motor vehicle duty and raising the level for new motor vehicles to the same as that for second-hand motor vehicles. The coalition will be opposing this, and therefore we will be seeking to omit clause 46, and this particular amendment is a consequential one on that proposed omission of clause 46.

Mr JENNINGS (Special Minister of State) — For the reasons that we have mentioned previously, the government does not support this amendment.

Division heading agreed to.

Clause 46

The DEPUTY PRESIDENT — Mr Rich-Phillips is inviting the committee to omit clause 46 with his suggested amendment 27.

Committee divided on clause:

Ayes, 19

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

Noes, 17

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

Pairs

Elasmar, Mr	Atkinson, Mr
Pulford, Ms	Lovell, Ms

Clause agreed to.

Clauses 47 to 49 — no question put pursuant to standing order 14.15(2).

Part heading preceding clause 50

The DEPUTY PRESIDENT — Order!
Mr Rich-Phillips is inviting the committee to omit the part heading with his suggested amendment 30.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My suggested amendment is consequential on the proposed omission of clauses 50 to 67. These relate to the imposition of the new vacant residence tax, which is opposed by the coalition. Therefore we will be seeking the omission of those clauses.

Mr JENNINGS (Special Minister of State) — For the reasons I have outlined previously to the committee the government believes this will play a positive role in releasing available housing stock for rental by tenants. This is the driver of the policy, and the government wants to proceed with it.

Part heading agreed to.

Clauses 50 to 67

The DEPUTY PRESIDENT — Mr Rich-Phillips is inviting the committee to omit clauses 50 to 67 with his suggested amendment 31.

Committee divided on clauses:

Ayes, 19

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

Noes, 17

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

Pairs

Elasmar, Mr	Atkinson, Mr
Pulford, Ms	Ramsay, Mr

Clauses agreed to.

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

Clauses 68 to 79 — no question put pursuant to standing order 14.15(2).

Clauses 80 to 97 agreed to.

Part heading preceding clause 98

The DEPUTY PRESIDENT — Mr Jennings is inviting the committee to vote against the part heading with his amendment 5.

Mr JENNINGS (Special Minister of State) — My amendment has the effect of removing from this bill the provisions that allow for centralised valuations to be introduced and for a centralised annual valuation to apply to property valuations in the state of Victoria. The reason we are doing this is that following consultation with the Victorian local government sector the government has decided to defer consideration of these changes to property valuations until the spring sitting period.

The house amendment will remove all the aspects of the bill relating to property valuations, primarily those in part 9 of the bill. We will continue to work with the local government sector and the crossbench on implementing this reform, particularly the implementation of the centralisation of valuations. We remain confident that centralising processes under the management of the valuer-general will improve the efficiency, consistency and transparency of property valuations in Victoria.

I note that a majority of the crossbench have assured us that they will support this reform but they want more time to consult with the sector on it. The house amendment has no impact on other parts of the bill.

Mr BARBER (Northern Metropolitan) — I compliment the government on this move. In any case the measures were not about to come into play anytime soon, and this does give us the five or six weeks of the winter break for the local government sector to have more dialogue with the government, the State Revenue Office and the valuer-general in order to come up with a scheme that will make sure this measure is cost neutral for local government and that we protect the quality of this function. It is an important function of local governments and impacts on the taxation power of local government.

In a rate capping environment councils are very sensitive to anything that might add to their costs or subtract from other forms of revenue. I have been receiving a lot of correspondence on this. No doubt there are one or two people actually listening to this debate, which may be more than usual compared to the

committee stage of other bills in this Parliament. Rather than try and explain on the run to all those different stakeholders, professional valuers and local governments what it is that we are proposing, we will simply take a bit of time over the winter break to work through that in a systematic fashion as a state government dealing with a series of local governments, as one sovereign and democratic level of government to another.

Mr JENNINGS (Special Minister of State) — I want to thank Mr Barber for his contribution there. I was not so gracious as to acknowledge that for reasons of opposition to the policy intent and the outcome the opposition had a similar set of amendments that they were seeking to move. I believe that by agreement, given that the amendments Mr Rich-Phillips and I have proposed have the same effect, I should note that the intent of the opposition is to achieve the outcomes in that regard in relation to this, and it is up to the government to convince them of the policy merits, or conversely for them to convince others, in the months to come.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — As the minister has indicated, the coalition's proposed amendments 34 through 38 seek to omit clauses 98 to 141, which are the operative clauses for part 9 of the bill. This is the section that has probably been most contentious in this legislation, the valuation proposals. It has been clear from the correspondence that has been received that there is widespread concern about how this would operate and indeed that there was potentially a lack of consultation prior to this measure being implemented, so we support the omission of these clauses, as we propose and as the government is now mirroring with its amendments, and their proper consideration before reintroduction.

Part heading negatived.

Division heading preceding clause 98

Mr JENNINGS (Special Minister of State) — My amendment 6 invites members to omit this division heading.

Division heading negatived.

Clauses 98 to 136

Mr JENNINGS (Special Minister of State) — My amendment 7 invites members to vote against these clauses.

Clauses negatived.

Division heading preceding clause 137

Mr JENNINGS (Special Minister of State) — My amendment 8 invites members to omit this division heading.

Division heading negatived.

Clauses 137 to 141

Mr JENNINGS (Special Minister of State) — My amendment 9 invites members to vote against these clauses.

Clauses negatived.

Clause 142 agreed to.

Long title

Mr JENNINGS (Special Minister of State) — As a consequence of the amendments the committee has just agreed to it is appropriate to amend the long title of the bill to take out the provisions that have just been extricated from the bill up to this point in time. I move:

10. Long title, omit "**1997**, the **Unclaimed Money Act 2008**, the **Valuation of Land Act 1960** and certain other Acts as a consequence of the amendments made to the **Valuation of Land Act 1960**" and insert "**1997** and the **Unclaimed Money Act 2008**".

Amendment agreed to; amended long title agreed to.

Postponed clause 1

Mr JENNINGS (Special Minister of State) — As a consequence of what the committee has undertaken up to this point in time — and I appreciate the forbearance of the Deputy President in the chair, those supporting him at the table and indeed the way that the committee has run — we now can come back to complete clause 1 via the amendments that reflect the changes that have been adopted by the committee up to this point in time. I move:

1. Clause 1, page 3, line 33, omit "information; and" insert "information.".

2. Clause 1, page 4, lines 1 to 10, omit all words and expressions on these lines.

Amendments agreed to; amended clause agreed to.

Postponed clause 2

Mr JENNINGS (Special Minister of State) — In a similar fashion, in relation to the commencement clause, clause 2, there are consequential amendments

that I now have the opportunity to move. I formally move:

3. Clause 2, page 4, line 13, omit "7, 8 and 9" and insert "7 and 8".

4. Clause 2, page 4, line 24, omit all words and expressions on this line.

Amendments agreed to; amended clause agreed to.

Reported to house with amendments.

Report adopted.

Third reading

The ACTING PRESIDENT (**Mr Morris**) — Order! I am of the opinion that the third reading of this bill is required to be passed by an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! The question is:

That the bill be now read a third time.

In order that I can determine whether an absolute majority can be obtained, I would ask members who are in favour of the question to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

BAIL AMENDMENT (STAGE ONE) BILL 2017

Second reading

Debate resumed from 8 June; motion of Ms PULFORD (Minister for Agriculture).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this afternoon to make some remarks on the Bail Amendment (Stage One) Bill 2017. Bail has become a hot-button issue for the Victorian community. We have seen over the course of the last two years a rapidly escalating crime rate across the state of Victoria. We have seen unprecedented incidence of crime across the state of Victoria and types of crime that Victorians have traditionally not experienced. We have seen a rapid increase in instances of things like carjackings in Victoria. We have seen a rapid increase in instances of home invasion, serious assaults and violent offences against the person. The crime rate has substantially increased across the spectrum in the last two and a half years. This is not something that has been isolated to particular pockets of Victoria; we have seen it occurring across the entire state.

The statistics released last week by Crime Statistics Agency Victoria on a local government basis record the extent and breadth of that increase in crime. I know in my electorate, which covers municipalities such as Greater Dandenong, the City of Casey, Frankston and down through the south-east, including Kingston, the increases in significant violent crime are very, very substantial. In some instances the rate of crimes against the person involving violence have increased by more than 100 per cent. They have increased by 50 per cent, 60 per cent or 70 per cent and in many cases by more than 100 per cent.

That has alarmed the community. It has alarmed parents. It has alarmed older people. It has made crime a hot-button concern at the front of people's minds. This is unprecedented for Victoria. Victorians have not traditionally regarded themselves to be at risk of crime — certainly not at risk of violent crime in the form of home invasions and carjackings. These are things we might see in a war zone or in the Middle East but not on the streets of Melbourne, yet week in and week out we are seeing those types of offences taking place on the suburban streets of Melbourne.

This has led to a growing and now quite deep-seated fear among the Victorian community as to how safe they genuinely are in their communities, and not only how safe they are in their communities but also how safe they are in their homes. That is unprecedented. For Victorians and Melburnians to be concerned about their safety in their own homes is without precedent and is extremely regrettable in a city like Melbourne in 2017.

Part of that fear in the Victorian community comes from the community's concern about the revolving door of the justice system and the belief that when people are apprehended by Victoria Police for serious crimes or violent crimes against the person they are prosecuted through the courts and they end up with lenient or effectively non-existent custodial sentences and are back on the street, or, even worse, they are apprehended for a violent offence, charged by police, released on bail and go on to commit a subsequent offence.

There have been a number of cases where offenders, having been accused and charged with quite serious violent offences, have been released on bail and have

gone on to commit more violent offences. When this Parliament resumed in February of this year the first item of business was a condolence motion — an expression of condolence and regret — by this house for what had occurred in January in the Bourke Street Mall. That event and the fact that the alleged offender was on bail was of great concern to and caused great anger in the Victorian community.

This is something we have seen repeated time and time again, possibly not to the severity of the offence that occurred in Bourke Street, fortunately, but certainly there have been other cases where offenders have been released or are on bail pending consideration of matters with which they have been charged and they have been in the community and have committed subsequent violent offences. The Jill Meagher case comes to mind as it involved an offender with a known history who was allowed to move freely in the community and was therefore able to commit that murder.

In the last two and a half years we have seen growing concern in the Victorian community at the level of crime against the person, at the level of crime that is being committed in people's homes and at the failure of the bail system to ensure that people who are apprehended for violent offences are not subsequently released on bail and therefore allowed to commit further offences.

Given that concern in the community, it is ironic that one of the first legislative changes made by the Andrews Labor government on coming to office in 2014 was to water down Victoria's bail laws by watering down the offence of breaching bail. This was an offence which had been put into the Bail Act 1977 by the previous coalition government in recognition that if a person who has been accused and charged with a serious offence is released on bail — and that bail is of course not a right but a privilege in effect that that particular individual is granted by the court — —

Ms Pennicuik interjected.

Mr RICH-PHILLIPS — I take up the sort-of interjection from Ms Pennicuik that bail is a right. I know where she is going with this presumption, but I would absolutely reject the notion that bail is a right. I know that is not exactly what Ms Pennicuik was saying, but the notion that it is a right of a person who is charged with an offence to receive bail is certainly not the message that this Parliament would want to be sending. I know where Ms Pennicuik was going with the presumption towards bail, but I would make a very clear distinction between a presumption towards bail and the right to bail.

On coming to office one of the first actions of this government was to water down bail laws. It watered down the provisions which had been inserted by the previous government to create the offence of breaching bail — that is, recognising that being released on bail is not a right and that it carries with it responsibilities and obligations. The fact that somebody who is on bail does not live up to the obligations that have been imposed upon them by the court in granting bail is something we on this side of the chamber believe should be recognised with a distinct criminal offence. Not only should there be a provision for bail to be revoked but that breach of bail itself should be an offence.

One of the first acts of the Andrews Labor government was in fact to water down that offence with respect to juvenile offenders. That is something that was not supported by the coalition. One of the ironies of the last two and half years is that so many of the offenders who have been of concern to the Victorian community have in fact been juvenile offenders. It has been juveniles who have been committing the carjackings, the home invasions and the other violent robberies that have come to be of great concern to the Victorian community. The Andrews government got off to a bad start with bail when its first act was to water down changes made in the previous Parliament. Since then we have seen concerns in the community escalate in respect of the availability of bail and what that has meant for people with a history of violence being released back into the community and subsequently committing other offences.

Since the event of January this year we have seen the government scramble to be seen to be addressing the bail problem. This piece of legislation today is in many respects the government's first attempt at it. One of the pieces of work that was undertaken in response to the community's concern around bail was the review undertaken by former justice Paul Coghlan, which looked at the Bail Act 1977 and considered the way in which it operated. The recommendations which came out of the Coghlan review were in themselves relatively modest.

The review did not recommend a wholesale replacement of the bail system or a wholesale replacement of the Bail Act as it stands — and it is an act that is 40 years old this year. It recommended some relatively modest changes, and this bill before the house today is very modest in its implementation of the modest changes that Paul Coghlan recommended. In fact it is very telling that the title of this bill is the Bail Amendment (Stage One) Bill 2017. It is almost an implicit message from the government that it knows this bill is inadequate. It knows these changes to the bail

system are inadequate and that it has not done the work that is required to beef up the state's bail system However, it felt political pressure to bring something forward, so it has introduced this bill which makes some minor changes to the bail regime but certainly does not go anywhere near providing the degree of rigour that this side of the house and increasingly the Victorian community believe is necessary for the bail system. The title of the bill suggests the government knows it needs to do more and has failed to do so.

The Attorney-General was asked as part of the budget estimates process about the resourcing that had been made available to take into account the effects of the government's proposed bail changes — that is, whether additional resourcing would be required in the custody system to accommodate people who were remanded rather than released on bail. If you are tightening bail, it is a not unreasonable expectation that you will need to provide facilities and resourcing for additional capacity in remand facilities across the state. It was evident from the Attorney-General's response that there was no clear allocation of additional resources, which clearly must reflect the government's view that there will not be a substantial change in the number of people who are remanded as a consequence of this bill. That raises the question as to whether this legislation goes anywhere near meeting the expectations of the Victorian community in tightening bail.

It is certainly the view of the coalition that this bill does not go far enough. The coalition has over the last six months, through the work of the shadow Attorney-General in the other place, John Pesutto, and through the work of the shadow Minister for Corrections in this place, Mr O'Donohue, made a number of policy announcements around the way in which the coalition government would tighten bail and the presumptions around the granting of bail, particularly where serious violence offences are concerned. The presumption that Ms Pennicuik interjected about earlier would be reversed in respect of a wider suite of serious violence offences. There would not be a presumption that a person who had been charged with a serious offence would have access to bail; there would in fact be a presumption that they would not receive bail unless extraordinary circumstances dictated that bail should be granted rather than the person being remanded.

This bill falls far short of the policy direction the coalition believes bail should be heading in in Victoria and it falls far short of addressing the community's concern about the revolving door in the bail system and the consequential serious violence offences which are occurring right across the state. As I said, the title of the bill reflects the government's own acknowledgement that this bill is inadequate in addressing the community's concerns around bail.

This bill starts down the path of picking up some of the recommendations from the Coghlan review. The coalition will not oppose the bill, but we say that it does not go far enough. It is too slow a response from a government that has a crime tsunami on its hands. The community expects better and this side of Parliament expects better, and if the Andrews Labor government is not willing to deliver a better bail system, a coalition government will deliver one after November next year.

Mr SOMYUREK (South Eastern Metropolitan) — I rise to speak on the Bail Amendment (Stage One) Bill 2017. Following the horrific incident in Bourke Street earlier this year, limitations on our bail laws were identified and recommendations made by the Honourable Paul Coghlan, QC, in his review of Victoria's bail laws. This bill is stage one of a series of improvements to our bail laws. This bill will amend the Bail Act 1977 in order to do the following: insert a purpose and guiding principle section into the Bail Act; clarify the test for granting bail; clarify powers of police, bail justices and the courts to grant bail; clarify provisions relating to bail conditions; and make amendments to the Bail Act recommended by the Royal Commission into Family Violence.

It is crimes such as the Bourke Street tragedy and other tragedies in recent times, in particular high-profile tragedies involving criminals who happened to have been on parole at the time of their additional crimes, that contribute to the reduction in community confidence in public safety. The community deserve to have confidence in a bail system that is effective in protecting them and in responding to the risks of potential reoffenders.

Mr Coghlan found that Victoria's bail system — the general entitlements with exemptions and exclusions — is consistent with bail laws in other Australian and relevant international jurisdictions. He also found that due to Victoria's two reverse onus categories and the range of offences to which they apply, Victoria's bail laws are the most onerous in Australia. Many of the recommendations in Mr Coghlan's report deal with the functionality of the Bail Act 1977 and the ability for it to be interpreted as intended by the people that actually drafted the act.

This bill is required to begin the process of the clarification of our bail laws. One of its amendments inserts a purpose and guiding principles section into the Bail Act, as it currently does not have one. This section

will inform the community about the purposes of bail and remind decision-makers of some important considerations relevant to it. In particular, balancing the presumption of innocence and the protection of the community is very important. It is very important to get that balance right, and the drafters of this amending bill are certainly cognisant of that fact.

Other language in the act confuses the intent around presumption in relation to the tests for granting bail. In order to support what I am saying here I will quote from the words of Mr Coghlan. It is a pretty lengthy quote:

> The current tests for bail are complicated and confusing. Section 4 is a complex section both structurally and linguistically. It does not clearly state the various bail tests and the offences to which they apply. In particular, it is difficult to ascertain which offences are captured by the show-cause test without reference being made to … other statutes.

You can see how complicated and confusing this particular section is, leading obviously to very poor outcomes in community safety as well. In order to address the current complexity and confusion, this bill will create a schedule 1 and 2 to the Bail Act to contain lists of offences where the presumption in favour of bail is actually reversed, requiring the accused to prove exceptional circumstances for certain offences and show compelling reasons for certain offences.

Under this bill, bail will be refused for a number of new offences, including aggravated home invasion and aggravated carjacking, unless there are exceptional circumstances at play. There will also be a presumption against bail for many more offences, including — and this is a lengthy list — rape, kidnapping, armed robbery, intentionally or recklessly causing serious injury with gross violence, culpable driving causing death, dangerous driving causing death or serious injury, dangerous or negligent driving while pursued by police and persistent contravention of a family violence intervention order.

In relation to people who commit further indictable offences while on bail, on summons, on parole or under sentence — including a community correction order — they will not be granted bail again unless they can prove there are exceptional circumstances or compelling reasons at play, depending on the severity of the further offending.

The subject of who can grant bail was highlighted by the traumatic events that took place on Bourke Street due to bail having been granted to the perpetrator of the crime by a bail justice. I mentioned earlier Mr Coghlan's recognition that the public perception of community safety has been diminished as a result of some significant criminal acts in which bail has been involved. There is an interesting observation in relation to this in Mr Coghlan's report. I again have to quote a lump of text. I normally do not like doing that, but I think this does bolster the case. Mr Coghlan commented:

> The data also shows that bail is refused more often now than five years ago.

That is new to me. I go back to the quote:

> For example, from 2015–16, Magistrates Court data shows that 33 per cent of bail applications were refused —

33 per cent; that is a big number —

> compared to 2011–12, when 21 per cent of applications were refused. Bail justices are also remanding a slightly higher percentage of applications before them (85.5 per cent in 2016 compared to 83.7 per cent in 2015).

Those figures really did surprise me when I first came across them very recently.

Mr Coghlan again highlighted the lack of clarity in the current act about the powers of those with authority to grant bail. This is very important. The bill will therefore clarify by specifying the power of police to grant or refuse bail, the power of bail justices to grant or refuse bail and the circumstances in which they can choose to exercise these powers and will simplify the powers of a court to grant or to refuse bail.

The bill will also make changes so that the bail for persons charged with 'exceptional circumstances' offences will now only be able to be granted by a court rather than by police or a bail justice. There will be a further bill that will deal with police remand and the role of bail justices upon further consideration by the government.

The bill also makes changes to bail conditions, and equally important are the changes to the Family Violence Protection Act 2008 to consider the risks of family violence when making bail decisions by inserting provisions which explain the relationship between bail conditions and family violence safety notices.

In conclusion I say that this bill is a great first step, a significant first step indeed, in strengthening community safety and public confidence in the bail system, which is greatly needed right at the moment, and more importantly in doing all of these things and ensuring that it works effectively. We know the system currently works effectively most of the time, but occasionally there are loopholes that need to be

tightened and there is lack of clarity and confusion which this amendment bill tightens. All in all I think this bill goes a long way to doing those things and therefore instilling public confidence in community safety. I commend the bill to the house.

Ms PENNICUIK (Southern Metropolitan) — The Bail Amendment (Stage One) Bill 2017 implements a number of the recommendations from the review, *Bail Review: First Advice to the Victorian Government*, conducted by the Honourable Paul Coghlan, QC, following the terrible events of 20 January 2017 in Bourke Street, and implements recommendation 80 of the Royal Commission into Family Violence. Paul Coghlan's review was released in April this year. In brief, the bill inserts a purpose and guiding principles into the Bail Act 1977, which previously were not there, and, as I understand it, Victoria has the only bail act in the country that does not have a purpose and guiding principles, so that is a welcome development and was recommended by Mr Coghlan.

The bill expands the circumstances in which the presumption in favour of bail is reversed by adding more serious offences to the existing exceptional circumstances and also to what is currently known as the show-cause category. There are some good aspects and some concerning aspects to that, which I will return to later in my contribution.

Controversially the bill replaces the 'show cause' test for bail with the 'show compelling reason' test, which in effect creates a higher threshold before bail can be granted. This was not recommended by Mr Coghlan, who only recommended making the words 'show cause' clearer to bail decision-makers, to people applying for bail and to the general public. The words 'show cause' are not well understood, and he recommended that they be changed to 'show good reason'. We have grave concerns about this change because it is quite a significant change to the two types of 'show' presumptions against bail which exist already in the Bail Act, and there has not been any evidence or reason given by the government for that.

The bill also creates schedule 1 offences for the existing exceptional circumstances category and reverse onus offences and schedule 2 offences for the show cause — or now under this bill the show compelling reason — category offences. In his review Mr Coghlan said that the Bail Act as it is currently written is very confusing and the show-cause provisions are not clear to many decision-makers, whether they be in the courts or whether they be the police — and particularly the police. He made quite a number of comments about his concerns about the understanding of the show-cause provisions by police and also by bail justices. The bill clarifies the powers of police, bail justices and the courts to grant bail — and I will discuss that later in my contribution — and provides for the adjourning of hearings if the accused appears to be affected by alcohol, another drug or a combination of drugs to enable the person to in effect sober up. It also makes important amendments to the Bail Act recommended by the Royal Commission into Family Violence, specifically recommendation 80 with regard to the interaction between bail conditions and family violence safety notices.

It is worthwhile for us to thank Mr Coghlan for his review — his two reviews in fact, because they have both been released. This stage 1 bill is based on some of the recommendations contained in *First Advice to the Victorian Government*. One of my first criticisms with this whole process is that we are putting in place some of the recommendations of the stage 1 review but not all of them, and on my careful reading of Mr Coghlan's review it is very concerning to put in the new schedules, for example, which significantly broaden the range of offences that will mean that the accused has the presumption or the onus on them to show why they should have bail. The number of those offences is much, much broader under this bill.

However, the bill does not put in place Mr Coghlan's other very important recommendations with regard to the rewording of section 4 of the Bail Act 1977, for example, and adding more criteria for bail decision-makers to consider when accused come before them, either to show a good reason, as I would like to have it said, or an exceptional circumstance. To my mind, putting in the broader numbers of offences under the two new schedules on the one hand makes it clearer for the bail decision-makers to know which offences actually trigger the reverse onus provisions, but it does not give the decision-makers clarity as to what they should be giving priority to in their considerations of those reverse onus provisions.

Mr Coghlan made very specific recommendations as to the wording of the criteria under section 4 of the act that should be included and clarified. Mr Somyurek, in his contribution, actually quoted that particular part of the report where Mr Coghlan says that it is very difficult for decision-makers to know what criteria they are meant to apply. Mr Somyurek implied in his contribution that that was being fixed by inserting the schedules. It is actually not. The clarifications to the language that Mr Coghlan talks about in the review, that are very much needed, are not in this bill. But I have amendments which have the effect of inserting those clarifications which Mr Coghlan did recommend

be inserted into the principal act. I am happy to have those circulated.

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

Ms PENNICUIK — I also point out that in addition to the clarifications recommended by Mr Coghlan to the language with regard to criteria for bail decision-makers, there is also an amendment to change the wording from 'show compelling reason' to 'show good reason' for less serious offences, or the schedule 2 amendments in the bill.

The bill inserts two schedules. Schedule 1 will apply the reverse onus in exceptional circumstances. It is for the more serious offences and there is a large number of serious offences in that schedule. The bill inserts schedule 2 offences into the act and applies to them what the bill calls 'compelling reason reverse onus', which by my amendment would read as 'show good reason', which is what was recommended by Mr Coghlan.

Mr Coghlan's review goes to some length to outline why he believes we need to retain the two types of reverse onus in the Victorian act. He goes on to compare our Bail Act with interstate acts and overseas acts, such as in the UK and New Zealand. After going through all the arguments, some put forward by Liberty Victoria, for example, the Law Institute of Victoria and others, including Victoria Police, who favour scrapping the reverse onus, which was one option, and just having the unacceptable risk test, in his review he came down on the side of retaining the unacceptable risk test — that is, the informant or prosecutor has to prove that there is an unacceptable risk. If that has not been proved, that is when the accused goes into the reverse onus step and schedule 1 or schedule 2 applies, depending on the offence with which the accused is charged. While Mr Coghlan considered all the arguments, for and against, he came down on retaining those two types.

In terms of changing the wording, retaining 'exceptional circumstances' means it is quite a high threshold. Many commentators already say it is too high. Be that as it may, it is the existing wording. Mr Coghlan did not recommend any change to the bar that has to be reached in terms of show cause. He said 'show cause' is not well understood and recommended it be changed to 'show good reason' but that the bar should remain the same. The problem with changing 'show cause' or 'show good reason' to 'show compelling reason' is that there is virtually no difference between the bars for 'exceptional circumstances' and 'compelling reasons'. While the government is saying there is a schedule 1 and a schedule 2 and different bars apply, in fact the bars that apply are quite similar. There are a lot of concerns with that. One is that a large number of the offences in schedule 2 are quite broad offences, and committing an offence in that schedule could range from really, really very serious to not that serious at all but could still mean that the person is remanded in custody when in fact they do not pose a risk to the community.

That is why I think that the extra clarifications recommended by Mr Coghlan in his review in terms of the criteria for unacceptable risk need to be clarified, along with the factors that a bail decision-maker must consider when considering whether to refuse bail. My amendments will clarify that. Whether or not you are in favour of the bill, I do not think the bill can work as intended by Mr Coghlan without those changes. He has admitted that even if the review was fully implemented the way he has intended, it would still mean a lot more people would be remanded in custody. As I say, he and many others also concede that some injustices could occur with regard to that.

Again I thank Mr Coghlan for his review. I point out, as I did at the start, that there were two reviews: his first advice and second advice to government. In the first advice he foreshadowed changes that he recommended should be made also with regard to very minor offences. This involved taking those offences out of the bail system completely to counteract the more strict conditions that this bill is putting in place, which he conceded will result in more people being remanded. That is clearly going to place a burden on the court system and on police and bail justices, but particularly on the court system because this bill also makes a change so that only a court can consider schedule 1 offences. That means an awful lot more bail applications will be considered by the courts than is currently the case and that are now considered by bail justices and by the police.

I return to my original point. I am very concerned that the government is rushing ahead with this part of the reforms without the other parts of the reforms, because they really do need to all work together to make sure, as far as possible, that there is justice in terms of bail and refusing bail for accused and that there is the ability for the courts and the police to cope with the changes.

I just wanted to refer briefly to Mr Coghlan's report. Again, as I said, it is written very clearly. If people who are not familiar with the bail system and how it works read this report, they would become very familiar with

how it works. I recommend that everybody who has an interest in this issue, not only members of Parliament but also members of the community who want to understand how the bail system works and what these changes will mean, should read this report because it is written in very plain language that can be understood. It is not written in legalese. He started out by saying:

> The provisions relating to bail in Victoria are already very strict. I do not consider that the Bail Act 1977 (the Bail Act) needs a major overhaul in terms of its theoretical underpinnings. In particular, I consider that there should continue to be a general presumption for bail, subject to the reverse onus and unacceptable risk tests.

That is basically what he has done in his report.

I now turn to the exchange that Mr Rich-Phillips and I had earlier about bail being a privilege. The report states that there should be a general presumption for bail, as already exists in the act. Mr Coghlan says later on in his report that there is a general entitlement to bail in Victoria under the Bail Act. It is not a privilege, it is a right. It is a right that is qualified. That is what it is. He goes on to say in the executive summary that the Bail Act is difficult to follow and apply, which I have already spoken about, and it is difficult to work out which offences are in the reverse onus categories et cetera. He considered that there needed to be a greater emphasis on risk and proposed the rewriting of section 4 to place the assessment of risk up-front and to retain the reverse onus categories and clarify that both those categories involve a two-step process. He said:

> The 'show cause' category would become the 'show good reason' category, with new offences added … The offences to which the reverse onus provisions apply would be set out in schedules …

He also considered that emphasis should be placed on offending whilst on bail, making it harder for people who have offended while on bail to have further bail granted. Mr Coghlan goes on in his review to talk about the number of people that come before the courts who have a number of bail applications at the one time. He suggested that the people who can currently make bail decisions be retained — the police, bail justices, courts et cetera. But as I have mentioned, there are some changes in terms of schedule 1 offences being only heard in the courts. He noted:

> … the decisions of bail justices are largely uncontroversial. They consider bail in a very small number of cases and mostly refuse bail.

He recommended that bail justices should be retained and the police should be able to apply to a duty magistrate for a stay of bail granted by a bail justice.

In his review Mr Coghlan does in fact speak a lot about bail justices and the service they have provided to the community. Everyone knows there was a lot of concern about the decision made by a bail justice to release the offender prior to the 20 January tragedy when people were killed and injured in Bourke Street. As Mr Coghlan says, they make many decisions every night during the week and on weekends.

On pages 84 to 89 of his review he also talks about the advantages of bail justices. He lists the advantages and disadvantages. There are 20 advantages and nine disadvantages. The advantages of having them far outnumber the disadvantages, not only in quantity but also in quality. He lists advantages such as:

> they are drawn from local community and reflect community values;
>
> they are independent of the police;
>
> they can make a welfare assessment of the applicant and field complaints about an applicant's treatment whilst in police custody;
>
> they can witness interactions between police and an accused …
>
> they are available at short notice;
>
> they are inexpensive …
>
> they are willing to travel considerable distances late in the evening and in the early hours of the morning;

And:

> they are chosen randomly from a roster.

He stated that some of the disadvantages included that they have no legal training, although they do receive training. He also makes the point that in the vast majority of cases, over 85 per cent, they actually do refuse bail.

I think a lot of the criticism of the bail justices at the time, notwithstanding the tragic circumstances, overlooked the service that they do provide to the community. In fact as far back as 2008 I raised as an adjournment matter the need for bail justices to be better recompensed for the expenses that they incur while travelling large distances at short notice in the middle of the night and on the weekend to hear bail applications. It is good to see that their services will be retained.

In the review Mr Coghlan also said that he has:

> … met with the complex needs review, which is reviewing the effectiveness of legislation and service frameworks in managing the risks of violence by persons with multiple and complex needs, both within and outside the criminal justice

> system. Other related work includes the Review of Youth Support, Youth Diversion and Youth Justice Services …

which is due to report in the middle of this year. So I think there is still more to come in addition to his second advice to government, which I have also mentioned.

In terms of bail too, he also says that it should be realised that hundreds of bail decisions are made across Victoria ever day by the police, bail justices, magistrates and judges, so thousands of people are on bail in Victoria every day, and the overwhelming majority of these decisions do not attract controversy and a large majority of accused persons on bail do not breach their bail. He said:

> However, in recent times, there has been significant publicity about armed robberies, aggravated burglaries and carjackings. It is the public perception that many of the alleged offenders have been on bail. That situation has probably led to some undermining of the confidence in the criminal justice system. It was in that context that the events of 20 January 2017 occurred.

He went on to say that the fact that the offender was on bail has caused significant community concern about whether the bail system is working properly and has prompted this review. He also went on to say that:

> Victoria's bail system has a general entitlement to bail, subject to the unacceptable risk test and two reverse onus categories (the exceptional circumstances and show-cause categories).

He said:

> Ultimately, the question is how to ensure that the right people are on remand. It is untenable from a practical viewpoint, and undesirable from a principled viewpoint, to simply remand more and more people, although mere numbers cannot govern who should be on remand.

And as Mr Somyurek said as well, the data actually shows, despite the public perception and the media coverage, that more people are being denied bail now than in the past. Bail is refused much more often now than it was five years ago. For example, the report states:

> … from 2015–16 Magistrates Court data shows that 33 per cent of bail applications were refused, compared to 2011–12, when 21 per cent of applications were refused. Bail justices are also remanding a slightly higher percentage of applications before them …

It is more than 85 per cent now compared to 83 per cent in 2015. He also said that the data in relation to young people follows similar trends:

> Department of Health and Human Services (DHHS) data shows that approximately half the young people in youth detention are on remand (99 out of 200).

This is a point that the Greens, and in particular my colleague Ms Springle, have made many times with regard to the issues of youth justice: that we are talking about young people who have been remanded in custody who have not been convicted of any crime. Of course the problems of the overcrowding in the youth justice centres has been caused by too many young people being remanded in custody. But this also applies across the whole of the criminal justice system with the increase in the number of people on remand, and this bill will lead to more of that.

When he talked about the problems with the Bail Act he said it has been amended many times since its enactment in 1977. It is 40 years old this year, and it has been amended many times since I have been in this place. As I have pointed out before and as he pointed out in his review:

> This has resulted in a complex, cumbersome act, which has significant internal inconsistencies and is difficult to read, understand and apply.

As was previously noted by the Victorian Law Reform Commission (VLRC) in its report in 2007 — 10 years ago — the act needs to be rewritten. It is not what is happening here; we are actually just amending it again — so more amendments to the Bail Act.

Mr Coghlan said it would be preferable for the act itself to work properly and for its provisions to be as clear and transparent as possible. He noted on page 24 of his review that due to the nature and the time constraints that were put on him to do the review quickly he was unable to consult with many interested parties, and he recommended that there be further consultation on the recommendations, particularly in relation to the schedules, and that this would assist with the workability of the proposals and minimise the risks of unintended consequences, which include people being remanded when they need not be and are not posing a risk.

Of course that has not happened, and many in the legal profession — the Law institute of Victoria, Liberty Victoria et cetera — raised a number of concerns about the offences that are included in the schedules, as I mentioned earlier. Historically — he did not say this, but I am saying it — if you go back to the late 15th century the bail laws were actually introduced in the United Kingdom by a much-maligned Richard III, who was apparently, according to Shakespeare, a hunchback et cetera, but this was actually just Tudor propaganda and he was not a hunchback. In fact in the context of the times he was a reforming and progressive leader who introduced bail laws and a whole lot of other reforms into the Parliament, including conducting

the Parliament in English. But that is how far they go back, and the reason for it was that an awful lot of people were being confined in dungeons and other very unpleasant places, accused and just held in custody indefinitely. That was the way it was done; that was the default position — that you were held in custody. Unless you were wealthy and were able to persuade a judge to let you out of incarceration, you stayed there at the pleasure of the judges, the courts and the king. So that was when the bail laws were introduced.

I will go back to what Mr Coghlan said, which was:

> The primary purpose of bail laws, at least historically, has been to ensure an accused's attendance at court.

So that if someone is released on bail, a surety and conditions are applied to ensure they actually turn up to court when they are meant to. Mr Coghlan goes on to say:

> This may not be well understood by the general public.

He also said:

> … the other important purpose of bail laws — to manage risks that might arise while an accused person is on bail and ensure the safety of the community — is taking greater precedence among the broader community.

Mr Coghlan recommended a rewording of section 4, which is the unacceptable risk test, so that when a person is brought to a bail decision-maker the first thing is for the prosecution or informant to make out the case that there is an unacceptable risk. My first amendment that I circulated goes to rewording that section 4, the unacceptable risk test, so that it would say that bail must be refused if there is an unacceptable risk that the accused, if released on bail, would:

(A) endanger the safety or welfare of any person —

including a member of the public —

(B) commit an offence; or

(C) interfere with witnesses or otherwise obstruct the course of justice whether in relation to the accused or any other person; or

(D) fail to appear in court in answer to bail.

This is not completely different from the existing section 4, but goes to Mr Coghlan's point that the section needs to be clearer and also prioritised. At the moment item (A) is 'fail to appear in court', and Mr Coghlan has recommended making that item (D). That would make the unacceptable risk test clearer and also more in line with the public safety purposes and guiding principles put in place in the act.

The second amendment that I have proposed concerns the criteria or the factors that should be considered by bail decision-makers in determining whether to refuse bail under section 4(3). This should be read in conjunction with the new schedules that add a whole lot more offences to 'exceptional circumstances' and 'show cause' provisions. That would mean that the bail decision-maker would have to take into consideration:

(a) the nature and seriousness of the alleged offending, including whether or not it is a serious example of the offence;

(b) the strength of the evidence against the accused;

(c) the criminal history of the accused —

that is, have they been accused of this crime before —

(d) compliance by the accused with any previous grants of bail;

(e) whether the accused is alleged to have committed the offence

(i) while on bail for another offence; or

(ii) while subject to a summons to answer to a charge for another offence; or

(iii) while at large; or

(iv) during the period of a community correction order made in respect of the accused for another offence or while otherwise serving a sentence for another offence; or

(v) while released under a parole order;

(f) the personal circumstances, associations, home environment and background of the accused;

(g) any special vulnerability of the accused, including by reason of youth, being an Aboriginal person, ill health, cognitive impairment, intellectual disability or mental health;

(h) the availability of bail support services —

which include drug and alcohol services —

(i) any view, or likely view, of the alleged victim of the offence to the grant of bail;

(j) the length of time the accused is likely to spend in custody if bail is refused …

This is very important because more and more people are spending longer periods of time waiting for their case to come before the courts. This happens because the resourcing of the justice system has not allowed for the larger number of people on remand coming to court, including young people, as I mentioned before.

The amendment continues:

> (k) the likely sentence should the accused be found guilty of the offence charged;
>
> (l) whether the accused has expressed publicly support for
>
> (i) a terrorist act or a terrorist organisation; or
>
> (ii) the provision of resources to a terrorist organisation.

So there are a large number of factors that a bail decision-maker needs to take into account when a person is showing either that there is an exceptional circumstance why they should be released or that there is good reason why they should be released. It is a balance of factors in favour of the accused and a balance of factors against the accused, so it is about half and half.

In terms of the introduction of the schedules with a broader range of offences, we really need to have a broader range of factors and guidance to decision-makers as to how they will apply these provisions to those offences to make sure that they remand the people in custody who need to be remanded because they fall under any of those factors.

These amendments stem from Mr Coghlan's review. Page 33 states:

> The current tests for bail are complicated and confusing. Section 4 is a complex section both structurally and linguistically. It does not clearly state the various bail tests and the offences to which they apply. In particular, it is difficult to ascertain which offences are captured by the show-cause test without reference being made to multiple other statutes —

including the Crimes Act 1958 and the Magistrates Court Act 1989. Bail decision-makers have to refer to other acts as well.

Those are the main points I would like to make about this bill. It does not balance the schedules with the factors that need to be considered and it raises the bar on the 'show cause' provisions to 'show compelling reason', which was not recommended by Mr Coghlan.

I turn to the second-reading speech in the Legislative Assembly, which I take issue with in part because with regard to clarifying the tests for granting bail the Attorney-General said:

> The bill changes the current wording of 'show cause' to 'show compelling reason'. A change in the wording of the show-cause test was recommended by Mr Coghlan, in order to make absolutely clear that persons who face this test are to be refused bail unless they show compelling reasons why it should be granted.

That is at best misleading and at worst completely inaccurate because that is not what Mr Coghlan said. He never used the word 'compelling' at all, so I find it quite concerning that that sort of statement is in the second-reading speech.

Further the Attorney-General said:

> The bill does not otherwise alter the reverse onus tests which will continue to apply to schedule 1 and schedule 2 offences committed by an adult and a child.

Well, yes, it does. So that is another misleading and completely inaccurate statement in the second-reading speech.

Now I have had a go at second-reading speeches in this Parliament before, because they are meant to actually outline accurately and faithfully what a bill does. However, sometimes ministers just leave out complete swathes of a bill and do not mention them in the second-reading speech. At other times the speeches are inaccurate and misleading, such as in this case, and other times they are little more than media releases, but they are meant to be basically legal documents that tell the public what is in the bill, so I was pretty amazed to actually see that and to see also a second-reading speech make an inaccurate statement about a person and their recommendations. This was the person who the government commissioned to do a review and who did a good job on the review.

There are a lot of concerns with this legislation. As I said, I have circulated some amendments which I think are essential to making it even basically workable in a just way in order to get just outcomes not only for the accused applying for bail but for the public as well.

Mr FINN (Western Metropolitan) — I rise this afternoon to speak on the Bail Amendment (Stage One) Bill 2017, and I make the observation that this bill must really be hurting the government. This bill must be causing the government a great deal of pain, because this bill is a public admission and a public concession that the government's policy on bail has failed.

It has been an unmitigated disaster. That is the only conclusion we can draw. We saw the government when it first came to office back in 2014, tragically for the people of Victoria, water down the previous government's bail laws, and here today we have a piece of legislation which is saying for the world to hear that that did not work. We all know it did not work. Anybody who reads the newspapers, listens to the radio or watches the television knows it did not work, because the number of crimes that have been committed by people on bail over the last year or two

has been astronomical. It seems that every single person who commits a major crime in this state is on bail. The only thing mandatory about this government is the need for a criminal to be on bail when he or she commits a crime. It seems to be a situation that is intolerable. I do not think this bill is going to fix that. I think the bill will go some way toward moving in the direction of fixing it, but it is not going to fix it at all because, as I say, this government has been an unmitigated failure in the area of bail.

I have to ask why this legislation has taken so long. The Premier said back in January that this legislation was on its way, and here we are. It will be July next week. Here we are on the second-last sitting day — we think — of the autumn session and this legislation is finally up for debate in this house. Why has it taken so long? Why does the government drag its feet so often on law and order? It is very clear to me why the government drags its feet on law and order. It is because Labor is soft on crime, Labor is soft on criminals and Labor is soft on law and order. In fact Labor just rolls over and lets it all happen. We have seen it happening right around this state — city and country — for the world to see. Over the last year or two crime has become totally out of control. We have a crime tsunami, as it is often referred to, and that is exactly what it is. Labor is just letting it all wash across itself.

It is the community that has demanded some action, and this bill is some action but nowhere near enough. It is far, far from enough, because we could not expect a Labor government, particularly a Socialist Left government, to get tough on crime. We could not expect a Socialist Left government to threaten the 'civil liberties' of criminals in this state, because that is what Labor cares about more than anything else — more than victims and more than the safety of people in the suburbs, country towns, farms or wherever they might be in this state. Their concern is for the civil liberties of criminals.

I stand in this house today to say to you that when it comes to the civil liberties of those who do us harm, I do not give a stuff. I have had enough. I have had a gutful. For far too long in this state these criminals have been doing whatever they like to whoever they like whenever they feel like doing it, and it has got to stop. Innocent people are being hurt every day. Innocent people are being killed on a regular basis, and we have to do something about it. It is not good enough to say, 'We've got a piece of legislation here that's stage one'.

I do not know how many stages this legislation is coming in, but why the hell have we not got the lot here now? That is what I want to know. If this was such an important issue — and it is a very, very important issue — and if the government recognises this as an important issue, as they are trying to tell us, why do we not have all of this legislation before us today? This is a major, serious issue in this state, and the government — this Socialist Left government — is not at all serious about taking on the position of defending the vast and overwhelming majority of Victorians from crime.

It seems to me, as I mentioned a moment ago, that just about every major crime in Victoria is committed by somebody on bail. You hear on the radio that somebody has committed a major crime. If you could find a bookie who would take money you could just about put the house on the fact that that criminal, the person who had committed that crime, was on bail, because that is what is happening in Victoria every day. People on bail are committing the most heinous of crimes.

I have to say that members of Victoria Police, our thin blue line, are in despair. They are in total despair, because they are out there every day putting themselves on the line, putting their lives in danger, to protect us and to catch the crims who are committing these crimes. They are locking them up — most certainly they are locking them up — but they are then going to court and seeing them just walk. It is the most frustrating thing for the police, and they have my total sympathy with regard to this because they have a difficult enough job as it is.

As we all know, we do not have enough police in Victoria because — surprise, surprise — this Socialist Left government has dropped the ball on police as well. A vital part of protecting a community, a vital part of law and order, is the appropriate number of police, and this government has totally dropped the ball on police numbers in this state. They tell us that we are going to have new police coming soon. How many years are we talking about — 10, 15, 20? How many years is 'soon'? Quite frankly there are too many people in this state who do not want to wait that long. There are people who are living in fear in their own homes. People in my electorate are living in fear in their own homes. I know that because I have actually gone to their homes. I have visited their homes and I have spoken to them. It was not so long ago that I visited a home in Melbourne's west with the Leader of the Opposition, the incoming Premier, Matthew Guy. We went there and spoke to a family who had been the subject of a home invasion. They have actually had to shift house. They have had to sell their home and move house.

Ms Patten interjected.

Mr FINN — I see that Ms Patten over there finds this highly amusing, but this is the truth. These people were so terrified they had to sell their home and move.

Ms Patten — Terrified?

Mr FINN — Terrified, yes. They were broken into at 4.30 in the morning. They had people run through their home screaming with guns at 4.30 in the morning. If that happened to you, Ms Patten, would you be terrified?

Ms Patten — I would be terrified.

Mr FINN — You should be terrified, and this is happening almost on a daily basis in Victoria. It was not happening two and a half years ago. It was not happening three years ago. This is a product of the Andrews era. This is Daniel Andrews's legacy. Apart from rorting Labor MPs, this is Labor's legacy to Victoria — rampant crime and attacks on the person. Out in the western suburbs I see it on a daily basis, and I know the members opposite do not really care — —

Mr Gepp interjected.

Mr FINN — They do report it if they can find the police, because quite often, Mr Gepp, the police stations out there are not open so they have got nobody to report it to. That makes it very difficult. Do you expect them to stand there until the police show up and open up the door? I do not think that is going to work.

I understand that members opposite do not care about people in the western suburbs, but it is not just happening to people in the west. These sorts of crimes are happening to people right across Victoria, and it is not good enough. It is totally unsatisfactory. It is not something that we in this Parliament should be tolerating. We should not be tolerating it.

We have a situation now where there are some people, a good number of people, who do not actually fear breaking the law. They know that they probably will not get caught because there are not enough police. And if they do get caught, they will be out again in a couple of hours. It does not matter; they can do it again. This is something that happens all too often. As I said before, the police go out, they do their job, they catch the perpetrators, they put them before the courts, and the magistrates or the judges set them free. You can imagine that some people, particularly those people from a background where life is tougher than it is here in Australia, think every day is Christmas. They think, 'Here, I can break into a house, I can pinch jewellery, I can pinch a car. The police can catch me. I will go into the courts, and the judges will set me free. Here I am scot-free, and I can do it again tonight'. Is there justice in Victoria anymore? I do not think so. That is certainly not what we used to call justice, but that is how it works now in Victoria.

Again, as I say, we have got to change that. If these people are not afraid of breaking the law, we have got to put the fear of God into them. We have got to put the fear of breaking the law into them and make sure that they know that if they break the law, that if they terrorise people in their own homes, they are going to pay a very, very high price.

You might ask: why do we have magistrates and why do we have judges who are so lenient on criminals? It all goes back to an earlier Labor government and an Attorney-General called Rob Hulls, who for 11 years made every judicial appointment in the state. As I mentioned before, it was not so much branch stacking as bench stacking, and that is what he did. He put people in his own image onto the bench and over 11 years he filled our benches, our judiciary, with those of his own ilk, and now we are suffering. We have got break and enters in homes in Melton at 20.83 per week, in Brimbank at 27.7 per week and in Wyndham at 25.83 per week. All these people get no satisfaction, or very little anyway, because even when the police catch the criminals they are let out on the streets again.

I said years ago that Rob Hulls was the most dangerous politician in Australia. I said when he left that his legacy would linger on for many years to come, and Ms Mikakos has a knowing smile on her face because she was in this up to her eyeballs. Now she is copping it as well, so she should not be all that thrilled.

We have a situation where the people of Victoria have pretty much lost faith in the government's capacity to keep them safe, and that is a pretty sad situation. They have lost faith in the judiciary. They have lost faith in our police force's ability to do its job. I, along with the opposition, will not be opposing this bill, but it is just not enough. We need more, and we need more very, very soon. I urge the government to go back, do some homework over the winter recess and come back to us in August with some real legislation with teeth that will go some significant way towards saving and protecting Victorians.

Mr BOURMAN (Eastern Victoria) — That is going to be a tough one to follow. I am going to first say that I do recognise that all our laws are based on the presumption of innocence until proven guilty in a court of law. However, it gets down to a few things. I am a little disappointed that it took a tragedy like the Bourke Street incident to get us to the point where we are now

starting to look at parole and bail laws and things like that. These issues have existed for a long time. As long as I have been paying attention to law and order, people — not everyone, and I accept that, but some — on bail and parole seem to have been committing serious crimes on a far too regular basis.

What is bail? Bail is basically trust and an undertaking by the bailee to not misbehave whilst they are out and about, the object being that if they do misbehave, they either get slotted or get a fine. That does not necessarily always happen. I am aware of a case where one person committed an armed robbery whilst on bail for armed robbery and got bail again. This is going back a while, but it goes to show that sometimes the system is a little bit misguided. Whilst people are presumed innocent, if they have already done something bad enough to be charged and they are doing it again and there seems to be a pattern forming, we need to start thinking about public safety rather than the presumption of innocence. Otherwise the whole bail and remand system would not exist.

In my opinion, priors, particularly previous breaches of bail or priors for violent offences, should create an absolute presumption against bail, and the reason I say that is that it goes back to the trust. We have to trust that someone who is going to be out on bail is not going to continue offending, because at that point in time the state has failed on the duty of care it needs to show the rest of the community. In that case we really do need to stop thinking about rehabilitation, stop thinking about people's rights and start being a little broader in looking at what we are trying to do. In the end we need to have a big think about a person who has done something and there is enough evidence for them to be remanded or at least charged.

One of the things that came out of the Bourke Street tragedy was the discussion of bail justices, and there was some very unfair criticism levelled at bail justices. I was trying to do some mental gymnastics before, and there is a reason I am not a maths professor, but I think the longest that bail justices can really remand someone for is four or five days at the absolute most — over Easter or something like that. Every other time they are remanded until the next sitting of the court, which is generally the next morning. They are out at 2.00 a.m. or 3.00 a.m., and that is the best the bail justices can do. It is extremely unfair to put any of the blame on the bail justices for some of the things that have been happening. Ms Pennicuik said that the bail justices tend to remand until the next sitting day, and that shows that they are not the weak link. The weak link is clearly somewhere else.

Getting down to what is compelling reason, even today it was reported that recently there was an incident of someone being freed on bail after being charged with shaking his baby to death. I had a quick read of that whilst I was waiting, and my thoughts are: there is a dead baby; there is someone who got a little bit of a rough time in prison; but there was enough evidence from the Director of Public Prosecutions to actually charge the accused. The Office of Public Prosecutions are professionals. They are not in the business of just laying charges left, right and centre and letting the courts sort it out. That is where I see a problem. That is when I see a system that is too geared towards an offender and whether they got a rough time in jail.

From my perspective, if you do not want to go to jail, you should not do anything wrong. Sometimes accidents happen, but in this case I do not think shaking a baby to death is an accident. I like what this bill is doing. Obviously from my point of view it does not go near far enough, but at least it is going in the right direction. I commend the bill to the house.

Ms PATTEN (Northern Metropolitan) — I would also like to speak to the Bail Amendment (Stage One) Bill 2017. I will also be moving amendments to this bill, although they are echoed in Ms Pennicuik's amendments 3, 4 and 5, and I believe her amendments will take precedence. Largely and principally today I would like to make a contribution about those amendments. I also intend, in my contribution, to actually speak about the bill. I do not think Mr Finn mentioned bail once in his contribution. He certainly did not appear to have any interest in this piece of very important legislation.

It is quite right that our bail laws are scrutinised, and after the Bourke Street tragedy it is absolutely correct. Appointing a former Supreme Court justice and Director of Public Prosecutions, the Honourable Paul Coghlan, QC, to conduct a review of the bail system was very intelligent, as were Mr Coghlan's recommendations. Here was an expert providing us with some expert advice. The bill implements a number of the recommendations that Mr Coghlan made — not all of them, as Ms Pennicuik outlined in her contribution. I too think it is disappointing that we were not able to adopt all of the recommendations, but I look forward to stage 2, and maybe we will see a more fulsome recognition of the work of Mr Coghlan in that.

The one glaring exception I would like to cover is that on application for bail an accused has to meet a certain threshold before release — Mr Bourman went through this definition — and that threshold will vary according to the nature of the offence alleged. In short, as we

know, the more serious the offence, the harder it is to get bail. That is common sense, and that is what the community expects from us. Currently low-level offenders will be bailed automatically, unless they pose an unacceptable risk. This again is common sense. But this is not the case for what you would call mid-tier offenders, because they must show cause why their detention is not justified. Of course serious offenders will only be granted bail in absolutely exceptional circumstances. This is the kind of three-tiered system that we have for bail.

In his review of the bail system Mr Coghlan recommended that the show-cause threshold be clarified and replaced with 'show good reason'. This clarification was really to make it easier to understand. Show good reason, he felt, was far easier for the community, prosecutors and police to understand than a more amorphous term like 'show cause'. But this bill has instead introduced that test as 'show compelling reason'. It has not taken the advice of the good Mr Coghlan to use 'show good reason' but instead has introduced 'show compelling reason'. By reframing this test the bill steps directly away from what Mr Coghlan recommended and creates an even higher reverse onus for the accused in this category.

I do not take issue at all with governments shifting certain serious offences into the exceptional circumstances category. I think that is what the community wants, and I was pleased to hear that even Mr Finn was quite supportive of those sections of the bill. But to 'show compelling reason' I object. I reiterate that this test does not apply to the most serious of offences but does apply to a significant proportion of those who are seeking bail. As a result of this we will see more people in custody.

I approached the Attorney-General about this. In a question without notice I asked him about the government's intention to move away from Mr Coghlan's recommendations and to act on their own recommendation and change it to 'show compelling reason'. The Attorney-General indicated to me that the change in wording in this bill is consistent with the spirit of the recommendation. It is not. This is a significant change to what Mr Coghlan said.

With all due respect to the Attorney-General, I think Mr Coghlan's experience in this area is significant — possibly more significant than that of many of us in this house. I think we should respect Mr Coghlan's expert advice on this. To say that the bill is consistent with the spirit of the recommendation is, frankly, probably a bit patronising to Mr Coghlan. The Law Institute of Victoria and Liberty Victoria have carefully articulated how and why this is not in the spirit of the recommendation. Most experienced criminal lawyers would also argue that this is not in the spirit of Mr Coghlan's recommendation. This bill will have a very significant effect.

Matters of fairness aside, Victoria's remand courts and prison system are simply not equipped to accommodate another increase in remandees. As Mr Coghlan stressed in his second advice to government, it is untenable to just keep remanding more and more people.

I was fortunate enough to be up early this morning to take part in a Skype seminar with an expert.

Mr Ramsay — How early?

Ms PATTEN — It was quite early, Mr Ramsay. I was sorry I did not see you there. Jenna Moll is from the very conservative Texas Right on Crime organisation — an organisation that I expect Mr Finn would be very supportive of in most circumstances. Ms Moll is a conservative, and she pointed out to me that in Texas and in 31 other states in the US they have realised that remanding people — throwing people in prison — does not equal public safety. It does not work.

It took them a long time, and in that time they jailed 2.2 million people before they realised that doing so was not actually reducing their crime rates at all. It was not reducing their recidivism rates at all. In fact, it was doing the opposite. They knew that they needed to change; they were not going to keep going further and further down this rabbit hole of locking more people up. As Mr Bourman said, if you do not want to go to jail, do not do the crime. I am sorry, but can we just quickly reflect on who we are locking up. Who are we locking up? We are locking up people with mental health issues. We are locking up people with cognitive disabilities. We know that if we put a child into our child protection system, we double the chance that we will lock them up as an adult. We know that if someone has a drug problem, they are very likely to end up locked up.

Do you know what Americans have done? Instead of building more prison beds, 31 states in America are building more treatment beds. We are building 1000 more prison beds at Ravenhall to lock up more people. It would appear that that is our only answer to addressing crime in our society, but we know it is not the answer. All of the evidence shows us it is not the answer.

I would be interested to know what percentage of the 1000 new beds in our prison system are treatment beds. What ratio of prison beds to treatment beds are we

building? We know that if we can keep someone out of jail, they are less likely to commit a crime. If you send a drug addict to jail, guess what? They get to meet a whole bunch of new drug dealers. If you send someone who is very poor to jail, guess what? It makes it even less likely that they will be able to get a job in the future and more likely they will commit a crime.

This is not the way we should be going. There are smarter ways to do this. Being hard on crime is actually just being really dumb on crime. You need to be smart on crime. I am talking about Louisiana, Georgia, Texas and Tennessee. We are not talking about progressive, radical states. We are talking about what they like to call the red states of the United States — the very conservative states. They are saying, 'What you're doing now is wrong'. We have learned this. We have learned that being tough on crime, being tough on a criminal is not putting them in jail for 12 months; it is putting them on probation and putting them on community orders for five years where they must get a job, they must undergo treatment and they must report. That is being tough on crime. Sending a drug addict to jail to meet a whole bunch of drug dealers is not being tough on crime, nor is it being smart on crime.

By changing the show-cause test but not using 'show good reason', which was Justice Coghlan's recommendation, and instead changing it to 'show compelling reason', we will be locking more people up. My proposed amendments, as I said, completely replicate Ms Pennicuik's amendments 3, 4 and 5, so there is no need to circulate them, but I think they would be one way to restore Justice Coghlan's original recommendations. In the spirit that we cannot keep remanding people, cannot keep filling our prisons with more people, we have to take on new options.

Mr RAMSAY (Western Victoria) — I rise to speak on the Bail Amendment (Stage One) Bill 2017. I note that the purpose of the bill is to amend the Bail Act 1977, following the Coghlan review, to change the circumstances in which bail may be granted or refused and address who may grant or refuse bail. I will summarise the main provisions in the bill, albeit briefly, and then talk about some of the points that past contributors have raised.

Clause 4 defines a 'bail decision maker' as a court, bail justice, police officer, sheriff or other authorised person. Clause 5 establishes a presumption against the granting of bail for individuals charged with any schedule 1 or schedule 2 offences as defined in clause 13 unless exceptional circumstances or compelling reasons are demonstrated. It also allows bail decisions to be deferred up to 8 hours if the accused is intoxicated. Clause 8 provides that a person remanded in custody by a bail justice must be made to appear before a court within two working days. Clause 9 provides that a court may only remand a child for up to 21 days at any given time. Clause 11 provides that only a court may grant bail to a person accused of a schedule 1 offence. Clause 13 defines schedule 1 and 2 offences, and clauses 17 to 18 provide that a family violence order prevails when it conflicts with a bail condition.

As has been said, this bill has come forward because of the tragic circumstances that eventuated in the Bourke Street Mall 153 days ago, on 20 January. The government requested that Paul Coghlan undertake a review into the current statutory bail requirements. We have come to the point 153 days later that we are debating stage one — of how many stages is unclear — of legislation that will hopefully strengthen our criminal justice system.

I am not quite convinced but I am hopeful that it will not take another 153 days, or half a year, to introduce stage two or further stages and to actually put some meat on the bones of the legislation because, as past contributors have said, this is a fairly lightweight bill. It responds to not only one significant tragedy but many tragedies we have heard of where those that have been able to get bail, even with certain conditions attached, have gone on to do some serious criminal activity. The coalition has proposed and committed to much stronger bail law changes. This bill really is just a slight reflection of the seriousness and sincerity that the coalition has shown when it comes to strengthening our criminal justice system, and that includes parole laws and bail laws.

The bill does expand the range of offences that will require the accused to show either exceptional circumstances or compelling reasons for why bail should be granted. But the changes to the tests for bail will not guard against judges and magistrates who tend towards granting bail at the expense of community safety. I want to make a stronger point on that because I think Paul Coghlan actually raised the issues around bail tests; if I get time, I will quote some of his remarks.

I think the disappointment on this side of the chamber is that the tests for bail have not really been identified, not in the stage one legislation anyway — maybe that will be in stage two or whatever other stages are going to come — and that it has taken 153 days to get here. This is despite the shadow Attorney-General, John Pesutto in the Legislative Assembly, calling out for the government to do something serious about profoundly changing our system of bail. It has really taken, as I said, the Bourke Street tragedy and the Coghlan review

for the government to bring forward a bill that really does not meet community expectations in relation to bail conditions.

We have been running a very strong campaign on law and order. As other contributors on this side have said, the crime statistics are going up in some areas. In the City of Greater Geelong in my region there is a trend of around a 2 per cent or 3 per cent increase in certain pockets of Geelong. In Bellarine and the Surf Coast we have seen increases of anything from 50 per cent to 200 per cent in certain criminal activity ranging from arson to home invasions, carjackings and domestic violence. So we have a significant problem in relation to law and order.

As Mr Finn indicated in his contribution, the concerning thing for our communities is the distinct lack of respect for our law enforcers, our frontline police, who have to deal with criminal activity every day of their lives. It was interesting to have a discussion with Daryl Clifton, who was a superintendent at Geelong police station before his retirement. He was telling me — this is going back a year and a half — that some of the changes we need to look at, and which are only really being recognised by the government now, include updating the technology so we are not tying up police resources with writing reports and spending time in the office instead of being out patrolling and having a highly visual presence, which the community is now demanding, not to mention opening up some of these closed police stations that the government has not seen fit to provide the appropriate resources for.

I have Portarlington, Drysdale and Queenscliff police stations in my electorate and Lisa Neville, the Minister for Police, promised the stations would be open 8 hours a day every day. Of course we know that they are barely open for 1 hour every three days. When one reports crime it certainly will not be to the local police station. There is now no expectation that there will be an immediate police response to any sort of criminal activity on the Bellarine Peninsula or Surf Coast because we know that only two police cars patrol that quite significant area and it takes anywhere from 20 minutes to 12 hours for a response.

The community knows that they cannot solely rely on a police response, but what they do want to rely on is a criminal system that actually penalises the perpetrators. Bail conditions and parole conditions are of significant concern in relation to the weakness in the criminal justice system that has for too long allowed repeat offenders to remain in the community. I also note that in Mr Coghlan's report he talks about juvenile repeat offenders.

The government says there is more to come, and as Mr Finn said, 'How long are we going to wait?'. Are we going to wait another 142 days or are we going to wait another year? Are we going to wait till they actually leave government in 2018, wave them goodbye, saying, 'We will see you, but not too soon'? My hope and Victorians' hope is that it will come a lot sooner than that. We certainly hope that the next tranche of legislation will actually put community safety first rather than criminals first.

That is probably a harsh judgement, and I see the advisers starting to look a little concerned, but the fact is that for too long we have been worrying about the criminals and not the victims. As police superintendent Daryl Clifton told me in moments of frustration, in Geelong they put a lot of effort into catching the criminals and bringing them before the courts, only to see them come out within 24 hours and commit a similar type of criminal activity again. In Geelong they wonder why they are bothering to do all this hard work to bring criminals to justice, only to find that the justice system has let them down and let offenders out without any sort of significant penalty.

It is not unusual to see Ms Patten over there cry foul in relation to imprisoning criminals. The Sex Party and the Greens all chirp up about the democratic rights of individuals and blah, blah, blah. I am not sure what we are supposed to do with them — pat them on the back and say, 'Out you go, Freddie. Bad boy, but we will re-educate you. Get out there and get a job and make a living and don't offend again'. Of course we know that education is important, training is important, getting them into the workforce is important, but at the end of the day these would-be criminals, whether they are juveniles or adults, need to know that if they actually commit a crime they will do the time. And they will do the time not on a sort of freebie bail condition or a very light parole condition; they will do time in jail. I suspect once that is ingrained in the psyche of would-be criminals, their approach to criminal activity and behaviour will be quite different.

While I am on that wagon, I do think parents have to take some responsibility. I am a bit over the fact that it is everyone else's fault. I understand there are mental health issues, I understand high unemployment, I understand low levels of education and I understand that some of the migrants from other countries do not have the same sort of respect for law and order. But at the end of the day, if you are going to have children, you should be responsible for them, regardless of what age they are. I think parents have got to come to the fore and say, 'Look, this is not tolerable as far as parenting goes. I need to take some responsibility for

my children's behaviour and the way they conduct themselves in the community, given I have basically been responsible for bringing them into the world'. I am of the view that parents might have to take some financial responsibility for the wrongdoing of their children — and I am sure that is a debate we will have down the track.

As we know, the coalition has been very strong on its 'One strike and you are out' policy. The bill does not in any way purport to address the growing problem of reoffending and juveniles accused of continually breaching bail conditions. Also the bill does not deal with the issues around Victorians crying out for substantive and profound changes to the tests around bail, and while I have the opportunity I might just refer to Mr Coghlan's recommendations in respect of bail tests. He said:

> I recommend that the current tests for bail be retained but redrafted in clearer terms. There should remain a general entitlement to bail, unless otherwise provided by the statutory tests.

But he went on to say:

> As explained below, I also recommend … minor changes to the unacceptable risk test, and the renaming of the show cause test to a test that requires the accused to show 'good reason why bail should be granted'.

He went on further to say that the bill does not otherwise alter the reverse onus test which will continue to apply for schedule 1 and 2 offences committed by an adult and a child.

The government is still considering the recommendations by Mr Coghlan about how these tests could be formulated. Of course we wait for stages two, three or four about what changes to those tests will be concluded in later bills.

I also want to make comment on bail justices. I had been invited by a bail justice to sit in on an out-of-court bail hearing one night. I think Mr Morris has similarly been invited. It was interesting when I did front up to the Geelong police station — —

An honourable member interjected.

Mr RAMSAY — No. I fronted up to the Geelong police station and asked if I could sit in on a bail hearing on the invitation of a bail justice, and guess what they said?

Mr Davis — You were the subject of the hearing.

Mr RAMSAY — It was not my hearing. What they said was that they could not guarantee my safety in the Geelong police station. Is that not the most absurd thing you have ever heard? I could not as a member of Parliament representing a constituency of 500 000 voters go to the Geelong police station and sit in on a bail justice hearing to learn how bail justices sum up the evidence, see the premeditating evidence and understand criminal activity because the 65 police officers that supposedly are housed in this police station could not guarantee my safety. So how am I to know how the bail justice system works if I cannot actually engage with it or sit in on it? I can do that down at the Independent Broad-based Anti-corruption Commission; the anti-corruption body invites me down there all the time to sit in on their public hearings at no risk to myself, but apparently the Geelong police could not afford me the sort of protection that is required through those bail hearings.

Very unfairly the government of course immediately ratchet up about how the bail justices perhaps are not the appropriate mechanism to deal with out-of-court — —

Mr Morris — Scapegoats. They are using them as scapegoats.

Mr RAMSAY — Exactly right, Mr Morris. They are very quick to point the finger at the poor old bail justice, who spends 300 or 400 hours a year usually using their own money to attend out-of-court bail hearings at any time of the night or day or on weekends, but very reluctant to point the finger at the magistrates. I think the government need to have a bit of a hard look at themselves about both the work that bail justices do and the respect they have, and not so much — —

The ACTING PRESIDENT (**Mr Finn**) — Mr Ramsay, your time has expired.

Mr MORRIS (Western Victoria) — I rise to make my contribution to the Bail Amendment (Stage One) Bill 2017, and I do want to agree with Ms Pennicuik, Mr Finn and others in saying that it is a pity, it is a shame, that this is only stage one, because what the community expects is a holistic approach to overhauling the bail system, and this is falling well short of achieving that. The community should expect that this government is going to ensure their safety because it is the first and most important job of any government to ensure that the community and its citizens remain safe, and on this score this government could not have failed more miserably.

I note that it is acknowledged that this bill has come about as a result of the tragic incident in Bourke Street,

and I think this is just indicative of the way that this government works. They wait for something to go wrong, and then they attempt to fix it afterwards. They are wholly reactive in what they do. We on this side of the house have been telling the government that their soft-on-crime approach exposes our community to huge risks and community safety issues; however, they have ignored those calls to reform our justice system, and it is only when a tragedy such as this occurs that their hand is forced into action. That is an absolute shame. It is a shame that such an event has to occur before the government takes any action whatsoever.

On this side of the house we know how incredibly important it is that our community is kept safe. Bail is an area that I certainly hear from many constituents that they are extremely concerned about. They are concerned that criminals who commit many violent offences are being let out onto the street even against the wish, the will and the view of Victoria Police. Why it is that a government would not support our police officers in not bailing violent offenders back into the community against the will of the police is beyond comprehension. The hardworking men and women of Victoria Police catch the crooks and take them to court only for them to be placed before that court and then against the will of the police bailed just to commit the same offences again and again and again. It is something that I know the community have very serious concerns about, and rightly so, and it is a view that this government is wholly ignoring. The cyclical nature of crime that we are seeing in Victoria at the moment — the revolving door of criminals coming before the courts — is deplorable.

I note that there has been some discussion about the number of court hearings and court sessions that happen. Some in the government might try and say, 'Have a look at the amount of people going before the courts. We're catching these guys, and we're putting them before the courts'. However, the problem is they are the same people. They are the same people who are going before the courts time and time and time again because they are given chance after chance after chance to commit further offences, and as a result of this our community is left exposed. At the end of the day that is who it is — it is the law-abiding citizens who are worse off. This government are apologists for criminals in saying, 'We need to look after the rights of the criminals'. I think the community would say that the rights of the criminals need to come second to the rights of the community to remain safe.

Mr Barber — Is that what Greg Hunt said the other day?

Mr MORRIS — I could not possibly comment. We on this side of the house have a very, very strong plan to ensure that criminals who commit violent offences are kept behind bars, that they are not bailed and also that if they are convicted of very serious violent crimes they will go to jail for a significant period of time.

Just of late we have seen a huge increase in crimes that were once unheard of, particularly in my own and Mr Ramsay's electorate of Western Victoria Region. Carjackings: there were two carjackings in Ballarat in two days. One was while someone was sitting in a car park around Lake Wendouree — just sitting there at Lake Wendouree. All of a sudden, the next thing this person knew, there was somebody opening his door, forcing him out of his vehicle and then taking it off and parking it at Craig's Royal Hotel. That is a shocking crime that should never happen — and did not happen until under this Andrews government. Another carjacking occurred in Delacombe, and there was a headline in the Ballarat *Courier* that referred to the carjacking in Delacombe. Upon reading this I thought, 'That is something that I never thought I would ever read', but it has become a reality under Daniel Andrews and his soft-on-crime Labor government.

That is what we are seeing at the moment. These crimes that should be unheard of are unfortunately occurring at far too regular a rate. It is something that should not be accepted by the community, and the government should be taking a very strong stand against it. However, they are not. They are weak, they are soft on crime and as a result of that our community is less safe. Instead of violent criminals being bailed, they should be kept behind bars, and when they are convicted they should receive significant sentences. That is what we on this side of the house are proposing.

I note the exceptional work of the Leader of the Opposition, Matthew Guy, as well as shadow ministers Edward O'Donohue in this place and John Pesutto in the Legislative Assembly, who have come up with a range of policies that are going to ensure the safety of our community. However, the unfortunate thing is that those fine gentlemen will not have an opportunity to introduce those policies until the Liberal Party wins the election in November 2018. The government have already done this to a point. They have copied a number of the policies that the opposition have proposed because their soft-on-crime approach is not working. However, they are ideologically opposed to ensuring crooks get what they deserve, and that is time behind bars. They would rather let them out than see them serve time behind bars.

The opposition have got a strong suite of policies, however, that will keep the community safe. Under these, we would see that if repeat violent offenders were charged with multiple offences, they would face mandatory minimum sentences. This would send a strong signal to the community that we are concerned about their safety. If you are a criminal and you choose to break the law, you are going to go to jail. It is as simple as that. Not only are you going to go to jail, but you will go to jail for a long time. For aggravated home invasion, there will be a 10-year minimum; for aggravated carjacking, again there will be a 10-year minimum; for armed robbery, a 10-year minimum; for aggravated burglary, a 10-year minimum; and for manslaughter by a single punch or strike, a 15-year minimum. These are the crimes which are devastating families across Victoria, and they are the ones that must be stamped out. The other crimes for which there will be mandatory minimum sentences are rape, with a 15-year minimum; and murder, a 20-year minimum.

I was very fortunate to have the shadow ministers Edward O'Donohue and John Pesutto at a recent crime forum in my electorate. I note that Mr Ramsay held a crime forum in Bellarine that was exceptionally well attended, and there were some significant concerns raised by the community there. Let us not forget that Bellarine is the electorate of the Minister for Police. That member has abandoned her electorate. She has completely backflipped on the commitments that she made to her community in terms of ensuring that the police stations on the Bellarine Peninsula will remain open, as she has on the opening hours of the Ballarat West police station, which was supposed to be open 12 hours a day, seven days a week. That is what was announced on the day the police station was opened, yet we are now seeing on a regular basis those hours being cut.

Police in Ballarat are stretched thin. There are nearly eight fewer frontline police now than there were when the former government left office. Under the Napthine government there was a resourcing of police in Ballarat, and that has been cut by nearly eight full-time equivalent officers by the Andrews government. This is despite us seeing a 15.5 per cent increase in crime in Ballarat. As I detailed before, there has been a spate of carjackings and aggravated burglaries in Ballarat; these crimes are just going through the roof, as are police car rammings. To see two police car rammings in just a matter of weeks in Ballarat is shocking. These crimes that are being reported on a daily basis in Ballarat are nothing short of shocking, and the community has a right to be angry about what is happening.

We have this stage one bill before the house at this point in time. However, when we see stage two, we are certainly going to feel the deep sense of disappointment that we felt when this legislation was introduced. What we hear is the government talking it up. They talk up what they are going to do, a bit like Minister Mikakos referring to those young offenders as being the worst of the worst. They talk it up. The rhetoric is there. Then when we look at the substance that is behind it, it is all clouds; it is all water vapour. There is nothing there. There is absolutely no substance to it at all. This bill is deeply disappointing. The community expects real action from this government, and to this point we have seen absolutely none of it.

Ms FITZHERBERT (Southern Metropolitan) — I am very pleased to be able to speak very briefly, given my voice, in relation to this bill. I was reflecting on the origin of this bill, which of course is the report done by the Honourable Paul Coghlan, QC, as part of the review prompted by the Bourke Street tragedy that occurred in January. It was a horrendous event, happening as it did during the summer holidays, when Melbourne is fairly quiet. This was rudely and violently interrupted by a terrible crime committed in the heart of the city by someone using something that is not designed to be a weapon — they used a car as a weapon.

I think the nature of this crime struck at the heart of our city. The use of an everyday item, one that most of us own and use regularly, as a weapon to kill and to harm was something shocking and frightening. That is what it was for the people who were unfortunately present on the day and affected by those events, because they saw them or because they were direct victims of what happened. But I think more broadly it was enormously frightening and alarming to those of us, and there are millions of us, who know intimately the streets where this occurred. We have worked on those streets, or we have shopped on those streets. They are well known to us. The thought that many of us had was that that could have been any one of us, and that is part of the fear, I think, that accompanied that event and that reverberated well beyond the Bourke Street Mall and the streets alongside it.

I just saw outside the chamber the Lord Mayor of Melbourne, who was, of course, intimately involved in that event as one of the leaders of our city. In fact he witnessed the car that was involved in this horrendous crime when he was outside the town hall. He made comments on that, and I think quite bravely, he publicly referred to the personal impact it had had on him and the steps he took to address that effect in himself, recognising that he needed some time to heal from what he had seen and experienced at very close quarters.

Beyond that event, there have been concerns expressed about how bail is treated in this state, and those concerns go back well beyond the events in Bourke Street in January of this year. I mean no disrespect to the Honourable Paul Coghlan, whom I respect enormously. He has had an outstanding legal career. He has made an enormous contribution to this state. I make no criticism of him personally, but I think the action of the government at that point, of seeking to look at bail laws in detail, was a mistake in that it was too little too late. There have been, well before the events in Bourke Street, ongoing and clear messages from the community that there is a discontent with our bail system: how it is administered, how it works and whether it is fair.

That is a reflection also of the evidence of crime that surrounds all of us, seemingly all the time in all of our communities. We have had Mr Morris commenting on carjackings in small rural communities in his electorate, something that was once almost unheard of but is now read about in the local papers. We have had Mr O'Donohue speaking at length in particular on behalf of victims of crime and crimes that occur in every community at seemingly every hour of the day and in a way that the government seems totally unable to stop or halt in any meaningful way. Bail is integral to this, and this message has been made loud and clear for a very long time now.

I also find it extraordinary that we are dealing with this legislation — if it is so important to the government — so late in the piece. It is 5 minutes to midnight before we go on a break for some weeks. This is important legislation that should have really come before the Parliament much, much earlier than this. I think it will be of little comfort to Victorians who have experienced crime or who have witnessed crime and have experienced a consequence of crime as a result. It seems from what we read in the papers and what we see around us that there is nothing quick or effective that the government can do to restore public confidence that we can live in our state and go about our business as we please, not bothering other people and in turn being left alone, and not fearing that we might be carjacked on the way home or when we drive down the freeway to Geelong — which I understand is happening regularly. We should not be in fear that there is going to be a theft or someone breaking into our home.

Aggravated burglary has increased dramatically. People at the moment feel that they are not safe driving their own car lawfully on their own, and they do not feel safe in their home. We have far too many examples of people who are literally asleep at home and are woken by the sound of breaking glass, which means that someone in that home is either going to be forced to meekly accept that they are going to be a victim of a crime or forced to step up and face potentially very dangerous consequences if they attempt to — as is quite reasonable — protect what is theirs, their home and their family.

We are not opposing this bill. Again, if I could repeat, I think it is a great shame that it took a very tragic event in Bourke Street some months ago — an event that is going to reverberate throughout our state in many ways for a long time — to prompt this review. With all due respect to the eminent jurist who has put it together, it is too little too late. That is the fault of the government. It is the government's fault for not responding to community expectations and looking at the issue of bail, how it is administered and whether it is fair in far more detail well before now and well before it was pushed by a massive tragedy to do so.

Mr O'DONOHUE (Eastern Victoria) — I just want to make a very brief contribution in relation to this bill because there has been quite a wide-ranging debate on the first tranche of bail reforms as foreshadowed by the government following the Coghlan review. As Ms Fitzherbert said, it is by an eminent jurist and well-respected senior legal identity in Victoria. As other members of the coalition have said, it is disappointing that these recommendations are being delivered in such a slow fashion. Here we are about to rise until August, and this bill is just being debated today, with no sense of when the next range of reforms that are foreshadowed by the name of this bill will be coming forward. It is consistent with the way the government has been approaching these important reforms in the justice system.

There has been extensive debate in recent weeks about the failure of the government to implement recommendation 1 of the Callinan review. Minister Tierney told the house in the committee of the whole on the Corrections Legislation Miscellaneous Amendment Bill 2017 during the last sitting week that just seven of 35 of the Harper recommendations have been implemented more than two years since the tragic murder of Masa Vukotic and more than a year and a half since that review was handed to government. The key legislative changes to implement those recommendations are yet to be brought to the Parliament, and here we are about to rise until August. I appreciate these issues are complex and I appreciate that the drafting of these issues in legislation is challenging, but with the full resources of government it is just inexplicable that these recommendations are taking so long to come before this place and then be implemented.

I endorse the comments of many other speakers about the need to send a strong message of deterrence. I think this debate is sometimes presented as an either/or proposition. This is not an either/or proposition. You can send a strong message of deterrence to serious offenders and you can have lengthy terms of imprisonment for those who commit the most heinous of crimes, but you can also have a focus on addressing recidivism and addressing the causes of offending behaviour.

Ms Patten in her contribution talked about the Ravenhall prison. She actually asked the question in debate: how many beds in the Ravenhall prison are focused on rehabilitation? Well, I can tell her: there are 75 mental health beds in a 100-outpatient clinic — more than double the capacity of the mental health system in the male prison system. During the 11 years of the Bracks and Brumby governments there was not one single additional male mental health bed added to the prison system. This will double the capacity of the mental health system in the male adult prison system. That will be an important element of addressing recidivism. Coupled with the financial incentive that the public-private partnership contract for the Ravenhall prison provides, the financial incentive to the operator to address recidivism will drive best practice.

One of the challenges in delivering that includes the bungling that has apparently taken place with the delivery of Indigenous-specific programs at the Ravenhall prison and the initial partner to deliver those programs both within prison and outside of prison. That contract has been terminated.

I would be interested to hear from the Minister for Corrections, who is in the chamber, whether new contracts have been let with an Indigenous provider to deliver these programs at that prison, given that the prison is contracted to be open by 1 November. It just seems there is a litany of issues that address the very point that Ms Patten, I think, was seeking to make in relation to addressing the causes of offending behaviour.

The final point I want to address is that other speakers have spoken of reforms in Texas and reforms in a range of other jurisdictions throughout the US. Victoria's incarceration rate is in the mid-100s per 100 000 head of population — much lower than New South Wales and much, much lower than the Northern Territory. Places like Texas, to which Ms Patten referred, the southern states of the US and large parts of the US in general have incarceration rates of 700, 800, 900 offenders per 100 000.

Mr Davis interjected.

Mr O'DONOHUE — That is six, seven or eight times our incarceration rate. And of course you can drop incarceration rates when people who get a parking ticket are no longer going to jail. The analogy is false. It is completely false. It is not comparing apples with apples. Of course if we can address recidivism, if we can address the causes of offending behaviour, the prison population may drop, but you should not drop the bar by which — —

Honourable members interjecting.

The ACTING PRESIDENT (**Mr Morris**) — Order! Mr Dalidakis!

Mr O'DONOHUE — I was intending on making a brief contribution, given the business the government wishes to prosecute today and tomorrow, but I am more than happy to — —

Ms Springle — You were really intending on giving a brief contribution?

Mr O'DONOHUE — I was, but I am happy to respond to the interjections of others and happy to address issues as they are raised if Minister Dalidakis wishes me to extend my contribution. I was just making the point that you cannot compare a jurisdiction where the incarceration rate is nearly 1000 per 100 000 with Victoria, where it is in the mid-100s; that sort of comparison is a false one.

Mr Rich-Phillips as the lead speaker for the opposition very clearly articulated our concerns with this legislation. I note that there are amendments from other political parties, but I just wanted to make those comments in response to the debate that has taken place today: the Ravenhall prison's mental health capacity will double the number of mental health beds in the adult prison system, and this is an area that the Bracks and Brumby governments failed to address at all; comparisons with Texas are false, because the systems are so different and the incarceration rates in places such as Texas are so much higher, which makes it a false comparison; and the government has been extremely tardy in implementing the recommendations of the Coghlan, Harper and Callinan reports and a range of other critical community safety reform pieces that we have all wanted to see implemented as expeditiously as possible.

Ms TIERNEY (Minister for Corrections) — I would like to thank all of the speakers that have contributed to the debate so far today. I am sure that we will have the opportunity to go through a number of

issues in the committee stage, but I do think it is important to cover off on a number of comments that people have made during the course of this debate.

The first speaker was Mr Rich-Phillips, and he said that the government had watered down bail laws by removing the offence of breach of bail for children. Nothing in these changes mean that children who breach bail cannot be brought before a court, have their bail revoked and be remanded in custody. In addition this bill will make it much harder for both adults and children to get bail by making community safety a higher priority, Mr Rich-Phillips, and by adding a number of new offences to the reverse onus categories.

It was also said that the opposition's policy is better, with opposition members saying that they would rather take advice from a former Director of Public Prosecutions and Supreme Court judge than government members. They also said that the bill does not go far enough and that they want to get this right. We are working on the remaining Coghlan recommendations and consulting with the relevant stakeholders. Of course that includes Victoria Police, the courts and Corrections Victoria. We do not want something that will fall at the first hurdle like the opposition's failed baseline sentencing scheme.

Ms Pennicuik of the Greens also spoke, saying that changing the wording of 'show good reason', which was recommended by Coghlan, to 'show compelling reason' is a much higher threshold. Those comments were echoed by Ms Patten. The government is of the view that 'show compelling reason' is in keeping with Mr Coghlan's recommendations and clarifies that the onus is on the accused to provide reasons why he or she should be bailed. This falls well short of 'exceptional circumstances'.

Ms Pennicuik was also concerned about varying levels of seriousness of alleged offences. This would be taken into account by the bail decision-maker when determining whether the accused has established a compelling reason. She also raised a concern that the bill does not amend section 4 as to the relevant criteria to satisfy the relevant test. The government has stated its intention to implement recommendations 2, 3 and 5 of the Coghlan review. However, the government is giving further consideration to how those recommendations should be implemented in legislation, and that work is ongoing.

It is not correct to say that there is no guidance on how the reverse onus test should be applied at the moment. The Bail Act 1977 currently has a list of non-exhaustive factors which can be taken into account. The government does not support the Greens proposed amendments.

Mr Finn said that the government's bail changes in 2016 had failed and that this bill acknowledges that. We believe our changes in 2016 strengthened bail by doubling the maximum penalty for failure to appear to two years, adding people charged with serious offences who have been convicted of failing to appear in the last five years to the show-cause bail category and requiring that people charged with terrorism-related offences be refused bail unless there are exceptional circumstances.

It has been said that we have dragged our feet with this bill, but Mr Coghlan delivered his report to the government on 3 April this year and the bill was introduced into Parliament on 24 May. We will have the next tranche of legislation before the end of this year.

It has been said that we have dropped the ball on police numbers. We have actually made a record $2 billion investment in Victoria Police, with 3135 additional police over the next five years.

It has also been said that we face a crime tsunami. The fact is that the crime rate dropped every year for 11 years under the previous Labor government. The trend up actually started under the Liberal Party and the crime rate rose every year under the coalition.

Mr Bourman said he believed that previous breaches of bail should create an absolute presumption. We believe our reforms will mean that people who commit serious indictable offences while on bail, summons, parole or under sentence will not be granted bail again unless they can prove that there are either exceptional circumstances or compelling reasons depending on the severity of the offending.

Ms Patten outlined her concerns about compelling reasons. The government simply does not accept that 'show compelling reasons' is a much higher threshold. She also asked what the government is doing about the causes of crime. This government has committed $8.7 million to increase access to residential rehabilitation immediately and $9.7 million to acquire land in the Gippsland, Barwon and Hume regions for three new residential rehabilitation facilities. In last year's budget we invested $32 million in a Drug Court in Melbourne. This will increase the capacity of the Drug Court to 240 people. We know the significant benefits that a Drug Court can bring, including a reduction in recidivism. We have also invested $25 million in the court integrated services program

and the remand outreach program to better provide support for people on bail.

We have also heard from Mr Ramsay, Mr Morris, Ms Fitzherbert and Mr O'Donohue, but by and large their comments were captured by those I have already mentioned. However, I take this opportunity to thank Mr Rich-Phillips, Ms Pennicuik, Mr Finn, Mr Bourman, Ms Patten, Mr Ramsay, Mr Morris, Ms Fitzherbert and Mr O'Donohue for the contributions they have made so far in this debate, and I look forward to the next stage, which is the committee stage.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Ms PENNICUIK (Southern Metropolitan) — My question on clause 1 of the bill is quite a broad question. It is in regard to why the government decided to bring in a stage one bill to change the Bail Act 1977 rather than a consolidated bill that implements the recommendations of both the first and second advice to the Victorian government reports. As conceded by Mr Coghlan and raised by the Law Institute of Victoria and other stakeholders who made submissions to the review as listed in Mr Coghlan's reports, without the stage two implementations this bill will put a very large load on the courts and the system generally in terms of holding people in custody in police cells and in remand centres and parts of other jails having to be turned into remand centres et cetera. Why has the government done this, and what estimation has it made about the number of people who will be held on remand as a result of this bill?

Ms TIERNEY (Minister for Corrections) — I thank Ms Pennicuik for her range of questions. Hopefully we can work through them. Firstly, as I mentioned in my right of reply, we received Mr Coghlan's first report in April. Given the incident that occurred in January we believed there needed to be an initial timely response from government, and that is how we would characterise the bill before us today.

It creates a framework essentially for the second tranche of legislation that will come before the house before the end of this year. The bill provides a new purposes section and guiding principles to inform the community about the purpose of bail, and it will remind decision-makers of some of the important considerations that are relevant to bail, in particular the balancing of the presumption of innocence with the protection of the community.

Generally we have chosen a number of the recommendations in the report to come before the house now and there will be further work done on the more long-term, longstanding recommendations that require further consultation with key stakeholders such as Victoria Police, obviously Corrections Victoria and other departments.

Ms PENNICUIK (Southern Metropolitan) — I hear what the government is saying there, but the problem is that the bill as it stands is without the complementary recommendations. As you just said, Minister, you have chosen to include some of the recommendations and you have chosen not to put some others in, but they are complementary. Even Mr Coghlan in his report advised that some of the schedules et cetera should not be proceeded with until he had given his advice on stage two, which is the advice to remove some offences from the bail system so that the effect of overwhelming the courts does not happen and people who are not a risk to the community are not remanded in custody. That is the question, but the other half of my previous question was: has the government estimated how many people this will mean will be further remanded? We already have too many people in police cells and we already have an overcrowded remand centre.

Ms TIERNEY (Minister for Corrections) — The bill does make some significant changes to the bail system which will have an impact on a variety of stakeholders like, obviously, Corrections Victoria, the courts, as Ms Pennicuik mentioned, but also Victoria Police, and it will potentially increase the number of people held on remand. The commencement date of 1 July 2018 allows for time to plan for the impact of this increase and for measures to be introduced to manage this.

As I have indicated, there is ongoing work and ongoing modelling being done to try and work through what this might look like in terms of managing the numbers that will come through as a result of this, but it is, as noted in the Attorney-General's second-reading speech, the intention of the government that the reforms be commenced as soon as possible but we have just got to do some more work in terms of understanding what the consequential impact is going to be.

Ms PENNICUIK (Southern Metropolitan) — Thank you, Minister. I suppose it is difficult to say if you are still doing the modelling. I do not want to

labour this too much longer, but I think it is a very important point, because we are putting in basically half the measures and not the other half, and that is going to have an impact. Mr Coghlan in his review even mentioned the fact that accused are waiting in police vans because they cannot fit into police cells due to overcrowding. This is not going to be good for accused persons, the police, the corrections system, the courts or the general public. That is why he was suggesting that there be a whole package, and I am concerned that this part is going ahead without the ameliorating other parts of his recommendations that will come in his stage two review. But that is more of a statement than a question, Minister.

Ms TIERNEY (Minister for Corrections) — Again I reiterate the fact that the government was very keen to flag to the community what its take on that was in terms of the Coghlan recommendations. If we were to not go ahead with this part now, it would mean that we would not have anything to look at or have discussion about in the community regarding how we view changes to the bail system.

Ms PENNICUIK (Southern Metropolitan) — I just have to respond to that. I think you could still respond to the community by saying 'We have legislation that will actually be a proper package' and making sure that the presumption of innocence, community safety and the ability of the justice, court and police systems to cope are all in fact addressed in the one package, and that is not what we have here.

Ms TIERNEY (Minister for Corrections) — It will be a whole package. It is just the way that it is cut and sliced at the moment. It provides a framework for that additional work that needs to be done.

Clause agreed to.

Clause 2

Ms PENNICUIK (Southern Metropolitan) — The commencement clause has the bill starting on 1 July 2018. I have heard the government say — it is in the second-reading speech, and the minister has mentioned it — that it would be earlier. Is the idea that this bill will commence earlier than the second half of the package or at the same time as the second half of the package?

Ms TIERNEY (Minister for Corrections) — At the same time.

Clause agreed to; clause 3 agreed to.

Clause 4

Ms PENNICUIK (Southern Metropolitan) — I have chosen to speak on clause 4 because clause 4 is the definition section and it defines who is a bail decision-maker, which includes a court, a bail justice, a police officer, a sheriff or a person authorised under the Infringements Act 2006. I will just turn to the paragraphs of Mr Coghlan's report with regard to police officers. I am not sure if you have that with you, Minister. At page 38, paragraph 4.33, he said:

> It is unclear whether, for example, police officers considering the grant of bail are aware if an accused is in a show-cause position. Police officers (and bail justices) who release a person in a show-cause position on bail must submit the required form to explain their reasons for doing so. It seems that bail justices routinely do so, while police officers appear not to. This is despite police officers regularly granting bail to people in a show-cause position.

Just a bit further on, at paragraph 4.57, which is on page 47, and in the context of the discussion about some people being on multiple bails, Mr Coghlan said:

> It appears that many multiple bails are granted at police stations. It is not known whether, or to what extent, police granting bail in such circumstances rigorously apply the show-cause and unacceptable risk tests.

I thought that was quite interesting. He also said that there may be a perception that not enough people are getting bail. Even though in the second-reading debate stats were used to demonstrate more people are being remanded than was the case five years ago, it seems that they are more likely to be remanded by a bail justice or a court than by the police. My question really is: are the police trying to address this by better training for the decision-makers, who are usually people of a rank above sergeant, I think?

Ms TIERNEY (Minister for Training and Skills) — I am advised, Ms Pennicuik, that there will definitely be training. But in terms of the detail, I am more than happy to take that on notice.

Ms PENNICUIK (Southern Metropolitan) — I appreciate that the minister will have to take it on notice, but I suppose I am just raising the issue that there are actually a couple of other places in the report where Mr Coghlan mentioned the police not necessarily being across how they are supposed to be making decisions on show cause et cetera and either remanding or releasing people. If it is happening, that suggests the training is not working, so I would be interested to get the answer on notice. Thank you.

Clause agreed to.

Clause 5

Ms PENNICUIK (Southern Metropolitan) — I move:

1. Clause 5, lines 32 to 33, omit all words and expressions on these lines and insert—

'(3) For section 4(2)(d)(i) of the **Bail Act 1977 substitute**—

"(i) that there is an unacceptable risk that the accused if released on bail would—

(A) endanger the safety or welfare of any person; or

(B) commit an offence; or

(C) interfere with witnesses or otherwise obstruct the course of justice whether in relation to the accused or any other person;

or

(D) fail to appear in court in answer to bail.".'.

This amendment is to replace the existing words in section 4(2)(d)(i) of the Bail Act 1977 and to substitute the words that are currently in the act with words recommended by Mr Coghlan. It goes to the issue that I was raising in the second-reading speech debate, which is that Mr Coghlan in many places in his review referred to the current wording in the act as being unclear, complicated and — you would even have to infer, if you read some of it — outdated and not easily understood by bail decision-makers. We have just been talking about how that could come about. This amendment is to replace that section that exists, which at the moment outlines the unacceptable risk where a person would be refused bail:

(d) if the court is satisfied—

(i) that there is an unacceptable risk that the accused if released on bail would—

fail to surrender himself into custody in answer to his bail —

the terminology is quite interesting there —

commit an offence whilst on bail;

endanger the safety or welfare of members of the public; or

interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person …

I would suggest that this wording needs to be altered anyway for reasons that are clear in that it is speaking about 'him' all the time.

That is one reason, but also it is not very clear language. The language that Mr Coghlan put forward, I think, is better and easier to understand and also puts the safety of persons as the first priority. He suggested that bail be refused if:

… there is an unacceptable risk that the accused if released on bail would:

(a) endanger the safety or welfare of any person; and/or

(b) commit an offence; and/or

(c) interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or herself or any other person; and/or

(d) fail to appear in court in answer to bail.

I do think that is clearer, and I make the point that I made in my contribution that if we are going to actually increase the number of offences in new schedules 1 and 2 that require exceptional circumstances or show-cause circumstances, then the language that goes around 'unacceptable risk' — I will talk about the other amendment as well — needs to be clear to decision-makers, and it is not. This bill has not done that, and a key recommendation Mr Coghlan made was that, in addition to the additional offences and the new schedules, the language be clarified to assist decision-makers. That is why I am moving the amendment.

Ms TIERNEY (Minister for Corrections) — Can I start by saying, in terms of the gender-specific language, it is outdated. It was 1977, and I have sought assurances from the advisers in the box that as a part of this review we will make sure that the language that is used is language that is not gender specific.

I will deal with both of Ms Pennicuik's amendments to this clause together in terms of my comments because this is really about a different approach — the approach of the government as opposed to the approach that Ms Pennicuik is seeking. To outline the reasoning behind our non-support for her amendments, I will put on the record the following. We consider that the Greens proposed amendments are piecemeal and incomplete in their response to three of Mr Coghlan's key recommendations which set out a new approach to making bail decisions. The government, as I said in my right of reply, has committed to implementing recommendations 2, 3 and 5 of Mr Coghlan's report but not until we have developed a comprehensive and

cohesive legislative response. We would argue that simply implementing part of these recommendations makes little difference to the status quo.

In relation to the specifics of Ms Pennicuik's amendments 1 and 2, they would implement recommendations 3 and 5 of Mr Coghlan's report and, as noted in our response to Mr Coghlan's report, the government does not propose to implement recommendations 2, 3 and 5 at this stage. Recommendations 2, 3 and 5 are a series of recommendations about how bail decision-makers are to apply the unacceptable risk, show compelling reason and exceptional circumstances tests. These are linked recommendations, the substance of which is contained in recommendation 2, which seeks to clarify the order in which the tests are to be applied and who is to bear the onus in relation to these tests.

I note that these amendments do not contain any provisions to implement recommendation 2. The government has committed in principle to, as I said, implementing recommendations 2, 3 and 5, and we are giving further consideration as to how these are to be implemented in legislation. However, we consider it is important that these recommendations should be implemented together so that they can be implemented consistently and coherently. The government asserts that implementing only recommendations 3 and 5 at this stage, in the absence of any amendments to implement recommendation 2, will not make significant changes to the Bail Act.

In relation to amendment 1, implementing recommendation 3 will simply reorder the wording of the unacceptable risk test. It is only when combined with recommendation 2 that the unacceptable risk test is substantially altered in our opinion. With amendment 2 we would add to the list of factors to be taken into account when making bail decisions. However, the act currently requires a bail decision-maker to take into account all relevant matters. There is nothing to prevent a bail decision-maker taking these things into account under the current act, we would argue. As drafted, amendment 2 may operate to limit this discretion as it does not make clear whether a bail decision-maker can take into account a matter not on the list.

Ms PENNICUIK (Southern Metropolitan) — Thank you for that that response, Minister, which is a bit more fulsome than the one I got from the Attorney-General's office when my office wrote to him about this particular issue. I take some of your points, but I still maintain that while in your response you were saying these amendments refer to the show-cause provisions and the unacceptable risk tests — and these remain in the act — the show-cause provisions have been significantly altered and there has been no balance of the change and how to actually apply those provisions. The point has been made several times in many places throughout the Coghlan report that the current language is not clear.

Notwithstanding what the minister said about recommendation 2, I still think that this rewording of section 4(2)(d)(i) could stand alone as it is without reference to recommendation 2 because it is really just a better wording of what exists in the act. The minister agrees, apart from the lack of clarity, that that section needs rewording to bring it into line with modern standards in terms of not being gender specific, so I still would like to proceed with the amendment.

Committee divided on amendment:

Ayes, 5

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

Noes, 31

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

Pairs

Hartland, Ms	Elasmar, Mr

Amendment negatived.

Ms PENNICUIK (Southern Metropolitan) — I move:

2. Clause 5, page 6, lines 8 to 10, omit all words and expressions on these lines and insert—

'(6) For section 4(3) of the **Bail Act 1977 substitute**—

"(3) In determining whether to refuse bail under this section, a bail decision maker is to consider the following matters—

(a) the nature and seriousness of the alleged offending, including whether or not it is a serious example of the offence;

(b) the strength of the evidence against the accused;

(c) the criminal history of the accused;

(d) compliance by the accused with any previous grants of bail;

(e) whether the accused is alleged to have committed the offence

(i) while on bail for another offence; or

(ii) while subject to a summons to answer to a charge for another offence; or

(iii) while at large; or

(iv) during the period of a community correction order made in respect of the accused for another offence or while otherwise serving a sentence for another offence; or

(v) while released under a parole order;

(f) the personal circumstances, associations, home environment and background of the accused;

(g) any special vulnerability of the accused, including by reason of youth, being an Aboriginal person, ill health, cognitive impairment, intellectual disability or mental health;

(h) the availability of bail support services;

(i) any view, or likely view, of the alleged victim of the offence to the grant of bail;

(j) the length of time the accused is likely to spend in custody if bail is refused;

(k) the likely sentence should the accused be found guilty of the offence charged;

(1) whether the accused has expressed publicly support for

(i) a terrorist act or a terrorist organisation; or

(ii) the provision of resources to a terrorist organisation.

(3A) In this section—

at large means a person who has failed to appear at court and is subject to a warrant to arrest that has been issued but not yet executed.

(3B) A bail decision maker considering granting bail to an accused under this section must consider whether or not any conditions could be imposed to reduce any risks associated with the granting of bail.”.’.

This amendment would substitute the existing section 4(3) of the Bail Act 1977 with a larger number of factors which a bail decision-maker would need to take into account in determining whether to refuse bail. Currently under the act there are seven factors. One of those relates to terrorism acts or provision of resources to a terrorist organisation and was only added last year. Some of these factors are not clear. They certainly could be clearer for decision-makers. There are a further 10 factors that Mr Coghlan recommended be included, along with some rewording of the existing factors. This amendment adds another 10 factors, as outlined in recommendation 5 from Mr Coghlan. Some of those are the rewording of existing factors and adding to them, and others are new. As I said before, because we are adding so many more offences and making such significant changes to the show-cause provisions, there needs to be further guidance as to the level of detail and number of factors both in favour of the accused and against the accused — or potentially against the accused — to assist decision-makers, particularly police and bail justices.

Ms TIERNEY (Minister for Training and Skills) — I do not believe that was actually a question. It was more of a statement. I put the government’s position when I was dealing with amendments 1 and 2 concurrently.

Honourable members interjecting.

Ms PENNICUIK (Southern Metropolitan) — I did not hear a word the minister said. It was not a question — I was moving my amendment.

Committee divided on amendment:

Ayes, 5

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

Noes, 32

Atkinson, Mr	Morris, Mr
Bath, Ms	Mulino, Mr
Bourman, Mr	O’Donohue, Mr
Carling-Jenkins, Dr	Ondarchie, Mr
Crozier, Ms	O’Sullivan, Mr
Dalidakis, Mr	Peulich, Mrs
Dalla-Riva, Mr	Pulford, Ms
Davis, Mr	Purcell, Mr
Eideh, Mr	Ramsay, Mr (*Teller*)
Finn, Mr	Rich-Phillips, Mr
Fitzherbert, Ms	Shing, Ms

Gepp, Mr	Somyurek, Mr (*Teller*)
Jennings, Mr	Symes, Ms
Leane, Mr	Tierney, Ms
Lovell, Ms	Wooldridge, Ms
Mikakos, Ms	Young, Mr

Pairs

Hartland, Ms	Elasmar, Mr

Amendment negatived.

Ms PENNICUIK (Southern Metropolitan) — I move:

3. Clause 5, page 6, line 18, omit "compelling" and insert "good".

4. Clause 5, page 6, line 26, omit "compelling" and insert "good".

They change the phrase 'show compelling reason' to 'show good reason', as was recommended by Mr Coghlan. All he recommended in terms of the two categories of show-cause provision is that they be reworded so that they are more readily understandable by bail decision-makers, the general public and the accused for that matter. He recommended the wording 'show good reason' and not 'show compelling reason'.

My amendments 3 and 4 are to subclause (7)(b) and subclause (8) on page 6 of the bill. I think these are the most important amendments I will be moving today because, as I mentioned in my contribution to the second-reading debate, the word 'compelling' sets a much higher bar than 'good'. 'Good' is what it is meant to be and how the test in the act is currently understood. The level of 'show good reason' — or 'good reasons', because there could be more than one reason why you should be granted bail — is very different from 'show compelling reason'.

In summing up the minister mentioned that they were about the same, so I thought, 'Well, let's have a look at the dictionary'. The dictionary defines 'good' as 'satisfactory' — show a satisfactory reason. In terms of the definition of 'compelling' the dictionary says 'a powerful or an irresistible reason', which is a lot different from satisfactory. It is more akin to exceptional, which means rare or extraordinary. I make the case that the word 'compelling' brings that bar too close to 'exceptional' for schedule 2 offences. The schedule 2 offences should have the word 'good' — which means satisfactory — 'reason'. In relation to the schedule 1 offences, which are the more serious offences, I am happy for that wording to stay at 'exceptional reason'. That is why I am moving the amendments.

Ms PATTEN (Northern Metropolitan) — I would like to speak on Ms Pennicuik's amendments, which really return this bill to the way it should be — the way that Mr Coghlan recommended. The government asked Mr Coghlan to review our bail system and to make recommendations, and he recommended that the wording should be 'show good reason'. It is that second tier of our bail system. The suggestion is that 'good' and 'compelling' mean the same thing. I think Mrs Peulich as a former English teacher would agree with me that 'good' and 'compelling' are very different.

The Attorney-General said to me in a letter that 'good' and 'compelling' are consistent with and in the spirit of the recommendation. This is not the case; this is not in the spirit of the recommendation. This creates a much higher level. There is very little difference now between 'exceptional circumstances' and 'compelling reason', so I, too, support keeping Mr Coghlan's recommendation to use 'good' reason over 'compelling' reason. I support these amendments.

Ms TIERNEY (Minister for Training and Skills) — I think it is important that the government puts on record its position in relation to Ms Pennicuik's amendments 3 and 4 to clause 5, and indeed we hold the same view in relation to amendment 5 as well. That essentially is that these amendments alter the proposed 'show compelling reason' test to a 'show good reason' test. The current wording of this test is 'show cause'. Mr Coghlan recommended that the wording be changed because he found that 'show cause' was poorly understood. He considered it ought to be replaced with wording that made it absolutely clear that the onus to show why bail ought to be granted was borne by an accused person in this category.

The government has decided to replace 'show cause' with 'show compelling reason'. We believe this is consistent with the spirit of the recommendation. I know both members have put their points of view in relation to that, but we believe this wording makes it clear that an accused in this category must provide a reason or reasons why bail ought to be granted and that it must be a compelling reason or reasons.

Wording such as this is necessary in response to what Mr Coghlan described as a 'watering down of the show-cause test'. This test still falls well short of the other reverse onus tests which require a person to show exceptional circumstances why bail ought to be granted. This is the test that applies to the most serious offences such as murder and large commercial drug trafficking. Requiring a compelling reason is not an equivalent test. It remains a lower hurdle than

'exceptional circumstances'. That is the rationale behind the government's position.

Ms PENNICUIK (Southern Metropolitan) — Again, the government is skewing what has been said by Mr Coghlan in his report. Nowhere did he say that the bar for 'show cause' needed to be increased. He never said that anywhere. He just said that the phrase 'show cause' was not well understood and he recommended replacing it with 'show good reason'. If he had thought that the bar needed to be raised for schedule 2 offences, he would have said so. He did not say so. He did not recommend 'compelling reason'. The word compelling is not in the spirit of anything that was said in the report by Mr Coghlan.

This is a case where words mean a lot. Mr Coghlan has already conceded in his report, as have a number of submitters, that these changes will result in more people being remanded in custody. This raising of the bar for less serious offences will only exacerbate that and there is absolutely no reason for it put forward in his review or in any other reading of the Bail Act as it stands for the different types of offences that are in the two schedules.

I just say once again that the definitions of 'compelling' and 'good', as I am sure would be seen from the dictionary, are completely different. The raising of that bar by the government and the arbitrary using of a different term will have quite a significant effect on how this legislation operates. This really is a serious amendment. The government should consider it seriously and follow the recommendation that was made by its own review.

Committee divided on amendments:

Ayes, 5

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

Noes, 33

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

Pairs

Hartland, Ms	Elasmar, Mr

Amendments negatived.

Clause agreed to; clauses 6 to 12 agreed to.

Clause 13

Ms PENNICUIK (Southern Metropolitan) — In light of the recent amendments being lost I will not be proceeding with amendment 5, which is in fact the same amendment or just an amendment to change the heading with regard to show-cause provisions. My question is with regard to some offences that have been added to schedule 2, such as, on page 25, the offences of culpable driving, dangerous driving and dangerous or negligent driving.

It has been put that those offences are usually charged on summons — that is, that someone is not arrested by the police and then granted bail, either by the police or a bail justice, but they are actually charged on summons. I am not sure if any of the other offences are, but the question is: with offences that are charged on summons, how can they be practically dealt with under this provision?

Ms TIERNEY (Minister for Corrections) — Ms Pennicuik, thank you for that question. If charged on summons, the question of bail is irrelevant unless the person fails to appear and then a warrant is issued. The person is arrested and will have to show a compelling reason.

Ms PENNICUIK (Southern Metropolitan) — So that is if they are arrested after the summons has been issued?

Ms TIERNEY (Minister for Corrections) — Yes.

Ms PENNICUIK (Southern Metropolitan) — But at the time of the summons they would not be caught up in this provision?

Ms TIERNEY (Minister for Corrections) — No, that is right.

Ms PENNICUIK (Southern Metropolitan) — Okay. Thank you, Minister.

Clause agreed to; clauses 14 to 29 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

CHILDREN AND JUSTICE LEGISLATION AMENDMENT (YOUTH JUSTICE REFORM) BILL 2017

Second reading

Debate resumed from 8 June; motion of Ms PULFORD (Minister for Agriculture).

Ms CROZIER (Southern Metropolitan) — I rise this evening to speak on the Children and Justice Legislation Amendment (Youth Justice Reform) Bill 2017. As with the piece of legislation we just went through, this bill is indicative of where the government is at. It is a Thursday evening just before the winter break and we are debating these important bills at this hour. Nevertheless it is important to point out just what is going on and why we need to be looking at various reforms and looking at the issues at hand. Can I say that youth justice has of course been a significant issue in Victoria since the Andrews government came to power. We have seen the chaos and the crisis that has arisen within the youth justice system. I think it is very indicative of what is happening in our law and order space more broadly and how the government has failed to keep abreast of the issues, has failed to keep the community safe and is playing a lot of catch-up.

This bill amends the Crimes Act 1958 to create an offence of recruiting a child to engage in criminal activity. It amends the Children, Youth and Families Act 2005 to create particular rules around eligibility for dual-track sentencing or uplift of cases from the Children's Court to the higher courts, requiring community safety considerations in sentencing and mandatory parole conditions that will apply to young people who commit specific serious offences. It clarifies when a young person can be returned to a youth justice facility when they are charged with offending in the facility. It allows the Secretary of the Department of Justice and Regulation to authorise publication of identifying information when a child or young person escapes from a facility. It establishes a new sentencing option for children that is an alternative to detention and will involve intensive supervision and monitoring.

The bill protects youth justice staff from liability for using reasonable force and requires reporting on use of force to the secretary. It increases flexibility in deciding where children and young people are housed within youth justice facilities. It improves information sharing about young offenders between the Secretary of the Department of Justice and Regulation, the Youth Parole Board, Victoria Police and the community. It creates a tailored legislative basis for a diversion program in the criminal division of the Children's Court. It enables the Secretary of the Department of Justice and Regulation or the Secretary of the Department of Health and Human Services to issue a written instruction to a person directing them to not communicate with a child under the relevant secretary's care or in detention.

The bill amends the Sentencing Act 1991, the Bail Act 1977 and the Criminal Procedure Act 2009 to strengthen the criminal justice system response to young offenders, particularly in relation to serious youth offences, offences committed within youth justice facilities and dealing with issues of remand. That is what the bill does, according to the explanatory memorandum, so you can tell that there is a significant amount of reform that the government desires to achieve with this bill. All of those areas, obviously, have been very, very problematic for the government. Of course I have mentioned the crisis that has plagued the government. We have seen a real breakdown of our youth justice system occurring under the Andrews government, and we have seen the community put at risk, youth justice workers put at risk and those young offenders within the facilities put at risk on far too many occasions.

I think it is an indictment of the Andrews government and the minister for not taking heed of the situation earlier. When I think about just what those issues are in relation to the number of riots that have occurred within youth justice, it is a litany of very serious riots, assaults and incidents that have occurred. Time and time again in this place we have tried to understand the full extent of that but we have been blocked from knowing or refused access to the full details. I think that is also indicative of this government, which is trying to hide the facts about what has actually happened.

Only this week I have been asking about the Muir report. In fact Ms Fitzherbert, who is not in the house at the moment, made an excellent speech this morning about the extent of the government's obfuscation on providing the Muir report. We have got various other reports, but I think the point is that the Muir report was given to the Community and Public Sector Union (CPSU). That information was given to us in evidence as part of the youth justice inquiry. The CPSU themselves said, 'The department gave us the report'. For the government and Ms Mikakos to deny the Parliament and the Victorian people that report is

indicative of why we have so many issues. The issues that this bill goes to are coming to the fore, but we will see what it will actually achieve.

While I am speaking about the youth justice inquiry — in terms of the issues that have arisen within youth justice and looking at the issues that need to be reformed — the government also tried to not have that very important inquiry. I commend the committee members for the work that is being undertaken on that inquiry. I think it is very enlightening. Certainly the committee members are getting a greater understanding of the issues at hand from all the necessary and relevant evidence that is being given from the people who have come before the inquiry. That is informing the committee about the issues that have arisen, what needs to be done, how it can be strengthened and how we can improve the situation here in Victoria.

As I said, we have got a system in crisis. There is no doubt about that. I mentioned the number of riots. I am just going to list those again, because I think it is important to understand just why the opposition and others have spoken so passionately about the issues and how badly the government has handled the issues. Of course the riots really did start on 31 October 2015. Despite what the government might say, this litany of riots never occurred under previous governments. Yes, there were issues. Yes, there were serious incidents — —

Ms Mikakos — Nothing ever happened during your whole time of government?

Ms CROZIER — No, you are not listening, Ms Mikakos.

Ms Mikakos — That is what you are claiming, and that is what you have said previously.

Ms CROZIER — I will say it again, Ms Mikakos, the litany of riots, the assaults, the damage, the tremendous and dreadful circumstances that have arisen under your watch is shameful. You should be ashamed of what has happened. We have had riots — and I will take up the interjection by Ms Mikakos, because as I said, incidents occurred but we never had the dozens of riots and mass escapes.

Ms Mikakos interjected.

The ACTING PRESIDENT (**Mr Melhem**) — Order! I do not want to hear any more interjections. Ms Crozier, please speak through the Chair. And Minister, I am sure you will have the right of reply. Let us not make it personal so we can get on with it.

Ms CROZIER — Thank you, Acting President. If I have got an interjection, I will just put it on the record that these are the facts. I will list them. On 31 October 2015 in Parkville, six inmates armed with cricket bats and tennis rackets — and I am not going to go through this whole list, but I am just making the point.

Honourable members interjecting.

Ms CROZIER — Do you want me to? Well, we could be here until midnight, but I will not do that to you all. There was climbing on the roofs — —

Mr Ondarchie — Serious stuff.

Ms CROZIER — It is very serious, because this is the litany of failures. On 31 October 2015 — that was 18 months ago, Ms Mikakos. On 6 March 2016 there were a number of riots that went on in Parkville again for a series of days. On 6 March and 7 March there was a lockdown after hammers, pitchforks and metal bars were stolen from a horticultural shed. On 7 March six teenage boys were involved in a 7-hour stand-off on the roof. They were armed with poles and some were seen damaging parts of a roof. Again there were more violent incidents earlier in the month. On 23 March, much later in the month, an employer was injured when he intervened to separate a physical altercation. On 26 March a young offender was rushed to hospital after receiving a broken leg during a restraint process.

On 6 May there were lots of images that were reported to show the extent of the damage. The point of my listing these is that there were a whole range of issues in the public domain in relation to what had happened. This was really highlighted for the first time after the government refused to provide anything, and it really just demonstrated the extent of the damage. On 27 July, again there were further investigations after some young offenders spent time in solitary confinement. Again the reasons as to why that young person was there were subject to a number of reports, as were the ongoing issues about inadequate staff numbers or staff not having expertise to look after these young offenders in these facilities. In August, again at Parkville — —

Mr Ondarchie — Shambles.

Ms CROZIER — Absolute shambles, Mr Ondarchie. Again in August, young offenders spent hours on the roof causing lengthy lockdowns. It went on to say that there were more altercations during the evening.

Mr Ondarchie — Was that pizza day?

Ms CROZIER — Mr Ondarchie, I am not quite sure. But that did come out, did it not? On 8 December it was becoming so difficult for staff, due to the very violent incidents, that they were seriously fearing for their safety and their lives. That was reported, and I think that is just indicative. The WorkSafe report at the time which actually highlighted that and spoke about how the workers were fearing for their lives again indicates the chaos, the crisis and the extent of the mismanagement under the Andrews government.

Again later on in September, just a couple of days later, there were more incidents at Parkville on 11 September — it went on all through September, day after day. So the government said they had had review after review after review, yet they did nothing.

On 19 September young offenders again were causing enormous amounts of trouble and were trying to get involved in more riots and cause more chaos. But again, as you said Mr Ondarchie, it was revealed that there were special demands met, including those pizzas and soft drinks that you mentioned.

On 3 October a young person had his skull cracked by a rival gang member inside one of the detention centres. These gangs et cetera Ms Mikakos refused to acknowledge; in fact she said they did not exist — they were just associated groups or words to that effect. This goes on, and I am just highlighting this because I think it is important to understand in the course of this debate just how much of a mess the youth justice system is in and what actually needs to be done.

In November, of course, there was a very serious issue with those major riots that took 60-odd beds out of the system and the absolute chaos of the situation that then arose out of the decisions made by the government — decisions that were found to be illegal. Ms Mikakos and others have never taken responsibility for the chaos and the millions of dollars of damage that has cost taxpayers. Of course coming into January of this year, there were more riots in Parkville in early January — 7 January — and by the end of January when there was a mass escape it really did put the safety of Victorians at risk, and I think Victorians had had enough at that stage. They had seen the chaos, the mayhem and the absolute debacle of how it had been managed by the minister, who still refused to take any responsibility for this entire scenario of — —

Ms Mikakos — Accept your responsibility for apologising to Neil Comrie. Have you still got your shameless media release on your website — on Matthew Guy's website?

Ms CROZIER — Ms Mikakos, you should apologise to the state of Victoria for the chaos — —

Mr Ondarchie — On a point of order, Acting President, despite your warning to the minister she is clearly defying the ruling of the Chair by way of interjection and not talking through the Chair. You have some choices here: you might ask her to desist, or in fact you could call the President.

The ACTING PRESIDENT (**Mr Melhem**) — Order! There is no point of order, because I remind you, Mr Ondarchie and Ms Crozier, you are doing exactly the same thing, so what we are observing is a two-way street. I warned everyone to stick to the script and not to make it personal. I think there have been interjections on both sides, so Ms Crozier, please return to the motion, and let us not make this personal.

Ms CROZIER — It is not personal, Acting President. I was just making the point about the chaos of the system, and if Ms Mikakos wants to take responsibility, that would be great. But, no, we have not had any of that action at all for the entire time.

So there is a lot to be said about what needs to be done, because of course we have got ongoing crime issues across the state. There are many, many issues that need to be fixed, and of course Matthew Guy, I am very proud to say, has been leading the charge in this along with Edward O'Donohue and John Pesutto and really looking at a whole range of reforms that the community actually expects. They really do expect to have actions that match words, not just hollow promises around some of these issues.

We have got the crime stats of last week which indicate there are still many, many issues. If I can just refer to those in relation to some of the people that we are talking about that are captured in this bill, again the numbers are still very extensive. In the 10 to 14-year-old age group, there were 4207 alleged offenders between April 2016 and March 2017; in the 15 to 19-year-old category there were 21 312 young people in the system who have been involved in offending, and there are many issues that need to be addressed.

Of course many people obviously are out in the community doing some very good work in relation to some of these young offenders, and I commend them for the work they do. But I think one of the problems is that what the government has undertaken has weakened the bail laws. We saw that as soon as they came into power they actually weakened the youth bail laws, and

of course from there we have got a whole range of significant issues that have arisen out of that.

Why I mention that is because what message does that send? If you are a young person who has committed a serious offence or committed a crime, been given bail and then breached it, at least you know that there is a consequence for that breach. But if that is weakened down and not there, it sends the wrong message, so it means nothing. What is being said by those people in authority is 'It means nothing', and that is the issue. Some of these people like to challenge the boundaries, they like to really push the boundaries, so giving them that option of having no consequence is the worst thing you can do, and it actually has had a major impact on crime that has occurred across the state.

As I said, we have got so many issues that are arising constantly because of the lack of authority by this government in talking to the Victorian community and reassuring them that they have got this situation under control — because clearly they do not. The crime statistics tell us that; you cannot take that away from those crime statistics that came out last week.

If you look at the crime statistics overall — in assaults and related offences, robbery, dangerous and negligent acts, endangering people and theft — they are all up. The last thing you want to do is to have this cohort go into that major cohort of adult offending without taking some action. This reminds me of what happened this morning. I woke up today to find that four young people, two 14-year-olds, a 15-year-old and a 16-year-old, had carjacked an Uber driver — funnily enough just as we are about to debate the Uber bill — in a petrol station in my electorate of Southern Metropolitan Region. That car and those offenders — two 14-year-olds, a 15-year-old and a 16-year-old — were found in Healesville. These are serious crimes. There could have been a dreadful catastrophe with those young people behind the wheel.

As I said, the opposition has led the charge on many of these issues in relation to reforming our crime — —

Mr Ondarchie — It had to. The minister is doing nothing.

Ms CROZIER — Well, we have seen what has happened in the overall area of crime. We have had four corrections ministers in the space of this government. That says it all, as well as how hopelessly this portfolio has been managed and the seriousness of what is going on. I think the Victorian community deserves much more than what this government has done.

Returning to the main clauses of the bill, they include creating a new offence that applies to an adult over 21 who recruits a child under 18 to commit a crime on their behalf. I think everybody would agree that those adults who try to encourage young people to join gangs or to commit the serious crimes we have seen, including carjackings, home invasions, aggravated burglaries and the burglaries in the jewellery stories in my electorate of Southern Metropolitan Region, are just dreadful. Those jewellery stores have been robbed and burgled at the hands of young people with machetes and guns not once but multiple times. Anyone who is — —

Mr Ondarchie interjected.

Ms CROZIER — This is a serious issue. That there are adults who recruit these young people to gangs or get them to behave with a pack mentality to undertake these crimes just serves to demonstrate what is going on. Those people need to be absolutely held to account. The judiciary and others need to hold those people to account in relation to the terrible crimes that they are committing. The area of criminal justice changes, which I have just referred to in terms of recruiting, is, I think, a welcome addition to what we require to deal with some of these issues and some of these people who undertake seriously dangerous activities.

I will come back to clauses 9 to 19 as these relate to youth control orders. The opposition has proposed an amendment which was moved in the Assembly. I will also be moving that amendment in the Council on behalf of Mr Rich-Phillips. I will come back to that because I want to explore the youth control orders that are already in place in a little more detail.

The bill also talks about another couple of areas in relation to inserting two categories of serious offences — category A and category B serious offences. A category A serious youth offence is defined to include murder, attempted murder, manslaughter, child homicide, intentionally causing serious injury in circumstances of gross violence, aggravated home invasion, aggravated carjacking, arson causing death, culpable driving causing death and a terrorism offence in division 101 of the criminal code of the commonwealth. These are very serious crimes that we are talking about here. For carjacking and home invasion, Mr O'Donohue proposed legislation in this place some time ago to deal with this issue. Regretfully it was not taken up by the government. If it had been, we would have seen many of the offences that have occurred being dealt with a lot earlier, and we could have dealt with those issues prior to this bill coming into the Parliament this evening. Nevertheless, I am

pleased to say that category A serious offences relate to very serious things.

We saw the terrible situation in Brighton with the terrorist incident. That was a dreadful and shocking incident and a very sad and tragic circumstance. Members have highlighted the failure of the government to implement all the recommendations of the Callinan review in relation to what should have been done. Perhaps we could have avoided that terrible tragedy. Nevertheless, it is shockingly sad and tragic that that incident occurred in my electorate of Southern Metropolitan Region. Many people I know were affected by it just because they live very close to where it happened.

Of course that came off the back of what happened in London and Manchester and the events in Europe generally, which seem to be occurring on a far too regular basis, and I think all members in the house would hope that we can curb, stem and hopefully not see here any more of the terrible acts that we have seen across Europe and elsewhere in the world.

I also mentioned the category B offences, which include recklessly causing serious injury in circumstances of gross violence, rape, rape by compelling sexual penetration, home invasion and carjacking. There are definitions of what these category A and B serious youth offences relate to.

The clause in the bill that relates to crimes that could be heard or tried in a higher court is clause 27, and it inserts a new section into the Criminal Procedure Act which transfers charges to the Children's Court for category A and B serious youth offences. It will then go to a higher court if it is deemed appropriate and necessary. Again I think that is a welcome addition regarding what can be done in relation to those extremely serious offences that I have just mentioned and highlighted.

Clauses 32 and 33 in the bill also talk about the powers of the secretary and how they would apply. It would mean giving the secretary essentially wider discretion to look at various factors when transferring a detainee, enabling the secretary to have greater powers.

Clause 40 allows for identifying details of a young person who has escaped from a youth justice facility to be published. This was highlighted after the mass escape from Malmsbury, the escape where we had that terrible situation of 30 young offenders who rioted and put the whole youth detention facility in chaos. It was a very dangerous situation. It was a terrible, terrible incident that occurred after months and months of warnings, and what happened? They just lifted a sally port door, took a few swipe cards and walked out of the place. Not only did they walk out of the place but they carjacked cars and drove across the state. They pulled people from their cars — young women and others; terrified people. There were home invasions, carjackings and burglaries on that night. It was chaos, it was mayhem — —

The ACTING PRESIDENT (**Mr Melhem**) — Ms Crozier, I am sorry to have to interrupt you, but it is dinner time.

Sitting suspended 6.31 p.m. until 8.07 p.m.

Ms CROZIER — Before the dinner break, I was talking about a number of clauses in the Children and Justice Legislation Amendment (Youth Justice Reform) Bill 2017. In particular, I was talking about clause 40. This clause allows details identifying a child who has escaped from a youth justice facility to be released. I was also referring to the mass escape on 25 January of this year when there was the most horrific set of circumstances. Young offenders did escape from Malmsbury Youth Justice Centre, and they did cause mayhem and chaos across not only Malmsbury and surrounding areas but also across Melbourne and Victoria. There were 30 young people involved in that one escape incident, and 15 of them were on the run. It took 24 hours for police to get those young offenders — to identify where they were and to then bring them back into the youth justice system. It was an incredibly dangerous situation. Thankfully nobody was seriously hurt, but there were serious consequences.

One of the issues that arose throughout the night as these young people were running around the state after escaping from Malmsbury, and some of them were involved in a carjacking, was that they were putting the lives and safety of Victorians at risk. We saw that with the home invasions and aggravated burglaries that occurred. There were very violent occurrences throughout the night, and the police were unable to name and identify those young offenders because of current laws. This is what we have been talking about. In fact it was part of the opposition's reforms late last year that we would name young offenders who had been involved in serious crimes. The situation on 25 January highlighted how crucial it is for police to be able to identify such offenders.

Imagine if you were an innocent Victorian going about your business. You had pulled up at a petrol station or the like and all of a sudden these young violent offenders chased you down — and nobody could identify them. Nobody knew who these people on the

run were. Those who observed them did not know that they had escaped from a detention centre, and of course anything could have happened. Thankfully nothing terrible did happen that night, but it just demonstrates the chaos that has been created and the crisis situation that has occurred in youth justice under Daniel Andrews and Minister Mikakos.

This was a wake-up call to Victorians like never before, and they realised that this government had lost control of youth justice. It was symbolic of what had been happening for the previous 18 months. There had been a litany of failures, as reflected in the previous riots, which I outlined earlier in the debate. These were very serious situations indeed.

If I could just go to clause 46 of the bill, which provides for tougher consequences for youths who assault youth justice officers, again there have been a litany of failures in this regard in terms of the ability of the government to protect youth justice workers, who are constantly being assaulted and sustaining some very serious injuries. That clause is headed:

> **Custodial sentence for certain offences against emergency workers and custodial officers on duty**

It changes an aspect of the Sentencing Act 1991, so that it reads 'a custodial officer on duty or a youth justice custodial worker on duty'. That again goes to the point made in the WorkSafe report, which was obtained under freedom of information laws, that violence is common throughout these youth justice centres. In Malmsbury in August 2016 there were 41 incidents of violence against staff and 20 cases of stress. Now that was just August last year, and we have had many more incidents since then. I have just referred to the Malmsbury escape, where there were enormous stresses for those workers, who were really very fearful, not only for themselves but also for other young offenders in the detention facility as well as people in the community.

The number of people on WorkCover benefits has escalated under the Andrews government, and I think that just highlights the mayhem of the whole system. As I said, this WorkSafe report referred to August last year, and six months on we have seen so many more issues. I think this clause is also a welcome aspect of the bill because it will protect those workers or aim to protect those workers and enable them to have more security and certainty about their ability to go to their workplace and not come home injured, not come home damaged and not have to take stress leave.

I have spoken to people who have said, 'You know, this happens all the time — the assaults happen all the time'. It is the situation we are in, where we have got this chaotic situation in our youth justice facilities and where we have got staff who are not properly trained. They have got very little training — they have come in after two days of training. The government was putting out ads saying 'No experience required'. How can you put people in these really sensitive and delicate situations, sometimes dangerous situations, without giving them any training or any experience and expect them to manage? I think it is quite irresponsible, and it just demonstrates the desperation of the government. Of course they were trying to go interstate, trying to recruit from Tasmania and all over the place but to little avail. Nonetheless, it just explains the situation we are in, and this bill addresses those issues, but this should have been addressed a long time ago.

Clause 59 of the bill provides for a diversion program, enabling the Children's Court to adjourn proceedings. If successfully completed, no conviction will be recorded, but the child must acknowledge responsibility for the offence in order to be eligible for this scheme. That is pretty self-explanatory.

If I could just go back, I spoke about the amendment to the bill that I would like to speak to now, and it goes to part 3 of the bill. Part 3 of the bill — clauses 9 to 19 — introduces youth control orders involving intensive supervision and monitoring as an alternative to detention, requiring offenders to engage in education, training, work, treatment or counselling. They can of course include restrictions or curfews or the like. I ask that my amendment be circulated. I move:

> That all the words after 'That' be omitted with the view of inserting in their place 'this bill be withdrawn and part 3 redrafted so that certain of the proposed additional powers in part 3 be instead made available for existing orders for young offenders'.

The reason for the coalition moving this amendment — as was highlighted in relation to the same amendment when it was moved in the Legislative Assembly by my colleague the member for Hawthorn and shadow Attorney-General during the second-reading debate — is really to remove part 3 because of concerns that the new youth control orders may apply to some very serious offences that could be undertaken by young offenders who have committed these serious crimes and concerns around why the existing youth control orders could not be further enhanced rather than new youth control orders being introduced in relation to these aspects.

The coalition believes that these orders will provide more options. While I acknowledge what the government is trying to do here in terms of

strengthening those areas surrounding youth control orders, the proposed youth control orders really do give further options to these serious offenders that are committing some serious crimes. What we know and what we have seen is that many young offenders on bail and parole have breached those provisions and have committed serious offences, and we do not want that to occur again. There are already non-custodial orders available, and if offenders do not fit the criteria that already apply, then the question remains around whether a young offender should be actually allowed to remain in the community and not be sent to a detention facility.

If we are furthering these youth control orders to allow more options, it gives greater capacity for some of these young offenders who are committing some very serious offences to then be out in the community. That is really what we are concerned about, and that is why I, like my colleague in the other place, have moved this amendment. As has been stated, we believe the community's safety should be paramount.

There have been too many occasions of hollow words from the Premier and members of the government on these issues. As I said in my earlier contribution, the government weakened the bail laws, and we have seen the consequences of that. Again I say that this gives young offenders further opportunities to commit serious offences. As the member for Hawthorn said in his speech in the Legislative Assembly:

> … we have seen in recent years in particular how offenders who are out on parole, bail or community correction orders … are going on to reoffend, and the budget that the government handed down last month shows a 60 per cent increase in the rate of reoffending for people who are out on community correction orders.

That is the main thrust of the reasons for the amendment as circulated. I am not going to say too much more about that. I have highlighted those concerns, and I have highlighted the areas of the bill that are important. While the opposition is not opposing the bill, I think it is important to point out the very severe and significant litany of failures by this government in relation to youth justice in particular and how the system needs to be strengthened. It should have been strengthened a long time ago. The government has had long enough.

The ACTING PRESIDENT (**Ms Patten**) — Order! For the clarification of members, the reasoned amendment is in Ms Crozier's name but it was circulated with Mr Rich-Phillips's name attached to it.

Ms SPRINGLE (South Eastern Metropolitan) — I rise to speak on the Children and Justice Legislation Amendment (Youth Justice Reform) Bill 2017. When the history of the Andrews government is eventually written it is unlikely that it will contain a bill which better expresses its inherent schizophrenia or which better encapsulates the sense of panic which has overwhelmed it in recent months than this one. When elected, this government gave the impression that it was going to be a genuinely progressive, reforming Labor government. It made significant moves to address some of the long overdue social and cultural problems that we have endured for a very long time in Victoria, and for many that was welcome.

But once the low-hanging fruit was all picked things got very ugly very quickly. There were concerns raised by the services and individuals that work with children and young people in youth justice centres well before the first major disturbance happened in September 2015. People were saying that the young people detained in those centres were spending far too much time in conditions of isolation or separation, also called lockdown. Young people were too often spending most of each day completely locked inside their cells.

Unfortunately the Minister for Families and Children did not do much to address those concerns. She commissioned Mr Peter Muir to inquire into and report on the incident in September 2015 at the Parkville Youth Justice Precinct. The minister has kept that report secret, which Ms Crozier has already commented on. But I understand that the report identifies the extensive amounts of time that young people were spending in lockdown conditions as a major contributing factor and a major risk factor for future incidents.

Peter Muir was again commissioned to report on an incident at Parkville in March 2016. Again the minister has kept that report secret, but we do know a little about its contents because at least part of it was leaked to the *Age*. Lockdowns were definitely implicated in that particular report's analysis of the March incident. Unfortunately there is not much evidence that the minister intervened in any meaningful way to cut down on the extensive periods of lockdown that the young people were subjected to in Parkville and Malmsbury.

The lockdowns continued and the incidents continued. I am not suggesting that the current crisis in Victoria's youth justice centres is this simplistic; nothing ever is. The roots of the current crisis date back a very long time. The Baillieu and Napthine governments sowed the seeds when they imposed efficiency dividends on the Department of Human Services, which was then

responsible for the youth justice system. As a result, decades of experience were lost to the system forever. But the fact remains that regardless of the state of the system the current minister inherited, she failed to do anything substantive in response to warning after warning that the centres were effectively tinderboxes ready to explode. And explode they did — first Parkville in November last year and then Malmsbury in January this year.

Now there are two ways to respond when the behaviour of young people in youth detention spirals out of control. One is to look at evidence about what works and what does not work to encourage better behaviour among people, most of whom have been entirely failed by adults in their lives, including in the child protection system, well before they came into contact with the youth justice system.

The other way of responding is to throw the mountains of evidence about what works and what does not work out the window, denying all responsibility and getting moralistic. In line with the schizophrenic nature of the government itself, this minister has responded to the crisis in both ways. Last year she asked Professor James Ogloff, foundation professor of forensic behavioural science at Swinburne University, and Ms Penny Armytage, formerly a very senior Victorian public servant, to inquire into Victoria's youth justice system in a systemic way.

It may have come far too late in the piece, but that systemic inquiry was a very good thing. It allowed for the possibility that reforms would be built on a base of evidence about what would effectively reduce the risk of reoffending among young people. But as soon as she commissioned the Ogloff-Armytage review, the minister then did everything in her power to undermine it, to ensure that the future direction of Victoria's youth justice system owes very little to evidence and everything to hyperbole and outrage.

Instead of accepting responsibility for this situation, what did this minister do after the catastrophic November incident at Parkville, the incident that had been predicted for over a year? She moralised. She publicly moralised about young people whose lives are categorised by trauma of a kind she clearly cannot begin to imagine. This minister called the teenage boys in her care 'the worst of the worst', against all the evidence which predicts that that kind of language has a labelling effect which generates even more of the behaviour no-one wants.

It is one thing for the *Herald Sun* to moralise — that is what it does. No-one goes to the *Herald Sun* expecting to get a straight account of what happened to whom and why. We go to the *Herald Sun* to get outraged and cynical and tear down institutions instead of working hard to improve them. But it is another thing for the Minister for Families and Children to moralise about children and young people in her care, for whom she is ultimately responsible. Yet that is what she has done. The dark irony is that even as the minister demanded that young people who have already been failed by Victoria's child protection system take responsibility for the failures of the youth justice system, she steadfastly refused to take any responsibility herself.

In response to the unlawful behaviour of teenagers, this minister acted illegally by dumping them in the maximum security Barwon Prison. In doing so she illegally breached rights that a previous Parliament had conferred on young people in custody, a previous Parliament whose lower house was dominated by the minister's own Labor Party. It took not one, not two but three very expensive court cases for the minister to finally comply with court rulings to remove those teenagers from Barwon Prison.

Barwon Prison was the first of the minister's efforts to undermine the Ogloff-Armytage review. The next was her announcement of the new facility at Werribee. She could not wait just a few months for the Ogloff-Armytage review to report, and now we have this bill. Its title suggests that it is a reform bill, but it is clearly not based on the Ogloff-Armytage report, which can only have been completed very recently and, I understand, has been presented to the minister. Clearly this bill has been in the works since last year, which means that if it executes any of the Ogloff-Armytage recommendations, it does so purely by coincidence. The question still remains: why did the minister not simply wait for the Ogloff-Armytage report before pressing ahead with her so-called reforms?

The bill is not all bad. There are some worthy elements to go with the terrible ones, and that is in keeping with the schizophrenic approach of the Andrews government more broadly. First there is what does appear to be a serious attempt to keep some young people out of custody by way of the new youth control orders, as outlined in part 3. Youth control orders will be available to magistrates and judges when they would otherwise have imposed a sentence of detention on a young person. The evidence is quite clear. Spending time in custody is likely to increase the risk that a young person will commit an offence in the future. It is as stark as this: lock a young person up and increase the risk that there will be more crime and more victims in the future.

To be absolutely clear, any idea that simply locking a young person up will make the community safer in the long term is absolutely false. Numerous studies have demonstrated this, including one in 2013 by the Justice Policy Institute in Washington DC and one by Lambie and Randell that was published in *Clinical Psychology Review*, also in 2013.

In 2009 a study by Loughran and colleagues found a positive relationship between the length of a young person staying in detention and their future recidivism, as did another 2009 study by Gatti and colleagues published in the *Journal of Child Psychology and Psychiatry*, a third 2009 study by the Australian Institute of Criminology and a number of papers published in the 2012 *Oxford Handbook of Juvenile Crime and Criminal Justice*. There are many others.

We must be doing everything we possibly can to keep young people out of detention. The new youth control orders must be commended. We in the Greens support them at least in principle. The devil is in the detail of course, and there are a few aspects to the youth control regime that we have some concerns about — concerns which have been expressed by members of Smart Justice, an organisation made up of experts and practitioners dedicated to evidence-based policy reform.

While we can see why the government would have wanted to ensure that all young people on youth control orders are subject to a set of basic conditions, we believe the new section 409F removes too much discretion from the courts, which ultimately deal with individual cases and individual offenders. There may be an occasional case in which one or more of the minimum conditions imposed by section 409F might not be suitable for a particular young person in particular circumstances. The last thing we should be doing as a Parliament is hampering the ability of a court to tailor sentences to the particular circumstances of a particular case and a particular young person. We definitely should not be in the business of setting young people up to fail.

While I fully expect that all of the conditions listed in the proposed section 409F will be appropriate for most young people, the youth control order regime would be improved by allowing a court to drop one or more of those conditions in particular cases, so long as the court gives reasons for doing so. To that effect I will move an amendment, which is the first of three substantive amendments that I wish to move in committee. I ask that they be now circulated.

Greens amendments circulated by Ms SPRINGLE (South Eastern Metropolitan) pursuant to standing orders.

Ms SPRINGLE — We are also a bit puzzled by the non-accountable parental undertakings in section 409G, a breach of which will have no effect under section 409H. I am not quite sure what this achieves. There is certainly a view often expressed that young people's bad behaviour is ultimately the fault of their parents, and that holding parents more accountable will somehow improve outcomes. The reality is much more complicated than that. On the other hand, it is certainly true that young people need all the support they can get from all the positive sources in their lives to overcome the challenges they face to re-engage with education and/or work and to stop offending. I will be asking some questions about these non-accountable undertakings in the committee stage.

We are also quite concerned about what appears to be the consequences of any breach of a youth control order. It is one thing to require that a youth control order is revoked when a young person commits a further offence, which is what new section 409Q would require; it is another thing to then say that the young person has to go straight to detention unless exceptional circumstances exist. Exceptional circumstances are circumstances that are truly exceptional; by their nature they do not turn up very often.

As the bill stands, a young person on a youth control order who commits a minor theft, which is punishable by up to 10 years imprisonment, would have his youth control order revoked and would immediately be sent to detention, even if the minor theft actually represented a much less serious offence than that for which he was placed on the youth control order in the first place. In other words, the minor theft may indicate that the youth control order is having a positive effect, and just at that point the youth control order gets pulled and the young person lands in detention. This would seem to frustrate the very basis of the youth control order regime, which is to keep people out of custody wherever possible. For that reason I will be moving a second amendment which would allow the court to impose another youth control order following the breach and revocation of an earlier youth control order, which is similar to what happens in the adult jurisdiction in relation to community correction orders.

Overall, while the devil is always in the detail and while we think they could be improved, the Greens are supportive of the policy intent behind the new youth control orders. It may have been simpler and more effective to stop distinguishing between different names

for non-custodial youth orders. We will now have probation orders, supervision orders, attendance orders and control orders. There is a view amongst some experts and practitioners that all of these orders should be rolled into a single order and that the courts should be given the ultimate discretion about what conditions should attach to a particular order given the particular young person and their issues. The counterview is that having a range of separate orders in place allows the courts the maximum opportunity to keep a young person out of custody by effectively stepping up the sentencing ladder a number of rungs before detention is imposed.

What we definitely do not support is the opposition's reasoned amendment, which, as I understand it, comes from a desire to impose additional conditions on children sentenced to supervision and attendance orders and also to ensure that those the opposition calls 'violent young offenders' remain locked up in detention. It is all pretty simple for the opposition, it seems. It is all about getting much tougher on young people who commit offences — against all evidence which shows that getting tough does nothing to prevent reoffending. Unlike the opposition, the Greens support the policy intent behind the youth control orders — to keep more young people out of detention.

Ultimately, though, we need to acknowledge that the youth control orders will only keep sentenced young people out of detention. Until very recently young people on remand made up only 20 per cent of the population of youth detention centres, but as a consequence of the regressive bail changes introduced by the previous government we have seen the proportion of remandees skyrocket to about 80 per cent of the total population of the centres. By itself, the youth control order regime will do nothing to reduce this huge remand population, which has been a major contributing factor to the incidents we have seen in youth justice centres since late 2015.

The other really worthy part of this bill is part 9, which at long last establishes a legislative basis for a statewide youth diversion program. This is a genuine reform that many experts and practitioners have been calling for for a very long time. As things stand, diversion is available to some young people who get charged with an offence by police, so it has already gone beyond a caution or a warning. Diversion means that the charge is ultimately dealt with not by way of criminal penalty but by some other means which does not result in a finding of guilt. For example, a 13-year-old boy who commits his first theft might be recommended for a diversion program like Ropes, which means that instead of going through the court system the boy, firstly, participates in the VicPol-run Ropes course, which involves building trust between police officers and young people through activities like rock climbing and abseiling, and secondly, writes a letter of apology to the victim. The whole idea is that the young person is diverted from further involvement with the criminal justice system.

We know that most young people who commit crimes do it once or twice and never again. The danger of throwing the book at a young person for a first offence is that he gets labelled as an offender, he disengages from school and other support structures and he begins to internalise a new antisocial identity. That is what we are all trying to avoid, and a statewide diversion program that is available to all young people according to the same criteria is central to achieving this aim. Most recently of course a statewide diversion program was a recommendation of the Royal Commission into Family Violence. The Greens are strong supporters of diversion, and we are very pleased to see it in this bill.

Apart from the youth control orders and the legislated statewide diversion program there are one or two elements to this bill we would not oppose. We would not oppose the creation in clause 4 of a new offence of recruiting young people to commit offences on behalf of adults. While we are generally very suspicious of the need for new offences, we do recognise that there is substantial evidence to suggest that young people are being exploited by older people to commit serious offences on their behalf because of the reality that young people will cop a more lenient sentence.

We would not oppose clause 6, which attempts to ensure that a consistent magistrate will oversee the same proceedings involving a young person. The bill recognises that this may not be logically possible, which is sensible. We know that most courts already try to achieve consistency, but it is often simply not possible. We recognise the importance of having consistent people seeing a young person through any changes he or she may face, and it is on this basis that we are supportive of the intent behind this clause. And we are definitely supportive of clause 31, which will require the reporting of any incident involving the use of physical force or the use of isolation against a young person to the officer in charge and then to the secretary of the department.

But most of the rest of this bill is highly problematic for us to say the very least. There are a number of clauses in the bill which blur the line between children and adults. Children aged 16 and over who commit serious crimes will have their cases heard in higher courts instead of the Children's Court. Unless exceptional circumstances apply, young people aged between 18

and 20 who commit serious crimes will be sentenced to serve time in adult prisons rather than in youth justice centres. This provision and others, such as those in clause 34, strike at the heart of Victoria's celebrated dual-track system, which aims to keep young adults out of prison — a system Victoria's first children's commissioner, Bernie Geary, has described as the jewel in the crown of our state's comparatively very successful youth justice system.

Indeed the creation of the new categories of youth offending, the so-called serious youth offences, are themselves highly problematic given the regressive consequences that flow from them. Provisions in clause 28 for instance would remove a certain amount of discretion from the Youth Parole Board to deal with particular young people on a case-by-case basis. That clause would impose a set of mandatory conditions for any young person who is paroled after having committed a serious youth offence.

There are a number of reasons why these changes are regressive rather than reformist. The first is that these changes classify and categorise people who commit offences by the kind of offence they commit rather than by the reason they committed the offence, when the Western criminal justice systems have a long history of making this mistake. We know now that doing so means we are missing opportunities for effective intervention and we risk making things a lot worse.

There are any number of underlying reasons why young people might commit a home invasion when someone is home, which makes it an aggravated home invasion: one young person might be motivated by sheer poverty and hunger; another person might be motivated by a stupid dare; a third might have learned behaviour from groups of friends or family members; and a fourth might be motivated by the desire to strike fear into the hearts of the home occupants. This bill would treat all four young people exactly the same, when in fact they require individualised, evidence-based responses which are tailored to ensure the risk of reoffending is minimised.

The inclusion of the crimes of aggravated carjacking and aggravated home invasion on the list of what would constitute serious youth offences in particular cast the net far too wide. Imagine three 16-year-old kids who accept a dare to steal a garden gnome from just inside an unlocked back door of a house in which the owner is asleep upstairs. Those kids could be guilty of an aggravated home invasion because they were reckless as to whether a person was present in the house when they entered it with the intent to steal, and they would suffer the consequences of having committed a serious youth offence unless they could prove exceptional circumstances, which as I have said is very difficult. My third substantive amendment deals with that issue.

Another reason these changes are regressive is that they go entirely against the overwhelming weight of evidence which shows what is going on inside the brains of young people, including young people who commit offences. Young people are more impulsive, more risk-taking and more self-centred than adults. Add to this natural state of affairs a history of abuse, neglect and trauma — in other words, an upbringing which has not afforded a particular child an opportunity to learn concepts like delayed gratification and self-care, an upbringing during which a young person has learned that no-one really cares for him, an upbringing that has not given him an opportunity to make any prosocial friendships or become good at anything like school or sport — and it is not very difficult to understand why some young people commit crimes of violence.

Having said that, the evidence shows that the vast majority of young people who commit offences stop offending during their adolescence or early adulthood. The challenge for any youth justice system is to manage a young person who is committing offences in a way that makes a graduation to serious, chronic adult offending even less likely. That challenge involves taking seriously the evidence about brain development and about the kinds of interventions that help young brains overcome the trauma around which they have developed. Most vital is the evidence which shows that particular interventions actually heap additional damage on top of the damage that has already been done.

We are very privileged to be living in an era of rapid advancements in brain science. What science has learned over the past couple of decades about how the brain develops is extremely valuable to policymakers because the science has implications for the direction of policy across a range of behavioural fields. The discipline of criminology has been transformed by the findings of brain science. It turns out that harsh punishment very rarely has the desired outcome. Often it simply increases the risk of future offending behaviour, particularly by young people. So in seeking to impose even harsher punishments on young people who have committed offences this bill actually risks making things even worse. Beyond what that punishment will do to the young people who receive it, all the evidence in the world suggests that harsh punishment will lead eventually to more offending, including increasingly violent offending, and that means more victims.

Taking a lazy, populist approach to the problem of youth offending may well go some way towards placating the *Herald Sun* and the Liberal Party, though that is unlikely because they would always pull even further away from the policy the evidence supports and seek to build policy based on outrage and ignorance. Just because the *Herald Sun* have been calling for young people who commit so-called adult crimes to do adult time does not mean the government needs to listen to them. Instead, what the government needs to do is to respect the evidence, listen to the experts and design policy in a way that will minimise the risk of future offending and future victims. Treating young people like adults just because we are outraged by their behaviour will achieve the opposite aim.

For similar reasons, the Greens cannot support division 1 of part 6 of the bill which would effectively afford the secretary of the department much more leeway to place young people in the youth justice system. Clause 32 appears to allow the secretary more leeway to house a young person on remand with a young person on sentence. I acknowledge that the clause is couched in the language of the best interests of each young person on remand, but I really do fail to see how it would ever be in the best interests of a young person on remand to be housed with a young person on sentence, unless of course the alternative was that the remanded young person would otherwise be placed in something like an isolation cell because there was no other accommodation available. I wonder whether this is the scenario we are being asked to consider with this clause.

Clause 33 lists the particular factors the secretary may take into account when deciding whether to transfer a young person from one place of detention to another. The problem here is that the needs of any young person detained is merely one of the many factors that can be taken into account. By implication, this clause appears to provide a legislative basis for the ad hoc and random transfers of young people between various parts of the system for any and all reasons. Instead we would have liked to have seen an emphasis on something like the importance of continuity of care for the young person in custody.

The other thing clause 33 does is make it clear that the secretary is not required to afford procedural fairness to young people when transferring them within the youth justice system. While this effectively codifies one of very few points on which the government was successful in the recent trilogy of superior court cases around the young people on remand in Barwon Prison, we would have liked to have seen the government take an approach that was much more consistent with the convention on the rights of the child and the Beijing rules. Indeed the convention and the rules, including the spirit of them, should underpin all of our interventions in relation to children in the justice system. It is not about being somehow soft on crime. It is about being as hard as possible on crime by trying to stop it before it actually happens.

We certainly cannot support the so-called information-sharing provisions in part 7. Clause 39 requires the secretary to notify the Youth Parole Board after becoming aware that any young person detained in a youth justice centre has been involved in an incident that has threatened either safety or security, or the centre or the safety of another person or damaged property. The Attorney-General's second-reading speech did not address this specific point, but presumably the intention here is that parole should become more difficult to achieve for young people who have disturbed the peace or damaged property while in detention. If that is the case, this clause betrays a fundamental misunderstanding of the role of parole. The clause assumes that parole should be thought of as some kind of reward for good behaviour while in custody, whereas parole should be considered as one of the factors which reduces the risk of reoffending in the community.

A prisoner or detainee released on parole prior to the completion of their sentence is subject to stringent conditions as he or she makes the very difficult adjustment from a highly authoritarian environment back into the world on the outside. Study after study has demonstrated the substantially increased risk that a person released from custody without any obligations to engage with support services will reoffend, as compared with a person released on parole at the end of his sentence.

Dr Patrice Cooke, author of *Persistent Young Offenders*, observes that in some cases the model detainee who commits no infractions while in custody may in fact be much more dangerous upon his release than a person who has responded to the conditions of their incarceration with the occasional violent outburst. Outbursts of frustration are much more psychologically normal than the exhibition of model behaviour, which may indicate sociopathy. This goes back to my earlier point about the futility of attempting to classify offenders in a simplistic way, based purely on their behaviour and their deference to authority. We have the capacity to be much smarter about these tasks, but this bill takes the wrong approach.

Talking about the wrong approach, clause 40 authorises the secretary, without seeking the approval of a court, to release identifying information about a young person who escapes from a youth justice centre. This truly is a solution without a problem. Victoria Police tends to know exactly where escapees are heading, and that is home. All of the young people who escaped from Malmsbury on 25 January this year were captured within two days, because all of them were headed home. In fact according to the Department of Justice and Regulation, the number of young people who escaped from youth justice centres in the last decade that were not recaptured is zero.

We could be forgiven for thinking that this provision has more to do with publicly naming and shaming young people than with the necessary policy reform. Naming and shaming of course has not worked anywhere it has been tried, including Queensland and the Northern Territory, and it risks providing young people with a public identity as a criminal which is then very difficult to overcome.

The information-sharing provisions, the lazy increase in maximum penalties, the lazy populist tough-on-crime provisions and the attack on the dual track system — most of this bill is profoundly disturbing. It ignores the evidence. It goes out in front of the government's own commissioned expert review of youth justice. It kowtows to populist fearmongering about so-called new cohorts of extremely violent migrant gangs of young people who are allegedly roaming the streets striking fear into the hearts of the middle class. The fact is that young people are the only age group whose criminal offending has not increased over the past couple of years.

Readers of the *Herald Sun* find that fact very difficult to believe because on this issue that paper has existed in a Trumpesque world of alternative facts and fake news. It is not just the Greens who are saying these things. Earlier this month no less than 50 organisations and experts who work with young people in the justice system co-signed a letter to the Attorney-General and the ministers for police and for families and children which called for debate on this bill to be suspended until after the release of the government's own Ogloff-Armytage review. It is vitally important that views of this group of highly esteemed experts and expert organisations, which is collectively known as Smart Justice, form part of the debate around these so-called reforms, because so far the oxygen has been stolen by advocates of evidence-free regression like the *Herald Sun*.

The 50 organisations and individuals wrote in their open letter:

> Some measures introduced by the bills are not evidence based and undermine the foundations of the youth justice system.
>
> …
>
> Time in adult detention risks creating young people who are angrier and hardened into criminal behaviour. The proposed change contradicts research that shows that young people who spend time in adult prison are likely to be more traumatised than when they went in, and more likely to reoffend on their return to the community …
>
> Nobody wants more victims … Detention and punitive programs are likely to cause further harm to children and young people, and place them at risk of becoming chronic, long-term offenders.

That is what many provisions of this bill risk doing, and so the Greens cannot support it.

Debate adjourned on motion of Mr MELHEM (Western Metropolitan).

Debate adjourned until later this day.

COMMERCIAL PASSENGER VEHICLE INDUSTRY BILL 2017

Second reading

Debate resumed from 9 May; motion of Ms TIERNEY (Minister for Training and Skills).

Mr O'DONOHUE (Eastern Victoria) — I am very pleased to rise and speak in relation to the Commercial Passenger Vehicle Industry Bill 2017, which is still before the house. The development and passage of this legislation now has a very long history. The government were very slow to get off the mark and introduce this legislation to the other place. The shadow Minister for Public Transport, Mr Hodgett in the other place, has highlighted again and again the way that other jurisdictions have moved in regulating the ridesharing industry and creating a platform from which ridesharing operators, taxis and others can all compete. Unfortunately the Victorian government has been very slow off the mark. I think it is a year since Minister Allan promised that we would have a bill through the house.

Members will recall that on 9 May this year, because of the enormous concern from industry, the community — a range of stakeholders — about the bill that was before us, this bill was referred to a Legislative Council committee, the committee that Mr Finn chairs, the Standing Committee on the Economy and Infrastructure, and the economy and infrastructure

committee have reported back to the house. It is a very sensible committee report and makes a number of recommendations. It addresses the issues that are of principal concern to industry and to the stakeholders. Without going through the provisions in specific detail, the bill seeks to impose a new tax, a new levy, in respect of each commercial passenger vehicle service transaction carried out during a return period, including prescribing the amount of the levy — $2 per trip — and who is liable for the levy. The bill also removes annual licence fees for taxicabs and licence fees for hire cars and changes the definition of 'network services' to enable the regulation of all persons who provide commercial passenger vehicle booking services.

As I said in some introductory remarks, we are behind the eight ball in this space. The ridesharing industry has been regulated now in most other states, including Queensland, and that has put the industry on sure footing, enabled investment to take place and created a level playing field for those different operators.

I also want to make a comment at this opening part of debate on the bill — as Ms Crozier did in her contribution on a different bill, but it is still nonetheless relevant to this legislation — about the issue of the carjacking this morning in Ms Crozier's electorate. It was a carjacking of an Uber driver. It is an example of the way that community safety cuts across all parts of government and all parts of society, because whether you are the Uber driver picking up a fare in the Southern Metropolitan Region or whether you are a shopkeeper or a resident in that area, that sort of violent crime, that sort of incident, has a lasting impact. So while we are here tonight to talk about regulating this industry, providing a framework for this industry and how to compensate taxi licence holders and the mechanisms for that compensation, it is important to acknowledge that horrific event that took place this morning and the impact that must have had on that driver today. Our thoughts are with him.

There are a number of threshold issues in this bill that need to be discussed. The $2 levy per trip has been an issue of consternation for many people, and under the stewardship of Mr Finn the Standing Committee on the Economy and Infrastructure made note of this and reference to this. I think through the transcripts and through representations from individuals — licence-holders and the like — we can see that although the $2 levy on its face does not look like an enormous amount, if you happen to be someone on a fixed income who does not drive and requires transportation by taxi on a regular basis for relatively short trips, a $2 impost on each trip can add up to quite a significant percentage of the total cost and can add up to quite a significant cost in and of itself. I note that there are amendments that have been flagged to reduce that levy to $1. The opposition would welcome that levy reduction, but fundamentally we have an issue with the imposition of the levy itself.

We see a government awash with money. In fact we have spent a significant proportion of this sitting week debating the introduction of new taxes by this government, new taxes that have been passed in this place by the Labor government, by Daniel Andrews. I know the issue has been ventilated quite significantly this sitting week already, but let me do it again. This is despite the clear and unequivocal promise of the Premier that there would be no new taxes. He made that promise to every single Victorian. This week that promise has been broken again with the passage of the State Taxation Acts Amendment Bill 2017 that went through this place earlier this week, and today we have the government seeking to impose a new $2 tax on pensioners, on people on fixed incomes and on people with disabilities who rely on taxis.

One of the issues that the coalition has with the imposition of this new tax is that it applies in country Victoria as well. In country Victoria Uber services are often much less available or they are non-existent. What this bill is contemplating, what the city-centric Andrews government is proposing, is that people living in rural and regional Victoria, where they have no access to Uber, have to pay extra for the service they currently have, with no change in service and for no better outcome. That does not seem to make a great deal of sense to me.

Mr O'Sullivan — Short trips.

Mr O'DONOHUE — Mr O'Sullivan mentions the issue of short trips, which I did touch on previously. If you are on a fixed income and going to the doctor — a $9 dollar fare down the road and a $9 dollar fare back — and you have to do that two or three days a week, when you throw an extra $2 on top, that starts to add up very quickly both in percentage terms and in absolute dollars.

I turn to the recommendations of Mr Finn's committee, and I think it is worth reading into *Hansard* a part of Mr Finn's foreword. He says:

> 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.
>
> Effectively licences that were purchased at a high price from government as a capital asset the government proposes to

> reduce in value to zero. This is devastating for many working men and women who have dedicated their lives to the commercial passenger vehicle industry.

I think it is very important to note that under the chairmanship of Mr Finn there was a unanimous report from the committee with the support of the government members. We are not just talking about the coalition members of the committee endorsing these recommendations under Mr Finn's chairmanship; we are talking about the government members signing up to and endorsing these recommendations. That is the true essence of what these parliamentary committees — the legislation committees, the reference committees — of the Council are designed to do. They cut through the politics and find the solutions. I commend the committee for having achieved that. Mr Finn goes on to say:

> The committee hope that this report and its recommendations, if accepted and acted on, go some way to establishing a fairer and smoother transition for taxi licence holders to the new ridesharing economy.
>
> I hope that the recommendations suggested by the committee lead to robust debate and thus to a more workable, fair and transparent bill for this industry.

There is no doubt we are going to have robust debate about it, but I am not quite sure whether we will get the outcomes that perhaps the committee was looking for.

I just note that Mr Leane and the Deputy President — who is the deputy chair of this committee — were endorsing these recommendations along with Mr Elasmar, Mr Bourman, Ms Dunn and Ms Hartland from the Greens, and Mr Melhem. So a wide cross-section of the house signed up to these recommendations without a minority report — without dissent. It says a great deal about the committee and the way it was able to operate.

We have the issue of the $2 tax, the cap on the Fairness Fund and the proper valuation methodology and process, and those issues have been addressed by the committee. The government has tabled its response to the committee's report. At page 1 of its response, the government says:

> … the government is unable to accept in full all the report's recommendations.

That is disappointing. In relation to the committee's finding 1 — that 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 response says:

> It should be noted that the Opposition or any member of Parliament can support the legislation and commit to lowering or removing the levy at any time using this legislation. They would just need to explain how they would fund financial assistance.

Here is a tip for the members of the government who signed off on this report: the Legislative Council cannot move money bills. It cannot originate money bills. So perhaps the drafters of these recommendations from the government should understand how the Parliament works as a first step and understand the powers of the Legislative Council. Yes, we can introduce bills and we can introduce amendments, but it is the Assembly that must introduce the money bills.

Honourable members interjecting.

Mr O'DONOHUE — My restraint is being tested by the interjections. Let me take up the interjections from members opposite. The government is in such an absolute shambles that we have the Minister for Public Transport, Minister Allan, trying to negotiate a deal with Mr Hodgett in the other place an hour ago or 2 hours ago, when this bill has been in the Parliament for months and months. These issues have been crystal clear for months and months. Queensland has legislated, a range of other states have legislated, and we have Minister Allan on the phone to Mr Hodgett trying to cut a deal after this bill has been kicking around the Parliament for months and months. What an absolute shambles.

I welcome any feedback from the government, any interjections from the government members, who have sold out the taxi licence holders and turned their back on those families who have been pleading with them for some reasonable action. So please keep coming with the interjections. This government is in an absolute shambles. It talks a big game on embracing the new economy — —

Honourable members interjecting.

Mr O'DONOHUE — Yet again we see members of the government failing to understand that they have been on the Treasury bench for more than two and a half years.

Ms Mikakos interjected.

Mr O'DONOHUE — I take up the minister's interjection. I am talking about the bill in front of this place, which has been sitting on the notice paper for a long time, and we have the transport minister trying to negotiate at the last minute with Mr Hodgett. Fortunately Mr Hodgett is more sensible than that and he is going to look in a sober and clear way at any proposal that the government wishes to put forward.

But again I make the point that under Mr Finn's chairmanship there was a very sensible set of recommendations. I am up to recommendation 1, and I propose to go through the recommendations and the government's response so that the house is fully informed of where we sit. There is a very sensible set of recommendations endorsed by government members and endorsed by the Deputy President of this place, no less, the deputy chair of the committee. And we have the minister talking about conflict in the party room. When we have the minister with a different position to three government members in this place, including the Deputy President, I know where the conflict lies. It is not in the coalition party room, it is in the Labor caucus room. But I do not want to digress, because this is a very important issue.

I was making the observation that the drafters of this government response and cabinet members who signed off on it do not understand that the Legislative Council does not have the power to generate money bills. I also make the point that the government is saying, 'The levy can be removed at any time, and that's all fine'. I think they said that about payroll tax as well. The government that introduced payroll tax all those decades ago said, 'It'll be temporary. It'll be gone after a few years'. We know that unless there are very strict and clear boundaries around the introduction of a temporary tax, the likely outcome is that it becomes a permanent tax, so it will become a permanent tax on pensioners who are using taxis to get to medical appointments or people with disabilities who rely on taxis for transportation.

Honourable members interjecting.

Mr O'DONOHUE — Mr O'Sullivan says, 'Surely there is a sunset clause'. It is funny that you mention that, Mr O'Sullivan. I think the committee actually recommended the insertion of a sunset clause, but unfortunately the government has rejected that proposition.

The committee also made a recommendation on the issue that I raised before and that I know Mr O'Sullivan is very interested in, and that is that the bill be amended to provide for a reduced rate of levy in rural and regional areas for those reasons that I outlined before. Uber is not as accessible; it is not as widely available in rural and regional areas. It seems on its face and common sense that those people who have no change in their service provision should not be paying a tax for those that do. Often there are no public transport options. To impose an extra tax on those people where they have little if any other choice of transportation would be grossly unfair. The government has rejected that recommendation and is not prepared to listen to the concerns of rural Victorians. Again the actions of the city-centric Andrews government are speaking louder than its words.

Recommendation 1.4 recommends that the bill be amended to specify a sunset clause for the levy's operation. The government response says:

> The government will agree that once the amount of revenue received from the levy reaches the amount expended then a review will be undertaken.

If it happens to be a Labor government reviewing whether a tax should continue, there is no point doing the review, because we all know what the outcome will be. There are two possible outcomes: it will either be maintained or it will be increased. They are the two options from a Labor government when there is a review of a taxation measure.

Mr Dalidakis — What did you do with payroll tax when you were in government?

The ACTING PRESIDENT (Mr Finn) — Order!

Mr Dalidakis — You did nothing. You are the biggest hypocrite.

The ACTING PRESIDENT (**Mr Finn**) — Order! Minister Dalidakis should control himself.

Mr Dalidakis — Easy! Call the President. If you are going to behave like that in the chair, call the President.

The ACTING PRESIDENT (**Mr Finn**) — Order! Mr Dalidakis, if you are going to behave the way you are behaving at the moment, I will call the President, because you are a disgrace to this Parliament.

Mr Dalidakis — Call the President, right now!

The ACTING PRESIDENT (**Mr Finn**) — Order! Call the President.

The PRESIDENT — Order! Mr O'Donohue to continue without assistance.

Mr O'DONOHUE — Before I was interrupted by the incessant interjections of Minister Dalidakis I was making the point that the government has refused to accept recommendation 2 of the committee report — which I again make the point had the support of the Deputy President and all Labor members on the committee — that the cap on the Fairness Fund be removed. Unfortunately the government has refused to accept that recommendation.

Moving to recommendation 3 of the committee report, 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's response is:

> 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 …

And it goes on.

The recommendation of the committee is not accepted by the government in its response. There is some good news, if I could describe it that way, in the government's response to recommendation 4, which is:

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

The government said:

> The funding for transitional financial assistance payments is allocated in financial year 2017–18.

I move along to recommendation 5.2, which reads:

> That the Victorian government ensure that Multi Purpose Taxi Program trips are exempt from the levy.

The government has not accepted that recommendation.

I think Mr Ondarchie made commentary before about people who use and rely upon the Multi Purpose Taxi Program and the importance of that often to their mobility, and I think it is disappointing the government has not responded favourably to that recommendation.

To cut through to the key issues, some of the threshold challenges that taxi licence holders, the industry and members of the community have had I think have been fairly and fully reflected in the committee report. Again, it is a good example of the way these Legislative Council committees can operate across party lines to come up with solutions to these issues, and it is extremely disappointing, particularly given the senior government members that are members of that committee, that those recommendations have been rejected.

I received an email, as I think all members of this place did, from the Victorian Taxi and Hire-Car Families committee this evening at about 6.20 p.m., and the email says:

> We are asking you to not to support the bill in its current form because the government's response to the economy and infrastructure committee inquiry and report dated 8 June 2017 does not provide any certainty to the thousands of Victorian families who have invested their life savings in government-issued taxi licences.

It goes on to say:

> The government's political response amounts to platitudes and does not amend the bill in the fundamental ways required to address the committee's recommendations …

Then it identifies those three issues. It says:

> Recommendation 1 … while the Victorian government advises that it 'has written to' the federal Treasurer and the Australian Taxation Office, this response is obfuscation and provides no certainty to licence holders who could face large tax bills or cuts to social security payments as a result of this bill.

It goes on:

> Recommendation 2 … while the Victorian government response promises to remove the $50 million cap, no detail or obligation to actually make substantive changes has been made.
>
> Recommendation 3 (proper valuation, methodology and process): The Victorian government seems to have completely rejected this recommendation.

Obviously there are lots of stakeholders and lots of interested parties in this, but I think that position from the Victorian Taxi and Hire-Car Families is worth putting on the record.

I also just wish to cite similarly a letter I received from Ms Bronwyn Lincoln, a partner at Corrs Chambers Westgarth, who from the transcripts you can see gave evidence during the committee process. Without going over all the recommendations again, as she has done, I will just highlight some of the key points in her correspondence. It says:

> 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 Victoria 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 of the bill. 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 the security or calling in the loans.

Ms Lincoln continues to go on and in different terms highlights those same points in relation to recommendations 1, 2 and 3 of the economy and infrastructure committee report in a way that I have referenced previously.

This bill came to this place with significant threshold challenges. Those challenges were in effect referred to the parliamentary committee for examination. Some solutions to those challenges have been identified, and they have been rejected by the government. That leaves the opposition in a position where we cannot support the bill in its current form.

We have all received hundreds of emails in recent months from taxi licence holders, from those who have made investment decisions based upon the value of that asset and who rely on the income generated from either owning those licence plates or driving taxis et cetera. Absolutely I think everyone accepts that there has been a major disruption to the industry with the advent of Uber and technology enabling ridesharing. The question for us as a Parliament, as legislators, is: how do we regulate the new environment in a way that creates a competitive marketplace, that creates a fair marketplace, that picks up the best aspects of other jurisdictions that have legislated in this space while also recognising the impact on those whose licences have been impacted by these changes?

When you look at those questions, this bill does not represent best practice, it does not have the right mechanisms to provide appropriate compensation to the right people and there are many issues that are yet to be addressed, so the opposition will not support the bill in its current form. On the amendments that have been proposed by Ms Patten and by the Greens, I flag that we will listen to debate carefully and give very serious consideration to their amendments, but we are minded to support those amendments that address that issue of the inequity of this new tax applying right across Victoria. Any effort to ameliorate the impact of the $2 impost to a lower impost will also be seriously considered.

Before I conclude my contribution I want to cite a couple of emails that represent the hundreds of emails that I have received. I will not use names, because I have not asked for permission to do so, but this person has written saying that he is:

> … a law-abiding citizen of Victoria … am devastated with the content of the … bill and the way it is being pushed through Parliament. I had a glimmer of hope with the unanimous outcome to the inquiry into the … bill. Reading the government response I am disheartened yet again.
>
> I implore all of you to consider all the thousands of families who will be affected, who have been affected emotionally and financially throughout this process.
>
> All we ask for is a fair and reasonable buyback of each and every taxi licence at a value determined independently based on both the equity and the income stream a licence represents.
>
> There is no logic to the way these reforms are being applied and as it is unstitched it becomes clear that the intricacies of the industry are yet to be understood. There are those of you who understand the impact and many more with good moral fibre and well-reasoned logic who will begin to question what is going on. The mums and dads, the hardworking folks and the elderly faces behind this industry will forever remember the injustice being served and it will not go unnoticed. Buy Back Buy Fair. It is the only way to go for everyone.'

That email represents many similar emails from people concerned about where we have got to with the government's response. I have just one other. Again, I will not cite the person's name. He said:

> … let me introduce myself …
>
> … born in Morocco, was raised without a mother and without a caring father, lived all my life up to adulthood with my grandmother and other relatives.
>
> I migrated to Australia in 1995 at the age of 21, went to university to complete my study in order to get a better job and build my future.
>
> In 1999 I was diagnosed with a permanent heart condition.
>
> My wife and I worked very hard in order to save enough deposit to buy taxi plates.
>
> In 2013 we purchased our first plate for $292 000, then a second in 2014, with a combined cost of $572 000, mainly to be used for possible early retirement due my heart condition.
>
> On Tuesday, 22 August … we received the devastating news that Premier Andrews and transport minister … delivered. It was the most awful day of my life. I couldn't sleep for two weeks, with continued abnormal sleep until now.
>
> I am not sure how I will cope when my assets … get taken away from me. God help me!

And so he goes on and at some great length about the angst, stress and concern this process is causing and the fear that this person has for himself and his family.

I cite those two emails as just two of a vast number. Behind this debate about plate values and compensation packages there are a lot of vulnerable people who have invested heavily. The opposition believes the government has made a mistake in not listening to the recommendations of the committee, as chaired by Mr Finn and as endorsed by Mr Eideh, the Deputy President, and other senior members of the government. The cabinet have disregarded their own backbench in coming up with their response to this committee report, and an opportunity has been lost to come to a fair and

equitable position that provides the right regulatory framework and the right compensation framework and mechanisms. Until we get to that point the opposition will oppose this bill.

Ms DUNN (Eastern Metropolitan) — I rise tonight to speak on the Commercial Passenger Vehicle Industry Bill 2017. It certainly has been a long wait for this bill. Uber, the largest rideshare network operator in the world, arrived in Melbourne in January 2013. The Baillieu and Napthine governments failed to act during the entire latter half of their term, so none of the issues created by the advent of ridesharing in Melbourne were addressed.

As for the Andrews government, the taxi and hire care industry ministerial forum was formed early in its term, but there were few public pronouncements as to what it achieved. As a result, under the guidance of the Minister for Public Transport, the approach to legitimising rideshare and dealing with the fallout in the established taxi and hire car industries has been a hurry-up-and-wait approach — until March of that year, that is, when a sense of urgency suddenly sprung from the minister's office.

The Greens welcome the legitimising of ridesharing. This is a transportation mode that is used by many thousands of people in Victoria. It has the potential to be highly beneficial to the movement of people around this city. It may contribute to a reduction in private car ownership, a reduction in congestion, a reduction in transportation costs as a component of the cost of living and a reduction in transport-related greenhouse gas emissions. I stress that all of these outcomes are not inevitable because it depends on how ridesharing is integrated with the mass transit system. That in turn depends on how it is regulated. For example, if policy encourages a mode shift of passengers from trains to ridesharing, that of course would be detrimental. On the flip side rideshare-enabled carpooling that is synchronised with train schedules would be beneficial.

The Greens do not applaud the regulatory engagement approach of Uber, which could be generously summarised as 'It's better to seek forgiveness than ask permission', yet we have to accept the fact that Uber, or at least the ridesharing business model that Uber champions and that has been enabled by smart phones and their locational and mobile capabilities, is here to stay. As long as ridesharing was kept in the legal grey zone there was going to be a risk of adverse outcomes for passengers. The passenger protections and driver and operator responsibilities that apply to taxis and hire cars would not apply to ridesharing. The government would be failing the public if it were to let such a situation continue. Bringing ridesharing into the regulated transport sector was the only sensible option.

With respect to understanding the future of this industry, the government's approach to creating a unified commercial passenger vehicle industry makes the following major prediction: within a few years, in a mature and dense market such as metropolitan Melbourne, there will be no substantive difference between hailing a liveried cab and electronically hailing a rideshare vehicle. If there is no differentiation in service definition, then having different regulations for each would lead to perverse outcomes. This would most likely be to the detriment of liveried taxi operators, with their high-cost regulatory compliance burden. This is a big call. It is a different approach to the approach taken by other jurisdictions, such as New South Wales, where taxis and rideshare vehicles are in different licence classes and taxi licence plates continue to be tradable assets.

In steering the industry towards this long-term vision, the government has caused significant grief and confusion for hundreds of people through the abolition of existing taxi licences. There is clearly a legitimate compensatory claim created by this abolition. Taxi licences were an asset class created by government. Their continued existence depended on government, and their abolition was at the whim of government. For an asset class created and regulated by government, it does bother me that the regulator, the Taxi Services Commission, does not have a comprehensive dataset which advises when each licence was purchased, how much was paid for it and how much estimated revenue has been gained by each licence-holder to the current day. It would appear that the state government has more comprehensive records on every private vehicle sale in the state through stamp duty administration than it does on the regulated transfer of an asset created by government. The Taxi Services Commission must be admonished for this failure to properly monitor the taxi licence market.

Prior to the disruption of the industry, a taxi licence was effectively a perpetuity. It had a floating price marked by a monthly average sale price, but it had a pretty consistent income. Some of these licences would have recouped their purchase value many times over. Some were only purchased a couple of years ago at very high prices and would have only recovered a very, very small fraction of their purchase price. In the apparent absence of differentiating detail, the government has proposed it will provide a uniform transition payment to each licence-holder for their first licence and a half payment for their second through to fourth licences. This one-size-fits-all approach is inelegant. Some

transition payments will only marginally improve the bank balances of taxi barons. Other payments will be reinvested in whole by taxi operators in adjusting to the new industry, and other payments will go some way to providing badly needed relief to families that mortgaged their house to buy a licence at market peak.

Considering that some taxi licence plate holders have found themselves in a bad financial state due to the cancelling of their licence plates, it would be unfair if these compensation payments were to be treated as taxable income. The Greens therefore support the recommendation by the economy and infrastructure committee that the government qualify the status of the payments to ensure recipients are not financially disadvantaged.

The second mechanism available to taxi and hire car industry participants is the Fairness Fund. I welcome advice that the Fairness Fund has started processing hardship claims, although I note that it has yet to start making payments. However, the Fairness Fund has been set up with an arbitrary cap of $50 million. While this may have been a cap established by the government to ensure that tardiness in addressing the industry tumult does not hurt the state budget bottom line, it may be a case that the hardship needs exceed the $50 million. It is too early to say that all hardship applications have been fully assessed. Therefore the Greens support the committee's recommendation that the government remove the $50 million cap on the Fairness Fund to ensure that all legitimate claims for compensation can be honoured, and we are pleased to see that the government supports that recommendation too.

I want to turn for just a moment to the inquiry into the Commercial Passenger Vehicle Industry Bill. I must say I was very pleased to be a participant on that committee on behalf of the Greens. I think what was particularly telling when we took evidence in relation to the bill was the evidence we received from Professor Denis Nelthorpe about the assistance his organisation WEstjustice provided to over 150 taxi licence holders who were making applications to the Fairness Fund. Professor Nelthorpe stated that of those applicants around 130 were experiencing significant financial difficulties.

He also noted that many taxidrivers were referred to his service due to personal difficulties. He said as part of his evidence:

> … a significant number who were referred by a social worker for personal or relationship counselling, financial counselling, mortgage stress counselling, but that's a program only available in the outer west and we had that project, if the program had been more widely available there would have been more and we had some 16 applicants who were followed up because of serious concerns about their welfare. If you don't want to say exactly what that fear was, but it was a very serious concern. Now, we've had discussions with the four major banks about the financial circumstances of a lot of those clients and we've asked them not to take action on anyone that we notify them of.

Mark Shehata, operations manager at Exclusive Cab Management, as part of his evidence considered that payments through the Fairness Fund should be honoured regardless of whether the bill passes or not.

It is important that we look at the issue of vulnerable passengers, because there are some members of the community that have a very high dependence on inclusive, efficient and affordable point-to-point transport, including people with disabilities and particularly those people reliant on wheelchairs. The impacts of this bill on the provision of point-to-point transport services compliant with the commonwealth Disability Discrimination Act (DDA) have not been assessed. This is of concern to the Greens.

The Minister for Public Transport made quite a song and dance of the potential benefits to wheelchair users of the changes to the commercial passenger vehicle industry, including making an announcement with a representative from London Rides on 22 February. There may be some benefit of new types of commercial passenger vehicles on our roads, but London Rides black cabs are not accessible for some types of wheelchairs and are not DDA-compliant. As for existing rideshare providers, Uber has yet to provide a DDA-compliant vehicle in Victoria or indeed in any other Australian jurisdiction.

There is a major risk of market failure with respect to the provision of accessible transport. The loss of existing multipurpose taxi program DDA-compliant cabs due to competition from non-DDA-compliant vehicles would be devastating to many wheelchair users that need fully compliant, rear-loading, power-lift van taxis. The Greens are not yet satisfied that wheelchair-accessible, point-to-point transport will be protected under the brave new world ushered in by this bill.

The government has tried to quieten concerns about wheelchair accessibility by throwing a bunch of money at the issue from the Fairness Fund and appointing a disability commissioner for the Taxi Services Commission. The specific details of how the system will transition have not been provided or perhaps not yet determined. Will there be a dedicated wheelchair service subsidised by government? Will there be a

voucher system? How will it be monitored? What will be the performance standards? None of this is clear.

The Greens will closely monitor this situation and be a strong voice for the needs of people with a disability. On that, just referring back to the inquiry into the bill, the committee did hear from Graham Newman, representing the All Aboard Network. He highlighted the impact of the levy particularly on people with a disability. He said:

> The majority of people with disabilities who depend on wheelchair-accessible taxis are not usually particularly well off and therefore we feel that $2 levy could be quite significant for them, especially considering that they often do very short trips, for example, from home to their GP et cetera.

I want to turn now to the levy itself. The government proposes to fund compensation, hardship payments and industry transition through the imposition of a flat $2 levy, indexed annually, on every passenger trip taken. The $2 value is an ambit claim. The government does not have confidence in any projections of the number of commercial passenger vehicle fares that will occur per year, therefore they are actually not confident in providing a time line for when they think the levy will fully recoup the funds paid out to taxi licence holders.

The Greens believe the levy should not be just a means of injecting funds into consolidated revenue. The levy should be explicitly linked to industry transition needs, as per the recommendation in the committee's final report. The proposed $2 levy has few friends in the industry. Taxi operators, rideshare drivers, rideshare network operators, taxi booking service providers and passengers have all expressed their concerns with the levy.

If the Labor government is committed to recouping the cost for industry transition from the industry itself and not from consolidated revenue or through a tax on another sector, then they are rather constrained in what they can do. The levy is flat because under the GST agreement with the commonwealth the state government cannot apply a proportional consumption tax on any good or service. A flat levy is regressive. The levy applied to a 5-minute taxi trip from a hospital to home for a pensioner in Ballarat is the same as that applied to a limousine ride from a private jet at Essendon Airport to a CBD office suite. While it is to be expected that stakeholders in any industry would opt for no tax rather than any tax, however implemented, there are some very rational concerns on the part of industry stakeholders about how this levy will be collected, remitted, accounted for and monitored.

The issue that is of grave concern to the Greens is how the levy will affect vulnerable groups. I turn now to seniors, particularly those located in regional Victoria and the suburbs. If their regular taxidriver is the only way they can get to the shops or the doctor, the imposition of a $2 levy on the cost base of the service provider would add up to hundreds of dollars per year in serving just one customer. Added to that is the fact that the compensation paid to country taxi plates is far less than that paid to metropolitan taxis, yet the government has proposed that the levy value be the same regardless of geography. This bill effectively creates a wealth transfer from the country to the city.

This is a good point to talk to the amendments being proposed by the Greens, and I would ask that those suggested amendments be circulated.

Greens amendments circulated by Ms DUNN (Eastern Metropolitan Region) pursuant to standing orders.

Ms DUNN — In terms of the suggested amendments, which I will talk to more in the committee of the whole, they really pick up on some issues raised as part of the inquiry into the bill. Recommendation 1 of the report, in dot point 3, talks about providing for 'a reduced rate of levy in rural and regional areas'. That picks up on the issue of wealth being transferred from the country back to the city, in terms of evidence provided on this matter.

We heard that the cost of the levy would impact residents in rural and regional areas, where trips are often shorter and more frequent. Eleanor Fitz noted that regional taxi services provide twice the number of short trips compared to urban services. She said:

> In regional Victoria short taxi fares are our norm. We do fares as low as $4. To put a $2 levy on that is very significant. The elderly, the unwell, the low-income families, a lot of these people in inclement weather — very hot, very cold, very wet; you name it — will take a bus to the shopping centre and they will get a taxi home to manage all their parcels and shopping et cetera, and to put that levy imposition on is cruel and unjust. It will make taxis unaffordable; they will not take them.

She also noted, very importantly, the lack of alternative public transport options in these areas that contributed to this.

In terms of the amendment, it simply takes zones that already exist for taxis, that being Melbourne metropolitan, urban and large regional areas, and conversely identifies regional and country areas where the Greens are suggesting the levy would not apply at all. In terms of managing this, what it means is that

there would be a multitiered system in relation to taxis. The reality is that taxis are currently operating in a multitiered environment. In terms of what that technically means for ridesharing operators is that they would have to commence a process of geo-fencing. This would be to ensure that there was a process in place so that they know where the travel commenced from and its destination — whether it was in fact inside a metropolitan area or outside of the metropolitan area, where the Greens are proposing that the levy would not apply.

A second example for us where the levy is particularly detrimental is the short trips to and from train stations taken by school students, for whom there is no effective bus feeder service and when their parents are unable to do the pick-up or drop-off for them. The government has tried to assure my colleagues and I that in all likelihood taxi fares will drop due to more deregulation rather than increase due to the levy. Unfortunately they have not provided the evidence in the form of financial modelling to demonstrate that this would be the case, and they have asked that we take them on their word.

One of my observations as a committee member of the inquiry was that when operators were asked whether they would pass on the levy or incorporate the levy into their operation, on every occasion operators said they would be passing on the levy. The Greens have decided that the initial $2 dollar levy value is an ambit claim by government, and we are concerned that it will lead to an increase in fares for short trips for vulnerable people in the community. We realise, however, that the government will not budge from its intention to fund the industry transition with a new revenue source from industry itself. Therefore the Greens will be moving a further amendment to reduce the initial value of the levy from $2 to $1. We believe this will go a long way to assisting those vulnerable users of commercial passenger vehicle services.

Further Greens amendments circulated by Ms DUNN (Eastern Metropolitan) pursuant to standing orders.

Business interrupted pursuant to standing orders.

Sitting extended pursuant to standing orders.

Ms DUNN — The projections of the revenue collected from the levy seem to be very, very conservative. In evidence to the Standing Committee on the Economy and Infrastructure last month, officials from the State Revenue Office said that the levy would collect $44 million in the first year with the levy set at $2. Even subtracting administration costs, this seems very low when the number of commercial passenger vehicle trips when ridesharing is included is much likely higher than 22 million trips per year.

Last month's state budget was even more conservative. The revenue from the levy was set at zero. While this is sensible, considering this bill and the levy are not yet law, the fact that there is a $1.8 billion surplus this financial year alone makes this levy seem like a revenue-raising measure not tied to any dire need for financing to fund compensation and Fairness Fund payments.

The State Revenue Office and the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) have expressed confidence that the state government would be able to pursue levy collection from entities in foreign jurisdictions despite concerns on this matter expressed by locally domiciled industry participants. This is a major issue because companies such as Uber offshore their billing and customer relationship management infrastructure and have sophisticated regulatory avoidance systems that can be rapidly implemented in the event of a raid by authorities.

The approach espoused by government agencies appears to be: go after the rideshare driver if they are operating with a non-compliant booking service provider and this non-compliance has been publicly disclosed. It is incumbent on the driver to stop using that booking service and switch to an alternative compliant booking service provider. Several assumptions are at play in this scenario. It assumes that there exists sufficient competition in the commercial passenger vehicle market to allow for seamless switching between providers by drivers. It also assumes that services such as Uber do not have a stickiness to them that leads to customer loyalty overriding the perceived risk of using an illegal service.

Furthermore, Uber has proven it is comfortable operating as a booking service provider outside the bounds of regulation, and the Taxi Services Commission has shown it struggles to prosecute Uber drivers. Hence booking service providers such as Uber may still operate regardless of being non-compliant with the collection of the levy. Drivers may continue to use the platform and passengers may continue to use the service. Nevertheless, as noted by the committee, Uber has complied with levy requirements in other Australian jurisdictions, so its opposition to the levy should not necessarily be seen as an intention to fail to comply.

In conclusion, it has taken an overly long time for government to address the disruption to the taxi industry and the risks that it has created for industry stakeholders and passengers. As lawmakers and servants of the public, we should not be nearly half a decade behind in properly addressing the disruption of legacy industries. This bill is an imperfect response to a complex and evolving situation. I do believe, under the circumstances of the schedule of this Parliament and the need for financial relief to be provided to some industry incumbents, that it must be passed.

The Greens will continue to be a strong voice for the needs of vulnerable members of our community who are dependent on a functional point-to-point transport system. The Greens are concerned with the value of the levy at $2. We believe a reduction of $1 and an exemption in country Victoria would make this bill much fairer for passengers, and I will certainly be discussing those amendments as we proceed to committee of the whole.

Mr MULINO (Eastern Victoria) — I rise to support this bill. Can I just say from the outset that in doing so I will firstly outline the fact that this bill provides a certain and clear regulatory environment for ridesharing. Secondly, and importantly, it creates a level playing field for taxis, hire cars and ridesharing. Thirdly, it removes licensing costs of up to $23 000 per year. Fourthly, it introduces a levy which will fund a significant financial assistance package worth $494 million. Lastly, I think it is worth identifying that this is the first stage of a two-stage process to deregulate the market and that there are some elements that may be in policy contention that do not necessarily need to be resolved in the passage of this bill.

It is worth flagging from the outset that this is an extremely complicated and difficult public policy issue. This industry, like a number of industries, is facing significant, rapid technological disruption that is affecting incumbents in ways that are often difficult to predict. I think it is also important to note, as did the speaker before me, Ms Dunn, that this is also an industry that is subject to, and has been subject to for a long time, a significant amount of government regulation. That is why I believe it is appropriate that in deregulating parts of this sector, compensation is appropriately payable.

It is important to stress that compensation lies at the heart of the government's response. I understand that a lot of debate is going to go on in this chamber about exactly what compensation there will be, how it is payable and how it should be funded, but it is important to note that many other regulatory responses in relation to this sector have not involved any compensation. The kinds of compensation we are talking about are very significant. I want to stress that I believe it is entirely appropriate that there be significant compensation, given the fact that we are not just talking about economic disruption but about economic disruption in relation to an industry where there has been a high level of government regulation that exposed incumbents to that disruption.

I want to talk a little bit about the levy. The levy that is part of the compensation package, as I said, lies right at the heart of this package. The levy will replace licensing costs, removing a barrier to entry. Fares will not have to increase as a result of this, and this is something which I think will be referred to many times during the course of this debate. I want to step through why that is the case. Notwithstanding the fact that a levy is going to be applied, licensing costs of up to $23 000 per year will be removed. On average a metropolitan taxi does between 5000 and 6000 trips per year, so around $12 000 will be raised as a result of those trips through the proposed $2 levy. That is less than the current annual licensing cost.

In addition, there is the fact that in all likelihood there are going to be varying degrees to which vehicles, vehicle owners and vehicle operators pass on the levy. Competition will see that varying degrees of passion will occur to consumers. Consumers will have a choice between a greater range of providers, and this will have an impact on the degree of cost pass-through. Our reforms will cut the cost of providing a taxi trip.

There is not going to be a significant administrative burden. The amount of money payable will be payable quarterly by a booking service provider. Taxis are already required to report trip numbers, so the regulatory burden associated with raising the funds in relation to underpinning the financial assistance package is entirely appropriate. Revenue forecasts have been conservative. If revenue exceeds the forecasts, then the levy can be reduced. That is the key point that was made in the government's response. The government's response was not about which house sponsors money bills. The government's response was simply that in future legislative responses — and there is explicitly going to be a second stage — it is open to the Parliament to adjust the levy.

The levy ensures that there is a fiscally responsible underpinning to the financial assistance package. As I said, members of Parliament can vote for this bill and commit to reducing the levy in the future. The legislation provides for that. In terms of financial assistance, it is a $494 million package. Again in terms

of context it is very important to flag that there have been a number of other legislative responses. We can point to other jurisdictions that have responded to the disruption faced by the taxi industry. We can also look at what has occurred in Victoria under previous governments, when there were significant disruptions to the taxi industry that resulted in a decrease in the value of licences and when there was no compensation.

This is a very, very significant package. I believe the government has structured it in such a way that it is targeted at those who need it most, which is small family businesses. As part of the negotiations around this bill we have increased the number of licences for which holders will receive financial assistance from two to four and shortened the period of payment to two years rather than eight years. I think it is important to note that 98 per cent of licence-holders own four or fewer licences. The Fairness Fund is designed to assist those most affected.

Many Fairness Fund applications that were originally submitted were incomplete or non-compliant in some way, but the government is working with each applicant on a one-on-one basis to assist them through the process. This is a reflection of the fact that financial assistance in a targeted manner is seen as absolutely critical by the government.

I want to point out what the government has included in this package in relation to disability services. This package will encourage innovation in the provision of services to people with a disability. It will enable providers to target this customer base. The legislation includes provision for a disability commissioner, a new role. It is important to note that Shebah and London Rides are ready to go, and that others are likely to emerge in light of the pro-competition regulatory framework that this bill reflects. London Rides has already indicated that it has 200 vehicles ready to go.

What we are seeing in this bill are reforms that are consistent and indeed complement the national disability insurance scheme (NDIS) and the multipurpose taxi program (MPTP) reforms. We are also providing a $40 000 subsidy to purchase new wheelchair-accessible taxis in regional areas.

There have been two parliamentary inquiries into this issue. This issue has been in need of a regulatory response for some time. It is an area where technological change is extremely rapid and it is now time for this Parliament to make a decision. The most recently completed inquiry endorsed the government's framework to regulate ridesharing and fund financial assistance for the existing industry via a levy. It is now time that we finalise consideration of this and move forward. As I said, we can pass this bill while at the same time leaving flexibility to deal with issues such as the precise level of the levy for future consideration.

I think it is also worth pointing out that in addition to the fact that there have been two parliamentary inquiries into this issue there has been exhaustive consultation. The minister has met with dozens of licence-holders and their representatives on numerous occasions. Caucus members, members of her staff and the staff of other members of Parliament have met with hundreds more. This is an extremely complicated, sensitive issue. I think all members of this Parliament — I can certainly speak for all members of the government — are well aware of the way in which disruption in this industry is affecting a lot of people. That is why we have significant assistance packages and a significant compensation package that is targeted to those who are most in need.

There has been extensive third-party support for the approach that we have taken. The Victorian Taxi Association (VTA) says, and I am quoting here:

> The VTA has been clear that the reforms announced in Victoria are by far the most progressive of any state or territory in Australia and uniquely seek to address the true nature of the fundamental shift which has occurred in the provision of commercial passenger vehicle services in the past years.

Again, that is a clear recommendation in favour of the framework that we are supporting.

I wanted to make this by and large a positive contribution in support of the bill because I believe this bill is the right way forward. I do want to make a couple of observations in relation to comments from those opposite. What I would say is this: it is all too easy make criticisms in a way that is without context and that is without responsibility. It is all too easy to politicise an issue in an irresponsible way. Those opposite come here and make irresponsible statements about compensation not being enough or compensation not being funded in the way that they would like.

The speaker who opened the batting for the opposition on this issue described the government as a shambles, repeatedly. Well, let us look at the way that their performance was described. He described us as a shambles. I will quote Jeff Kennett and how he described those opposite, saying:

> I am going to be quite frank with you. I have been terribly disappointed in the way my side of politics has handled this issue since the establishment of the inquiry under Ted Baillieu. With hardly any concept of what they wanted out of it, it has been in an absolute, unmitigated, unfair balls-up.

That was in a parliamentary inquiry in 2017. Those opposite cheapen this issue and sensationalise this issue in a way that is highly inappropriate. What we have is a very complicated issue and a very sensitive issue, and at the heart of the way we have responded to this is a response that is pro-competition but also that provides financial assistance in a very targeted way to those who need it most. It is about balancing the interests of consumers while at the same time trying to provide assistance to those who are vulnerable to economic change.

There are many economic changes occurring in our society that we cannot compensate people for. But we have from the start said that we believe that people in relation to this economic change do deserve compensation and do deserve financial assistance because of the highly regulated nature of the industry. I believe that this bill provides the right framework, and that was backed up by the most recent parliamentary inquiry. I believe that this bill provides the right balance between the interests of consumers and the interests of those providers of services vulnerable to economic change. For those reasons I recommend this bill to the house.

Mr O'SULLIVAN (Northern Victoria) — I rise tonight to speak on the Commercial Passenger Vehicle Industry Bill 2017. I must say right from the outset that this is bad legislation. This is terrible legislation. In fact it is probably the worst that I have seen in my short time in the Parliament. I am happy to say that I have not been here all that long, but this is the worst that I have seen. The Country Fire Authority legislation is also floating around with this. We have not got to the end of that one but we are getting to the end of this bill, and this is bad legislation.

The previous speaker talked about the fact that we have had two parliamentary inquiries. He was saying, almost as if it was a badge of honour, that because we have had two parliamentary inquiries, it makes this bill better legislation. Well, no it does not; the fact that we have had two parliamentary inquiries just shows how bad this piece of legislation is. We have had to have two inquiries to try to sort out some of the issues that have been very clearly put by others, but I am certainly going to go through some of those issues again today.

One of the profound things that I learned when I was on the Standing Committee on the Economy and Infrastructure, which conducted one of the inquiries into this piece of legislation, is the personal impact it has had on the people involved in this industry. In the hearings we heard people talk about the financial impact it is going to have, and is having, on their families, and we also heard about the personal impacts it has had on some of the families. In one of the hearings we heard suggestions that there were also a couple of suicides that might be attributable to this legislation. So we should not try and say that this is a good piece of legislation and that the inquiries have sorted out all the issues. What the inquiries have done is just highlight even more issues as to why this legislation should not be passed.

We have heard some rhetoric from those opposite in relation to this legislation, trying to justify it as revolutionary or progressive. I do not see it that way. I see this as just a way of destroying the industry and bringing about bad outcomes for everyone on every front. I am going to go through some of those outcomes and the reasons why it is bad. As part of the inquiry into this bill, which only reported a couple of weeks ago, we had the scenario where people came in and told us firsthand of some of the issues that they were facing. From the point of view of the committee, we thought we could come up with some recommendations, findings and ideas to try and help the government out. What we wanted to do was show the government that there are clearly problems here but that there are some things that they could do to make this better for the people involved. We understand that there need to be some regulations put in place in relation to Uber. I think everyone understands that and probably agrees with that. But in terms of the way this has all been put together, it has brought about an outcome that is going to bring about negative impacts rather than solving an issue with Uber that certainly needs to be solved.

The committee came up with some seven recommendations. These recommendations were put together by the committee as a whole. There were people on both sides of the parliamentary divide on the committee. What I found amazing — and I was very pleased to be a part of the committee that brought this about — is that we had a consensus report where everyone from each side of the political divide agreed on the recommendations. In terms of the coalition members on that committee, we did not try and overdo the recommendations to put the government in a position where they could not act. We did not want to paint the government into a corner where they had no option but to reject all the recommendations. Obviously we would not have had bipartisan support in relation to those recommendations if we had done that. I think the government members on that committee would also agree that from our point of view committee members came up with those recommendations in good faith to try to come up with an option, or a few options, that would actually make this a little more workable.

We saw the government response to the report come out. I must say I was somewhat disappointed with what we saw from the government in terms of its response. The first recommendation we made was to essentially suggest a scenario where a sunset clause for the levy could take effect after a period of time or after an amount of money was raised — and we gave the government options in terms of how they would want to regulate the sunset clause — but all the government have done is come back and say they will undertake a review when an amount was raised that covered the Fairness Fund and the compensation. From my point of view they did not agree to have a sunset clause, but they have agreed to undertake a review.

To my mind that does not address the issue in terms of the sunset clause, because essentially the way it is drafted in this legislation this is a new tax. That is a new tax that the Premier promised he would not introduce, so we have got a new tax of $2 on every trip, whether it be short or a long trip, without any sunset clause. I think the government has even admitted that once it has expended all the costs in terms of compensation and the Fairness Fund, the $2 fee on every trip would continue and essentially would just become a revenue measure. So the government has not addressed that issue through a sunset clause and to be fair to the crossbenchers, other people have brought up amendments to try to address that issue. So it is very clear from all sides that there needs to be some sort of a sunset clause put in place.

If you look at some of the other recommendations, what we wanted to do is make sure that any payments that were made as part of the compensation — or the Fairness Fund, but particularly the compensation — were not treated as income by the Australian Taxation Office (ATO), because one of the things we must realise is that some of these taxi proprietors or taxi licence owners paid some significant amounts of money for these licences. In some cases it got up to $521 000 — I think was about the peak — and the government is now looking to pay them the equivalent of just $100 000 for that potential cost of $521 000. What we want to ensure is that when the compensation is paid to the licence-holder that money is not treated as income, which would trigger the ATO charging them tax on that money if it was income, which would be an added blow to those people who are involved.

What the government has committed to do is to write to the commonwealth Treasurer and to the Australian Taxation Office to point out that any payments made as a result of the government's reform should not be considered as assessment of income for tax purposes. I am sorry, but that is not good enough. What the government needed to do is structure the payments in a way that they would not be classed as income. Do not write to the tax office and point out that it should not be. That is putting the emphasis back on the tax office to structure the payments. They do not structure the payments. They structure what is in front of them, and those rules are determined by the Treasurer here in Victoria and the government here in Victoria, so I do not think the government has addressed that very well at all.

Another recommendation that they have not addressed is reducing the rate of levy for rural and regional areas. Where the compensation is paid to regional taxis at a rate of about $50 000 per taxi, we have heard reports that in some smaller regional centres the actual amount of money raised through the $2 levy on every trip would cover the compensation and Fairness Fund payments in under a year. Yet the tax would continue to be charged on those regional customers after all that money was raised to cover the cost of the Fairness Fund and the compensation. So once that was paid out, essentially those regional fares that were paid — short trips by people on fixed incomes or lower incomes — would essentially just be revenue that would go back to consolidated Treasury pots of money, and it is unacceptable that country people would essentially have to subsidise the payments in the city. That is not fair, and I cannot support that. Also we have seen the government in its response say that it was replacing licence costs with a per-trip levy consistent across all of Victoria, which shows that it is not prepared to support that recommendation.

Also if you look at other recommendations the committee went through, we were talking about the sunset clause, and the government said that they would review that. That is not good enough. Also the government made a comment here that it believes the replacement of licence costs with a levy will lead to reduced fares. I am not quite sure how the government could possibly say that with a straight face, knowing full well that they are actually adding $2 to every trip that is taken in an Uber or in a taxi. It is only a government like the one we have in front of us right now that would believe it could reduce fares by adding an extra tax. I am not sure how it came up with that, but that seems to be the way that Labor governments operate, the way they twist words and spin an argument to suit their own purposes. They absolutely have not addressed that provision.

In terms of the $50 million cap on the Fairness Fund, we suggested that the cap should be abolished because more money than that may be needed to cover the requirements. The government has said it will address each application on a case-by-case basis, so it has taken notice of that recommendation, which is a positive.

We also asked the government to increase the compensation to primary and subsequent licence-holders and have an independent and clearly articulated, transparent and equitable non-arbitrary model for the valuation of perpetual licences. The government has had a look at that recommendation and has said that it will remain with the process it currently has, which is $100 000 for the first licence and $50 000 for three subsequent licences, so it has not taken up the recommendation from the committee in relation to increasing the compensation.

We also asked the government to have a look at when the payments would be made. We asked them to look at and consider up-front payments in terms of that compensation so that the people who were impacted could at least get the money up front, which would help them in terms of knowing exactly what they have got to deal with. The government has committed to making the payments as soon as possible, which is a positive.

Other recommendations relate to concessions for multipurpose taxis being extended to all commercial passenger vehicle trips. The government has gone some way towards looking at this in terms of trying to roll it into the national disability insurance scheme that will be rolled out sometime in the future. They also said they will ensure that passengers benefit from the reforms. I am not sure how passengers will be able to benefit from reforms when they will still have to pay the $2 levy on every trip that they take, so I am not satisfied with the way the government has dealt with that recommendation.

In terms of reducing the $2 levy to $1, basically the government has said that the only way that can be done is by supporting this legislation, and then the government in the future can consider reducing that fee because the legislation does allow for the amount to be less than $2. I do not see how that can possibly be the case when there is a $2 levy up-front, which is indexed every year. I am not sure how supporting this legislation will result in a lower levy when that levy is actually going to be indexed and the bill does not have a sunset clause.

For the reasons I have just outlined, the government has failed to deal with the concerted effort from the committee to bring about better options and better recommendations and to give the government somewhere to go in terms of trying to make this legislation better. There have been two inquiries in terms of understanding this legislation, and both times the government has let the taxi industry down, has let Uber down and has let the consumers who use those services down. It has not fully understood and realised that this is bad legislation and that it needs to change it if it wants to make it somewhat workable into the future. That is the reason that I certainly cannot and will not support this legislation.

Debate adjourned on motion of Mr DAVIS (Southern Metropolitan).

Debate adjourned until next day.

ADJOURNMENT

Ms TIERNEY (Minister for Training and Skills) — I move:

That the house do now adjourn.

Member conduct

Mr O'DONOHUE (Eastern Victoria) — I raise an adjournment matter for the attention of the Premier. The Premier has been very clear about the government's intention to implement each and every one of its election commitments. There has been a great deal of conjecture about how the government is going on that track. There have been increased taxes and a range of other election commitments that have not been implemented. One of those is the breath testing of members of Parliament in this place.

The ABC reported on 27 November 2014 that Mr Pakula had said on behalf of the then opposition:

> MPs will be on notice that random tests can occur at any time.
>
> I think this is about attitude, it's about behavioural change …

Mr Pakula also said it would raise standards by having random breath tests.

> Mr Pakula said he was aware of instances where MPs had been drunk …

He also said:

> I think anyone who has been in Parliament for long enough has seen other members who have maybe not been in the best shape when they've been in the house.

Perhaps members who have not been in this place for very long have seen such behaviour. The action I seek is that the Premier advise me when he intends to implement his very clear and unequivocal election promise to implement breath testing for MPs in this place.

The PRESIDENT — Order! The Premier has no ability to do that. That is up to me and the Speaker, and I have rejected it. It is totally impractical. It is a ridiculous suggestion. Who is going to do it?

Honourable members interjecting.

The PRESIDENT — Order! I do not care whether it is an election promise or not. What I am telling you is that the Premier does not have the capacity to do it. It is in the hands of the Speaker and me, and I have ruled it out.

Shepparton rail services

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Public Transport, and once again it is regarding the Shepparton rail line. My request of the minister is that she brings forward the infrastructure upgrades committed in the 2017–18 budget and that she also commits the further approximately $72 million in funding required to ensure the line's capacity for the provision of eight daily VLocity services. Greater Shepparton City Council are very keen to ensure that Shepparton line passengers are on the fast track — excuse the pun — to finally getting decent passenger rail services. The first step in this is the much-needed enabling infrastructure that will ultimately allow more trains more frequently to run to and from Shepparton.

After years of absolutely ignoring the Shepparton line, the Labor government could simply no longer ignore the loud cries from the Shepparton community about the disgusting state of its rail line. In the 2017–18 Victorian budget they finally committed some funding to start addressing this issue. It should be noted that the funding announced is only a small amount of the funding required to see real results for Shepparton line passengers. However, while this money has been committed to and has been welcomed by the community, there is growing concern about the timing of the infrastructure funding, which is not scheduled to commence until the 2018–19 year.

The Shepparton community has long advocated for the provision of eight VLocity services by 2020. The City of Greater Shepparton has written to the minister requesting that the infrastructure upgrades committed to in the budget are accelerated. Council is also keen to progress the planning and design works needed to undertake the remaining infrastructure works, including the signalling, track and level crossing upgrades needed for full VLocity operation. As such, council has identified additional funding needs, including an additional $71.5 million for track upgrades, including the upgrade of 32 level crossings and improved signalling.

Council has requested that the minister instruct the Department of Economic Development, Jobs, Transport and Resources to also undertake the necessary pre-planning and designing works in this financial year in preparation to secure a funding commitment for these works in the 2018–19 state budget. Council also seeks to discuss the proposed location of the passing loop, which the government has said will be at Murchison East, as work undertaken by council shows that the passing loop needs to be at Tabilk for the works to deliver a long-term solution in line with the VLocity service plan for Shepparton rather than a loco-hauled service.

My request of the minister is that she brings forward the infrastructure upgrades committed to in the 2017–18 budget and also that she commits approximately a further $72 million in funding, which is required to ensure the line's capacity for the provision of eight daily VLocity services is delivered.

Coal industry

Mr BARBER (Northern Metropolitan) — My adjournment matter is for the attention of Mr Wade Noonan, Minister for Resources. I thank the minister for responding to some of my earlier questions about the overdue status of the government's promised review of previous government programs for coal development and statement on the future uses of brown coal. I note that the minister has committed to this new policy being announced sometime in 2017. However, given that it appears the work has been done, what I am requesting from the minister is that he explain why the release of this report is being continuously delayed and that he release it or tell us when exactly in 2017 this policy will be made public. The reason it is an important action for the minister to actually release this report is that a lot of people want to know, including those who have access to or licences over coal deposits, those who are the landholders that have those coal deposits underneath them, investors in the energy industry and workers, businesses and communities in and around the areas where these coal deposits exist.

Both AGL and EnergyAustralia have said on the record that their Loy Yang A and Yallourn power stations could close earlier than the current scheduled closing dates of 2048 and 2032 respectively. While the government delays, many, many investors and many, many communities are trying to make decisions while effectively waiting for the other shoe to drop. It seems clear to me that the government's dawdling and delaying means that they do not in fact have any idea about how they are going to phase out or plan for the phase-out of coal in Victoria, but it is well past the time this review was expected to be released, and I ask the minister to do so.

Pakenham Hills Primary School

Mr MULINO (Eastern Victoria) — My adjournment matter is for the Minister for Education in the other place. It relates to the 2016–17 Shared Facilities Fund, which is a fund that has been designed to help schools develop community facilities on school sites across Victoria. The funding allocated from this program will deliver funding to schools, councils and institutions to develop shared facilities arrangements. This is an approach to funding facilities which is in line with many other arrangements where there is an attempt to try to promote the shared use of facilities between different users so as to improve utilisation and efficiency, and of course this is critical in growing suburbs where there is a high demand for additional facilities, both sporting facilities and other community facilities, such as child care, maternal health care and so on.

I would in particular call on the minister to provide funding from the Shared Facilities Fund to provide financial assistance to Pakenham Hills Primary School for some of the services that they have requested assistance with in providing the school facilities that will benefit the broader community. I think that that will provide considerable benefit beyond the school, as do many of the other projects that get funded by this fund. Many of the facilities that are being funded out of this relate to sporting facilities, and I know that some other schools in my electorate have applied for sport-related projects. Of course those kinds of projects are also very important, again particularly for regional and growing communities, but my particular adjournment matter tonight relates to that school.

Construction, Forestry, Mining and Energy Union secretary

Mr RAMSAY (Western Victoria) — My adjournment matter is for the Premier. The action I am seeking is that the Premier immediately condemn the comments made by Construction, Forestry, Mining and Energy Union (CFMEU) secretary, John Setka, at a rally last Tuesday when he incited CFMEU union workers to destroy the lives of Australian Building and Construction Commission inspectors and their families. This disgusting and shameless behaviour by a paid union official to encourage harming other workers and their families has no place in our Victorian society or the laws of our land, particularly when community safety is a highly charged and highly sensitive topic in our state.

This typical bullying behaviour has been, as I indicated in my members statement, strongly condemned by Bill Shorten, Anthony Albanese and Prime Minister Malcolm Turnbull. This is in sharp contrast with union officials like the Australian Council of Trade Unions secretary, Sally McManus, and the Electrical Trades Union secretary, Troy Gray, along with opposition frontbencher Tony Burke, who all became apologists for John Setka and his call to arms to intimidate inspectors and their families.

Here in Victoria what was even more appalling was the response by the Premier of this state, who as an apologist for John Setka said:

> That debate is a fair and proper one to have …

I am not really surprised that the Premier would try to play down the insulting and provocative comments by CFMEU secretary John Setka, because he has form. His protection of Peter Marshall, the United Firefighters Union (UFU) Victoria secretary, who is currently subject to a WorkSafe investigation into alleged bullying, has the same trademarks of his behaviour regarding John Setka.

There can be absolutely no excuse for the Premier of this state protecting these two union officials — one of whom has a criminal record while the other is facing alleged bullying charges — merely on the basis that these two unions pay significant funds to Labor Party election campaigns. Bob Hawke and John Cain had the fortitude to cut the union umbilical cord to the old Builders Labourers Federation when John Setka was a union official and had the Labor Party refuse to accept donations from the rebel union. Now I call on the Premier, Dan Andrews, to have the courage to cut the ties with John Setka and the CFMEU, as he should with the UFU and Peter Marshall, and show some moral and ethical fortitude.

Inflation Nightclub incident

Ms PATTEN (Northern Metropolitan) — My adjournment matter is for the Minister for Police. I am seeking an explanation or some information from the minister on the conduct of police in responding to some recent overdoses at the Inflation Nightclub. I was very sad to hear of the overdoses on 10 June. I am always appreciative of the police responding to these difficult situations, but I have to say that as I learned more about the incident I became more curious and concerned about the series of events.

The police and paramedics attended Inflation after staff called 000 alerting them to the overdose. The response was actually within 30 seconds, which was remarkable and fantastic, but four overdoses occurred at exactly the same time — not within a short time frame but at

exactly the same time — which I have to say is very unusual. The four people were supposedly strangers and had never been to the club before. The club has a very strong, loyal patron base. It has been operating for 20 years, and they operate a Scantek system so that they know who comes into the club and who has been to the club before. They also have a strong membership base with a guest list. These were complete strangers who attended.

What was also unusual was that the media were there right at that time. The ambulance arrived, the people were taken into the ambulances, and patrons and security staff were moved out of the way for the media to film the patients, the victims, being loaded into the ambulances. These are all quite interesting coincidences to have played out. On the same night there were two overdoses on Little Bourke Street. The response time from the police was not as quick as it was at Inflation.

Security at Inflation also notified the police that they suspected a drug dealer was trying to enter the premises. The police appeared to be somewhat hesitant about talking to that person. They then did arrest that dealer, but they said to the media that that person was in no way linked to the overdoses. It was as if they knew who the dealer was already. This is all in light of the Inflation Nightclub owner suing the police for defamation. I am just asking if the minister could provide me with an explanation of these circumstances, which seem highly unusual.

The PRESIDENT — You are not really seeking an action when you just ask the minister to provide information to you. Can you reword it as an action?

Ms PATTEN — I ask the minister to look into this situation and provide me with some information as to what appears to be a series of unusual circumstances involving the police. The action I seek is for the minister to investigate what occurred on 10 June and provide me with details in response to this and to ask the police how these unusual circumstances occurred.

The PRESIDENT — It is still not there, but look, it is late.

Commercial passenger vehicle industry

Mr DAVIS (Southern Metropolitan) — My matter for the adjournment tonight is for the attention of the Minister for Public Transport, although it may well be of interest to the Minister for Health or the Minister for Mental Health as well. We are dealing with a bill in the chamber at the moment regarding taxi licences and compensation. That bill has meant that I have had the opportunity to meet with many, many dozens of taxidrivers and plate-holders. The government has a hardship fund, but there are questions of compensation.

But leaving those issues aside for the moment, the point I am making here is that there are families and individuals who are distraught and need support. Quite separate from compensation or the hardship fund, they need health and other support, counselling and a full package of support for people who have had their livelihood, their assets, their savings, in some cases their superannuation, torn away. I met with one woman the other day who had a superannuation fund which had six taxi licences as its assets. That fund may well now be near worthless. So she and her husband are in a very difficult position financially but also emotionally and in terms of their health and the support needed for them to deal with these matters.

So what I am seeking from the Minister for Public Transport, in parallel with the processes here, is to make sure that there is provision for those who have lost everything — that there is provision for health and mental health support and physical and counselling support to ensure that there are not tragic circumstances. I am particularly worried that there will be suicides. I am particularly worried that there will be further terrible incidents. I ask the minister to take some responsibility for putting in place measures to ameliorate those issues through counselling and health and mental health support.

Metropolitan partnerships representation

Ms SPRINGLE (South Eastern Metropolitan) — My adjournment matter is for the Minister for Local Government. The six recently announced metropolitan partnerships each comprise eight community and business representatives, the local council CEOs, a senior Victorian government official and a representative from the metropolitan Regional Development Australia committee. These partnerships will play a pivotal role in establishing regional priorities and advising on priorities at both state and federal level. They aim to enable government to be more responsive to community-identified priority areas for action and better target future investment.

The partnership website makes clear the process for selecting community and business leaders, but the process of determining how local government would be represented on these partnerships is unclear. The action I seek is that the minister ensure that local government councillors form part of the Metropolitan Partnerships committee as elected representatives are accountable to the community.

South Melbourne Park Primary School

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is to the Minister for Education, and it relates to the South Melbourne Park Primary School and an apparent discrepancy between the financial figures that are given on the Victorian School Building Authority website and what we read in this year's budget papers.

If you look at the Victorian School Building Authority website, it says that in the financial year 2015–16, $1 million was devoted to this school project; in 2016–17, $8.4 million; and in 2017–18, $21.6 million, which was the first capital funding that had actually been devoted to this project. The rest of it was for other purposes. On my calculation that adds up to $31 million, which is in stark contrast to what the Labor Party said in opposition — that this school project would cost $11.5 million.

But if we look at this year's budget figures, we see a slightly different account of the figures. This is in the new project section for the Department of Education and Training on page 39 of budget paper 4, in which it says that $21.686 million has been put towards the project, but then it also appears on pages 47 to 49 in the existing projects section.

The explanation of the figures is somewhat different. It explains in footnotes that the total estimated investment has been reduced by $6.4 million:

> … for costs that are output in nature.

And under subsection (d) it explains that:

> the total estimated investment there has been reduced to $700 000 due to $4 million of costs that are output in nature and $3.3 million of local government funding.

I think what this is referring to is the fact that large amounts of money, some $7 million, have had to be spent on moving Parks Victoria and creating another centre for them within Albert Park Reserve. Money has also been spent on a temporary home for Orchestra Victoria.

The action that I am seeking from the minister is a clarification of the inconsistency of these figures. What is the cost of building this school in terms of developing the site and creating a building, and what other costs have actually gone to other expenditure well beyond education?

Responses

Ms TIERNEY (Minister for Training and Skills) — There were eight adjournment matters this evening: from Ms Lovell to Ms Allan in relation to the Shepparton rail line; then Mr Barber to Minister Noonan in relation to the timing of the release of a report; from Mr Mulino to Minister Merlino on the funding of shared community facilities on school sites, in particular the Pakenham Hills Primary School; Mr Ramsay to the Premier in relation to comments made at a rally this week; Ms Patten to the Minister for Police in relation to the conduct of police on 10 June at the Inflation Nightclub; from Mr Davis to Minister Allan about a bill before the house dealing with the taxi industry and seeking support for families; from Ms Springle to Minister Hutchins in relation to local government representation on metropolitan partnerships; and Ms Fitzherbert to Minister Merlino seeking clarification on funding allocations in budget papers in relation to a school in her electorate.

I have written responses to adjournment debate matters raised by Mr Finn on 10 May and on 6 June this year.

House adjourned 10.59 p.m.