PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Tuesday, 21 March 2017

(Extract from book 6)

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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
Treasurer	The Hon. T. H. Pallas, MP
Minister for Public Transport and Minister for Major Projects	The Hon. J. Allan, MP
Minister for Small Business, Innovation and Trade	The Hon. P. Dalidakis, MLC
Minister for Energy, Environment and Climate Change, and Minister for Suburban Development	The Hon. L. D'Ambrosio, MP
Minister for Roads and Road Safety, and Minister for Ports	The Hon. L. A. Donnellan, MP
Minister for Tourism and Major Events, Minister for Sport and Minister for Veterans	The Hon. J. H. Eren, MP
Minister for Housing, Disability and Ageing, Minister for Mental Health, Minister for Equality and Minister for Creative Industries	The Hon. M. P. Foley, MP
Minister for Health and Minister for Ambulance Services	The Hon. J. Hennessy, MP
Minister for Local Government, Minister for Aboriginal Affairs and Minister for Industrial Relations	The Hon. N. M. Hutchins, MP
Special Minister of State	The Hon. G. Jennings, MLC
Minister for Consumer Affairs, Gaming and Liquor Regulation	The Hon. M. Kairouz, MP
Minister for Families and Children, and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Police and Minister for Water	The Hon. L. M. Neville, MP
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
Minister for Agriculture and Minister for Regional Development	The Hon. J. L. Pulford, MLC
Minister for Women and Minister for the Prevention of Family Violence	The Hon. F. Richardson, MP
Minister for Finance and Minister for Multicultural Affairs	The Hon. R. D. Scott, MP
Minister for 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, Mr Herbert, 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 Elasmar, Mr Finn, 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 Eideh, #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 Mulino, Mr O'Donohue, 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.

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 D. O'Brien, Mr Pearson, Mr T. Smith and Ms Ward.

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

President:
The Hon. B. N. ATKINSON

Deputy President:
Mr K. EIDEH

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

Leader of the Government:
The Hon. G. JENNINGS

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

Leader of the Opposition:
The Hon. M. WOOLDRIDGE

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

Leader of The Nationals:
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
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Herbert, Mr Steven Ralph	Northern Victoria	ALP	Springle, Ms Nina	South Eastern Metropolitan	Greens
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Melhem, Mr Cesar	Western Metropolitan	ALP	Young, Mr Daniel	Northern Victoria	SFFP

[2] Appointed 15 April 2015
[3] Resigned 27 May 2016
[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

TUESDAY, 21 MARCH 2017

Tuesday, 21 March 2017

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 12.06 p.m. and read the prayer.

ACKNOWLEDGEMENT OF COUNTRY

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

ROYAL ASSENT

Messages read advising royal assent on 15 March to:

Crimes Legislation Further Amendment Act 2017
Heritage Act 2017
Resources Legislation Amendment (Fracking Ban) Act 2017.

AUDIT COMMITTEE

Review of members second residence allowance

The PRESIDENT — Order! I wish to read for the record a letter that I have conveyed to the Speaker in the other place regarding the Parliament's Audit Committee findings in relation to the member for Tarneit and the member for Melton:

> I write as chair of Parliament's Audit Committee to advise you that the committee has received a report from Parliament's internal auditors, PwC, in respect of second residence allowance claims by the member for Melton and by the member for Tarneit.
>
> The Audit Committee asked PwC to:
>
> > seek from the MPs documents that would substantiate their entitlement to the allowance based on a number of criteria agreed by the Audit Committee and to interview them in regard to their claims;
> >
> > review the eligibility process and controls for receipt of the second residence allowance by the members for Melton and Tarneit;
> >
> > map out and evaluate the procedures and approval processes within the Parliament of Victoria to approve a second residence allowance;
> >
> > map out and evaluate the process and internal controls in respect to the payment of second residence allowance; and identify areas for improvement in the processes (application, approval and payment).
>
> The committee noted that the issue of members of Parliament claiming the allowance for properties outside the electorate they represent does not constitute a breach of regulations. At this point regulations 6 and 7 do not require either the home base or the second residence to be situated in a member's electorate.
>
> The issue to be determined in respect of the claims of both the member for Melton and the member for Tarneit was whether they could demonstrate their home base as their principal place of residence in order to support a second residence allowance claim.
>
> The Audit Committee has considered the findings from the PwC review and has concluded that:
>
> In respect to the member for Tarneit:
>
> > The member had stated his intention for this location to be his principal place of residence. This is supported by changes of address for driver licence and electoral roll. The member also purchased a car to facilitate travel in and around Queenscliff. Compelling family reasons support the member's reasonable intent to set up a family home there.
> >
> > However, during the course of 2016, the member's personal and family circumstances changed requiring him to spend more time in the Melbourne metropolitan area and staying in Queenscliff less frequently. The member had to support family members in Melbourne, continue having access to his under-age children, care for elderly parents and other immediate family, and this became his priority.
> >
> > Discussions with the member and his representatives suggest that personal and family circumstances were in a state of significant flux and that the member had not notified the Clerk of the Legislative Assembly when it became apparent that the intention to live in Queenscliff as a principal place of residence was no longer a reality. This was demonstrated by a review of utility bills indicating minimal usage, driver logs and FBT declarations. Conversations with the member and his medical support specialist provided a consistent picture in this regard.
> >
> > On 13 February 2017, the member notified the Clerk of the Legislative Assembly that he no longer wished to claim the second residence allowance.
> >
> > On 2 March 2017, the member repaid the total amount of $37 800 claimed as a second residence allowance.
>
> In respect to the member for Melton:
>
> > Between the period of March 2010 and April 2014, the member for Melton used the property located at Lake Wendouree as his principal place of residence and had nominated this address as his 'home base'. Indicators for this include his personal relationship during that time, registration on the electoral roll, registration of vehicle and driver licence address. Relevant documentation

included registration on the electoral roll, registration of vehicle and driver licence address at Lake Wendouree.

During April 2014, the member for Melton, based on his own evidence, left his 'home base' at Lake Wendouree following the breakdown of his personal relationship.

The member notified the Clerk of the Legislative Assembly of a change in his home base on 24 April 2014 to Ocean Grove. Based on discussion with the member for Melton, this involved an informal arrangement entered into with family members whereby the member would use this address for a fortnightly payment of $200. No formal lease was entered into and no payments for electricity or other utilities were made by the member. There is some evidence that the member paid for some minor capital items such as blinds, security screen, hot water unit et cetera.

The member notified this as his address for the purpose of his driver licence record, vehicle registration and registration on the electoral roll. The member's postal address for personal correspondence including bank accounts, health insurance remained at his electorate office.

The member stated that he attended local Labor Party meetings in that he spent time in Ocean Grove. The member stated that there are no driver records to support his frequency of stay as he did not use a vehicle provided by Parliament. The member advised that there were no separately metered electricity at Ocean Grove so it is difficult to demonstrate 'normal' use supporting an assertion that the property was the principal place of residence. The member advised that utility costs were incorporated into the fortnightly payment.

The location of the 'home base' appeared to have no long-term connection with the member and it is difficult to argue convincingly that he intended this to be a long-term/permanent principal residence.

The Audit Committee agreed that, viewed in terms of a reasonable person test, a position could be taken that the arrangement in this period with the member's family may have been entered into to ensure that the member would continue to receive the second residence allowance. The member notified that the 'landlord'-family members did not wish to discuss the arrangements entered into with the member.

The Audit Committee considered that, from a reputation risk perspective for Parliament, the arrangement may be construed as non-prudent, non-arms length, potentially non-commercial (low 'rent'), and arguably opportunistic, designed to ensure continued enjoyment of the second residence allowance.

The Audit Committee noted that the member had advised PwC that he has recently moved out of the 'home base' at Ocean Grove.

At the direction of the Audit Committee, PwC are continuing to review all recipients of the second residence allowance in the current Parliament. The Audit Committee is also considering options to strengthen the allowance frameworks. These outcomes will be the subject of further reports.

This letter was signed this morning by me as President.

Ms WOOLDRIDGE (Eastern Metropolitan) — Thank you, President, for that important statement. I desire to move, by leave:

That this house requires the President to table the PricewaterhouseCoopers report to the Audit Committee in relation to the second residence allowance by Thursday, 23 March 2017.

Leave refused.

Honourable members interjecting.

Mr JENNINGS (Special Minister of State) — The primary reason I have not granted leave for this motion to be moved is that I am not sure of your view on that subject, President, or the view of the Audit Committee in relation to its willingness, preparedness or ability to comply with such a resolution. Unless that is tested with you, President, I feel obliged to protect you as the chair of the Audit Committee by saying no.

PERSONAL EXPLANATION

Mr Herbert

Mr HERBERT (Northern Victoria) — I wish to make a statement in regard to a media article published today on the front page of the *Herald Sun*. The story infers that I have been 'swept up' in the rorts story. The story is wrong on a number of points. Firstly, it alleges that I was 'dumped' from the ministry. This is untrue as I resigned entirely of my own volition as the issue at the time was becoming a distraction to the work of the government and the inexcusable invasion of my family's privacy troubled me greatly.

Secondly, the story asserts that an overpayment is part of some sort of perks scandal. That is untrue. The facts are that late in 2014 an error was made by either the Department of Parliamentary Services or the Department of Premier and Cabinet in which I was overpaid. I did not realise the error at the time, and it did not arise through any action on my part. As soon as I was notified of the error, I immediately made arrangements to pay it back in full. This was done. This type of administrative error happens to many Victorians, whether it be an employer overpayment, the banks, tax. It may have happened to other members of this chamber, although I am unaware if that has occurred.

The error was identified and resolved long before the audit process that is currently underway — in fact long before the issues that brought about the audit process. The media organisation which printed the story suggests this information may be included in the audit

report which the President has just spoken about provided by the Audit Committee. I have not seen this report, and I am unaware of the details. No-one has contacted me whatsoever. The media organisation that contacted me late yesterday, and well in advance of any formal report being released, knows full well that the error was not mine. However, the organisation has made a choice to write an article in the manner they have. Indeed the author of the article even texted me to say he had heard that it was completely not my fault.

So I await the results of the audit report. It appears that there is no mention of me in the President's report. Further, as this is a matter that may be referred to the press council and involve possible litigation, it is not my intention to comment further on the issue.

The PRESIDENT — Order! I indicate that Mr Herbert did raise this issue with me, and I can confirm that the circumstances in which there was an overpayment to Mr Herbert were an administrative error made by someone other than him. He had made no claim to the amount of money that was subject to the overpayment, and indeed when it was brought to his attention that another person had made that error — and the person was associated with the administration of ministerial salaries at that time; the error was discovered when those salaries were transferred to the Department of Parliamentary Services for administration — Mr Herbert honourably repaid that amount immediately. There is no case to answer on this one. I indicate that had it been a subject matter of the audit report that was received from PricewaterhouseCoopers this morning, it would have been contained in my letter. It was not.

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Domestic Animals Amendment (Puppy Farms and Pet Shops) Bill 2016

The PRESIDENT — Order! Mr Finn wrote to me on 14 March 2017 in his capacity as chair of the Standing Committee on the Economy and Infrastructure:

> Re: unauthorised release of committee information
>
> The economy and infrastructure committee's final report into domestic animals was tabled on 6 February 2016. That same day, prior to tabling, an article appeared in the *Herald Sun* citing the committee's recommendations.
>
> The economy and infrastructure committee discussed this matter at its meetings on 22 February and 8 March 2017.
>
> The committee resolved that members write to me, by 6.00 p.m. Wednesday, 8 March 2017, with regard to the leak and to declare whether they were responsible for any disclosure of information in that regard.
>
> At the committee's meeting on 8 March the committee resolved that I write to you and provide any responses. Please find attached correspondence from committee members.
>
> In summary, all current, former and participating members of the committee who were involved in the domestic animals inquiry have supplied responses. All members have assured me that they were not involved in any unauthorised distribution of the report or deliberations of the committee.
>
> I believe that this matter is now resolved.

ENVIRONMENT, NATURAL RESOURCES AND REGIONAL DEVELOPMENT COMMITTEE

Membership

The PRESIDENT — Order! I have received a letter that I wish to acquaint the house with from Mr Tim McCurdy, the member for Ovens Valley in the other place:

> I wish to notify you of my decision to resign as a member of the Environment, Natural Resources and Regional Development Committee.

I have a further letter from Mr Bill Tilley, the member for Benambra in the other place:

> Accept this letter as notification of my resignation from the Environment, Natural Resources and Regional Development Committee effective immediately.

I have a further letter from Ms Vicki Ward, the member for Eltham in another place:

> Today I resign from the Environment, Natural Resources and Regional Development Committee, effective immediately.
>
> I have enjoyed my time on the committee, and I am grateful for the experiences offered by being a member, especially the Fiskville report.
>
> I thank the committee and the secretariat for their hard work and assistance.

PETITIONS

Following petition presented to house:

McKinnon Myki outlets

> To the Legislative Council of Victoria:
>
> We, the undersigned citizens of Victoria, call on the Andrews government to enable the sale of Myki tickets in an outlet closer to the McKinnon station:

the public transport minister, the Honourable Jacinta Allan, to listen to the community and grant another operating licence to enable the sale of Myki tickets;

the three outlets currently available are located approximately 1.5 kilometres from the station, which is too far for residents to travel to purchase a Myki card;

members of the community, including the elderly and those with a disability, need access to a retail outlet that is close to the railway station.

We therefore call on the Andrews Labor government to grant McKinnon newsagency a licence to sell Myki tickets.

By Ms CROZIER (Southern Metropolitan) (191 signatures).

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 4

Mr DALLA-RIVA (Eastern Metropolitan) presented *Alert Digest* No. 4 of 2017, including appendices.

Laid on table.

Ordered to be published.

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Freedom of Information Amendment (Office of the Victorian Information Commissioner) Bill 2016

Ms FITZHERBERT (Southern Metropolitan) presented report, including appendices, together with transcripts of evidence.

Laid on table.

Ordered that report be published.

Ms FITZHERBERT (Southern Metropolitan) — I move:

That the Council take note of the report.

I am pleased to present this report. I wish to thank the witnesses who assisted the committee. Their insights were provided on relatively short notice and were invaluable. I also thank my colleagues on the committee who participated in this inquiry: Ms Symes, Ms Hartland, Mr Mulino, Mr O'Donohue, Ms Patten, Mrs Peulich, Mr Rich-Phillips and Mr Somyurek. I also thank the secretariat staff who worked on this inquiry: Mr Patrick O'Brien, Mr Matt Newington and Ms Prue Purdey. Their hard work enabled us to reach our tight time frame and table this report.

The inquiry was scheduled to take four weeks, and the committee agreed it would report in the same way as with previous committee inquiries with equally tight time frames — a summary of the key issues raised, a complete transcript of evidence presented to the inquiry and no recommendations. Given the nature of the changes proposed it is unclear whether it would have been possible for the committee to reach recommendation agreements and, if so, how many recommendations there may have been. This would have no doubt been a long process.

Ms Hartland has done me the courtesy of advising that she would include a minority report with this report, and she expressed her concern to me last week that there would be no recommendations. I say now what I told her then — that I was open to discussing recommendations. We both knew that this would require a delay in reporting back to the Parliament. Given how long the bill has taken to reach the business agenda of the Council I saw no great problem with this. Ms Hartland believed it was better to comply with the original deadline.

The bill proposes a major restructure of the administration of Victoria's freedom of information and privacy frameworks. It effectively merges the roles of the Freedom of Information Commissioner and the commissioner for privacy and data protection. The committee heard that this is the first stage of reform of the FOI and privacy frameworks and that further significant change is intended. It is regrettable that no detail of this anticipated further reform was shared with the inquiry.

In terms of scrutiny from those with particular expertise and insight, this inquiry enabled detailed feedback from the current FOI commissioner and the current commissioner for privacy and data protection. Both gave evidence that they had no opportunity to provide input regarding the intended restructure of their offices prior to this being approved by cabinet, although there was some limited scope to do so later. Similarly there was no public consultation undertaken by the government in relation to the bill, despite evidence that the two offices' extensive interaction with members of the public was a key reason for starting the first stage of reform of the two commissioners' roles. It is also unfortunate that there was no scope to hear evidence from FOI officers who, in relation to the bill, are at the coalface in relation to FOI applications.

The hearings included extraordinary evidence from the commissioner for privacy and data protection, including allegations of workplace bullying. It is noteworthy that this evidence went unchallenged. The individual about whom the allegations were made did not give evidence, although he was expected to. The inquiry was told that he was on leave and it was not known when he would be returning.

One of the issues put to the two commissioners was that given their two offices have complementary concerns and some crossover it would make sense to bring them together — perhaps in case there was ever any kind of personal conflict between the two offices or their staff. It was made clear that there is no conflict and that, to the limited extent that the two offices need to interact, they do so.

One especially serious issue within the bill is how commissioners may be removed from their offices. Currently this may occur through the Parliament. The bill would enable a government, however, to end the tenure of the Victorian information commissioner. I oppose this change. Fundamentally the two commissioners and the role that is intended to replace them have the job of providing checks and balances on government. The independence of office-holders of this kind is enhanced by being protected from a government that may not welcome challenges to its actions or its powers or scrutiny of how it conducts its business.

In fact, the spurious argument that has been made in favour of merging the two commissioner roles — what if there is a personality clash at some time in the future? — is in fact compelling when it is applied to the new process for dismissing the Victorian information commissioner. The suggestion from the current privacy and data protection commissioner that the passage of this bill suddenly became urgent when he sought to investigate the Premier's investigation into his own ministers' mobile phones cannot be just batted away as unimportant.

I am equally concerned about several aspects of evidence given by Mr Watts in relation to his investigation, and I will mention one in particular. He told of Mr Porter of the Department of Premier and Cabinet producing a certificate under the act that Mr Watts's request for information about who was being engaged to undertake a forensic audit of ministers' phones was a matter of cabinet confidentiality. Mr Porter reportedly also invoked the secrecy provisions under section 120 of the act in relation to this decision. I asked Mr Watts if he believed that this was legal, and after a pause he said, 'I consider it an abuse of power'.

This is extraordinary and alarming evidence from a longstanding and senior public servant, and it reminds me of the fundamental purpose of FOI and privacy legislation. It is relied on by many citizens who are, in every way, well removed from the institutions and individuals who formed part of this inquiry. Our first job is to safeguard their rights; any changes to our FOI and privacy regimes should serve the people's interests, not those of the government of the day. I commend this report to the house.

Ms HARTLAND (Western Metropolitan) — The report that has been presented is based on the testimony of witnesses. It is well written, but it gives us absolutely nothing new. There are no recommendations. The Greens do not have a major problem with the bill, and in future we may no longer as a rule agree to send bills to committees when we do not believe that there is a problem with them. This of course will be decided bill by bill. The committee should be used to do work that improves bills, as happens in the Senate, not just for political pointscoring, as I have witnessed. I would also like to remind the chamber that Greens' bills that have gone to committees have come back with recommendations. Examples of this include presumptive legislation for firefighters and current bills on plastic bags and overtaking bicycles.

I think committees are an incredibly important part of the Parliament, but I think that we also need to use them well. They are incredibly under-resourced, and I do wonder whether this was a good use of the time of the committee, as what it appeared to be was an opportunity to have the privacy commissioner come before the committee and talk about a range of issues, including making accusations about the activities of the Community and Public Sector Union without it having any opportunity to actually talk about what occurred during that dispute. I would hope to see in the future that committees are actually able to do the work and do the work well, but having gone through this one I am not really sure that it was necessary and I do not think that it gives us any value.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I rise to support the report that has been tabled by the chair of the committee, Ms Fitzherbert, this afternoon, and in doing so I thank her for her work on this inquiry as well as the other committee members and of course Patrick and Matt from the secretariat for the work they did. As the chair indicated, there was a tight time frame around this inquiry. It was an opportunity for the committee and indeed participating members to hear from relevant stakeholders about the development of the FOI legislation, and accordingly the committee heard from

the privacy commissioner, the FOI commissioner and the Law Institute of Victoria and also had responses from the Department of Premier and Cabinet, which sought the opportunity to give evidence.

I think it was a valuable opportunity to have the various views on this legislation ventilated. It is of great concern — and I am surprised that Ms Hartland does not find it of concern — that key stakeholders such as the privacy commissioner and the FOI commissioner were not consulted as to the policy basis of this legislation before the house and that the witnesses from the Department of Premier and Cabinet, having requested the opportunity to provide evidence, not only did not turn up in the sense of the relevant officers being present at the inquiry but then were unable to provide information to the committee as to the policy basis on which this significant change to those two statutory office-holders is to occur. The evidence from both Mr Watts and Mr Ison, the acting FOI commissioner, is of concern in terms of the lack of consultation that was undertaken. Indeed Mr Watts's evidence went into extensive detail around the subsequent disregard that has been shown for his office by the government.

I believe that these matters are appropriate for broader consideration by this Parliament when the bill returns for the committee stage. The Department of Premier and Cabinet had the opportunity to respond to those matters in the hearing. It chose not to do so at that time, and certainly this side of the house will be looking to the responsible minister to address those serious matters if and when the legislation returns to this place for committee consideration.

Mrs PEULICH (South Eastern Metropolitan) — I also wish to make a few brief comments on the report that has been tabled by the legal and social issues committee, on which I serve, being the report on a referral from this chamber in relation to the Freedom of Information Amendment (Office of the Victorian Information Commissioner) Bill 2016. Can I just say that on this occasion I completely disagree with Ms Hartland on a number of issues. There are members of Parliament and there are parties that may have already adopted a position from which it may be difficult to shift even when perhaps a sensible amendment may be an improvement to the legislation that is before this chamber as a house of review. I think this is an entirely sensible, logical use of upper house resources. A short, sharp review or inquiry which sheds further light on the pertinent issues and which hears from some of the key stakeholders is an excellent way of using much-needed, limited and stressed resources as opposed to months of inquiry into ideologically divisive issues such as physician-assisted dying, where we spent months and months inquiring into an issue on which Ms Hartland and her party's position was not going to be changed.

I was particularly interested in some of the issues that the current bill does not address, in particular the removal of deputy commissioners from office and therefore the diminution of the integrity regimes that apply to this state. The Law Institute of Victoria's recommendations on that I completely concur with. There are the concerns surrounding the merging of FOI and privacy functions, especially with the role of the internet and social media. The privacy function is going to be a bigger and bigger one, and the two are not necessarily serving the same master. And there are problems surrounding the development of and consultation on the bill. These are critical issues that should inform final consideration of and debate on this bill.

Mr O'DONOHUE (Eastern Victoria) — I am also pleased to make a couple of remarks in relation to this report being tabled today, and I congratulate Ms Fitzherbert, other members of the committee and the committee secretariat, led by Patrick O'Brien. I have to say that Ms Hartland is wrong. This committee has worked very effectively together, and her foreshadowing that the Greens will not support referral of legislation to committees is most concerning, particularly because the consistent view Ms Pennicuik has articulated in this place is absolutely inconsistent with what Ms Harland has just said.

This report has foreshadowed and fleshed out many issues that the chair, Ms Fitzherbert, referred to — the startling evidence of the data and privacy commissioner, the evidence of the acting FOI commissioner and the issues around the mobile phone audit. It also brought to the fore the lack of action on the root-and-branch review that was foreshadowed in the second-reading speech with regard to the FOI system. One year on nothing has happened.

Unfortunately Department of Health and Human Services FOI staff were invited to provide evidence to the committee. The Secretary of the Department of Premier and Cabinet then interceded over the top and refused. Mr Eccles's intervention, I think, was most unhelpful, and it is important for the committee to be able to hear from the witnesses that it wants to hear from. There are some significant issues around the operation of FOI at the moment, and Mr Eccles's intervention was not warranted and was not wanted. I think it is most unfortunate that that aspect of the

committee's deliberations could not be continued further.

I note that the children, youth and families legislation referral also had no recommendations and was endorsed by the deputy chair, Ms Nina Springle, and by all members of the committee, so I think Ms Hartland is on her own in her position. I commend the report to the house.

Motion agreed to.

BUDGET SECTOR

Midyear financial report 2016–17

The Clerk, pursuant to section 27D(6)(c) of the Financial Management Act 1994, presented report, incorporating quarterly financial report no. 2.

Laid on table.

OMBUDSMAN

Mount Buller and Mount Stirling Resort Management Board

The Clerk, pursuant to section 25AA(4)(c) of the Ombudsman Act 1973, presented report concerning the investigation into allegations of improper conduct by officers at the Mount Buller and Mount Stirling Resort Management Board, March 2017.

Laid on table.

Ordered to be published.

PAPERS

Laid on table by Clerk:

Judicial Entitlements Act 2015 — Recommendation statement in relation to the Own Motion Recommendation Report of the Judicial Entitlements Panel pursuant to section 34 of the Act.

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

Banyule, Darebin, Nillumbik, Whittlesea and Yarra Planning Schemes — Amendment GC60.

Campaspe Planning Scheme — Amendment C109.

Cardinia Planning Scheme — Amendments C212 and C219.

Greater Geelong Planning Scheme — Amendment C301.

Greater Shepparton Planning Scheme — Amendment C187.

Safe Drinking Water Act 2003 — Report on Drinking Water Quality in Victoria, 2015–16.

Statutory Rules under the following Acts of Parliament —

Motor Car Traders Act 1986 — No. 8.

Residential Tenancies Act 1997 — No. 7.

Rooming House Operators Act 2016 — No. 6.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule Nos. 6 to 8.

Wildlife Act 1975 — Wildlife (Prohibition of Game Hunting) Notice No. 2/2017, Gazetted 10 March 2017.

Proclamation of the Governor in Council fixing an operative date in respect of the following act:

Rooming House Operators Act 2016 — 26 April 2017 *(Gazette No. S57, 7 March 2017).*

BUSINESS OF THE HOUSE

General business

The PRESIDENT — Order! Ms Wooldridge's original general business motion included an item that had not previously been formally notified. That item, which was numbered (4), will be removed from the motion.

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

That precedence be given to the following general business on Wednesday, 22 March 2017:

(1) notice of motion given this day by Mr Rich-Phillips relating to the production of the PricewaterhouseCoopers report to the Audit Committee on the second residence allowance;

(2) notice of motion 359 standing in the name of Ms Bath relating to the Heyfield mill;

(3) notice of motion given this day by Mr Bourman relating to the contribution of hunters and shooters to the economy and environment;

(4) notice of motion given this day by Mrs Peulich relating to the matters surrounding the Audit Committee on the second residence allowance; and

(5) notice of motion 362 standing in the name of Mr O'Sullivan referring a matter to the Environment, Natural Resources and Regional Development Committee.

Motion agreed to.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Membership

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

That Ms Patten be appointed to the Public Accounts and Estimates Committee.

Motion agreed to.

MINISTERS STATEMENTS

Child protection

Ms MIKAKOS (Minister for Families and Children) — I rise to update the house on how the Andrews Labor government is enhancing the safety and wellbeing of children and young people in out-of-home care. When I became Minister for Families and Children I was shocked to discover that one-third of our residential care staff had no relevant formal qualification. A staff survey was undertaken during the term of the previous government, but they failed to take any action. This is why in May last year I was pleased to announce $8 million for training for all residential care staff in order to improve safety in care for the most vulnerable children in Victoria. This funding comes from Victoria's Skills First initiative.

Today I was pleased, with Minister Tierney, to attend Melbourne Polytechnic's Prahran campus to meet the first round of residential care staff who will be undertaking the new mandatory qualification. A conglomerate of TAFEs have been selected to provide the training statewide, including Melbourne Polytechnic, SuniTAFE, Bendigo Kangan Institute, Federation Training and the Gordon. Workers will undertake a certificate IV in child, youth and family intervention (residential and out-of-home care) or top-up training for those who have existing qualifications.

The course has been designed by the TAFEs, the residential care sector, industry training providers and the Centre for Excellence in Child and Family Welfare. The new training will ensure workers have greater access to quality training as Victoria moves towards mandatory minimum qualifications for residential care workers by the end of 2017. Units in the training will include trauma-informed approaches to care, stress management and dealing with challenging behaviours.

The budget last year also provided $35.9 million over two years to transform residential care to a clinical treatment model that better supports young people who experience abuse, neglect and family violence, and the work in co-designing this new model continues with the sector.

In addition, earlier this week I announced a further $1.6 million to continue the successful Fostering Connections campaign to recruit more foster carers. Fostering Connections has seen a 150 per cent increase in people registering their interest in becoming foster carers and over 400 new carers have been accredited. This success will allow more home-based placements for children and reduce the need for residential care. This comes on top of our efforts through the targeted care packages which have already seen 310 children and young people transition out of residential care into home-based accommodation. Our government is committed to transforming out-of-home care to ensure the most vulnerable children in our community are adequately supported.

MEMBERS STATEMENTS

Community Lifestyle Accommodation

Mr MULINO (Eastern Victoria) — I commend the work of CLA — Community Lifestyle Accommodation — an organisation dedicated to creating housing solutions for people with a disability who need supported accommodation. CLA has successfully championed the creation of affordable housing solutions on the Mornington Peninsula, particularly for elderly people with adult children with disabilities who require intensive support.

CLA recently organised a well-attended forum at Mornington, open to members of the community. Many attended this forum. The forum was also attended by the National Disability Insurance Agency (NDIA) and organisations with a local presence such as Melba Support Services and Housing Choices Australia (HCA). The forum was highly productive and provided useful information to members of the public and useful feedback to both the NDIA and the state government. It highlighted the benefits of housing solutions that involve government funding but that also involve partnerships with community organisations and other local stakeholders, including commercial enterprises.

I again commend the work of CLA and other not-for-profit organisations, including Melba Support Services and HCA, operating on the peninsula and in other parts of my electorate such as Evelyn and the Dandenong Ranges.

Kevin 'Gunna' Ryan

Ms LOVELL (Northern Victoria) — On 1 March I attended a farewell dinner for former City of Greater Shepparton councillor Kevin 'Gunna' Ryan. Gunna is an icon in the Tatura and Greater Shepparton community, having been a passionate and outspoken supporter of and advocate for Tatura during his time in public office, which was an impressive 43 years. I have known Gunna for most of those years and have admired his dedication to his town. He usually calls Tatura 'the jewel in the crown of Greater Shepparton', but at the dinner he proudly proclaimed Tatura to be 'the best town in the state — no, in the country'. Congratulations Gunna, and thank you for your 43 years of service to our community.

Shepparton Festival

Ms LOVELL — Over the past three weeks Greater Shepparton has celebrated the 21st Shepparton Festival. Described as 'Unique events in unusual places', the festival is the region's premier arts and culture festival. This year's theme was Mapping Shepp and encouraged all in Greater Shepparton and our visitors to look at the region differently, map their experience and experience some of what my fantastic town and the wonderful towns around it have to offer. Some of the fantastic events that I went along to this year were the *Eighty Years of SAM: The Collection* book launch and the annual contemporary textile exhibition.

Congratulations and thank you to the festival organisers and volunteers, to the Greater Shepparton City Council and to the local communities for their ongoing support and participation.

Gender equality

Ms SPRINGLE (South Eastern Metropolitan) — Next week the noise and pollution of Melbourne's grand prix will descend on the city, along with declining numbers of sports tourists injecting an unconfirmed sum of money into the Victorian economy with dubious benefits. As tradition apparently dictates, grid girls will meet and greet fans and pose for photographs.

Claims that the grid girls' uniforms are this year glamorous, not gaudy, miss the point entirely. The problem with the concept of grid girls is not the cut of their outfit but the implicit message they send that women can be employed purely for the entertainment and gratification of men. The South Australian government recognises this and last year refused to fund Adelaide's Clipsal 500 race as long as grid girls were involved. It also paved the way for podium models at the Tour Down Under cycling race to be replaced with talented junior cyclists. The South Australian government highlighted the contradiction between funding grid girls and podium models while at the same time investing substantially in gender equality.

Late last year the Victorian government launched its gender equality strategy. This was a welcome and much-needed initiative, but it must be followed with consistent action across the board. Currently this is undermined by the persistence of traditions that treat women as mere garnishes at sporting events. I would encourage the minister, who this week made some comments that were wholly vague and sitting on the fence, to come out with some very clear statements in support of gender equality.

Suicide prevention

Dr CARLING-JENKINS (Western Metropolitan) — I rise today to comment on the recklessness shown by *Today Tonight* Adelaide in a story broadcast on 13 March. Dying With Dignity Victoria has sent this story to MPs in an attempt to use Rose's tragic death by suicide to persuade members to vote for assisted suicide. The stated goal of Victoria's Suicide Prevention Framework 2016–25 is to 'halve Victoria's suicide rate by 2025'. The framework notes that the whole community must:

> … work together towards a shared vision to halve suicide deaths.

The story that was sent to us contradicts this vision. It also clearly contradicts the *Commercial Television Industry Code of Practice*, which states in section 4.3.9 that:

> In broadcasting news and current affairs programs, licensees:
>
> …
>
> should broadcast reports of suicide or attempted suicide only where there is an identifiable public interest reason to do so, and should exclude any detailed description of the method used. The report must be straightforward and must not include graphic details or images, or glamorise suicide in any way …

However, the story on 13 March portrays Rose's circumstances as hopeless, emphasising the burden she is to her husband. Rose's suicide is favourably described as a 'supreme sacrifice'. It is standard practice, as set out by the Mindframe National Media Initiative, to broadcast at least two helplines after any stories touching on suicide. None were given on the *Today Tonight* website after this story. The code provisions and the Mindframe recommendations are in

place because of the well-established evidence that glamorising suicide as heroic or portraying it as an understandable response to difficult circumstances and feelings of hopelessness can lead others to commit suicide. We are not going to halve the suicide rate by promoting suicide as a legitimate, even heroic, choice for some Victorians.

La Trobe University 50th anniversary

Mr ELASMAR (Northern Metropolitan) — I was very pleased to attend La Trobe University's 50th anniversary celebrations on Thursday afternoon, 9 March. The display was held over three days in Queen's Hall and was incredibly well attended by members of the public, former students, current students and parliamentarians. The event provided a wealth of information and flyers, demonstrating current and past research projects, clearly demonstrating the university's solid reputation for academic excellence. La Trobe University has a long, proud history of achievement. Many of its graduates have taken their rightful place in commerce, industry and the public service. I know that many of my parliamentary colleagues, including my former colleague the Honourable Theo Theophanous are graduates of La Trobe, and in Theo's case he lectured at that university before entering Parliament. It was good to see the hive of activity and the well-earned recognition of La Trobe University's 50 years of providing first-class career paths to the people of Melbourne.

Ballarat railway station precinct

Mr MORRIS (Western Victoria) — On Saturday morning I attended a meeting of over 60 concerned residents in Ballarat. They are furious with this government's plan to destroy the Ballarat railway station precinct. I read in the Ballarat *Courier* yesterday that the Minister for Public Transport, after having decimated the public bus system in Ballarat, is lobbying for funding in the budget for a bus interchange within the railway precinct itself. The minister should not be waiting for the budget; she should be announcing the funding to fix this mess now.

With regard to the railway station precinct, there has been a litany of broken promises from the Premier with regard to this project. He promised a 3000-square metre exhibition space, which is now only 1700 square metres. The Premier also promised a hotel on the site, which is now going to be serviced apartments. There are still many unanswered questions about the transfer of public land to the private developers of the precinct. We still do not know how much the land is being sold for or if indeed it is being gifted by the government to the developers, and the community have a right to know.

Passenger numbers on V/Line in Ballarat are skyrocketing, despite the fact that the service is unreliable and overcrowded, and now the government is set to reduce the number of car parks available on the site from over 400 to 270. Why on earth would you reduce car parks by over 130 at an increasingly busy train station? It is unfathomable. The government should halt this project and go back and actually work with the community to achieve a better outcome. We have only got one chance to do this, so the government must make sure it is done properly. At this point only the private developer looks like it will do well out of this, and that is at the expense of the community.

Heyfield timber mill

Mr BOURMAN (Eastern Victoria) — I rise today to speak about the rally that was held at the front of state Parliament today by the mill workers and the residents of Heyfield and surrounds. This is obviously in response to the lack of movement by pretty well anyone towards saving the jobs at the Australian Sustainable Hardwoods (ASH) mill in Heyfield. This is not about ASH, this is not about politics, and it is time to start working together to try and save these jobs.

Credit must be given to Anthony Wilkes. I never thought I would be promoting the Construction, Forestry, Mining and Energy Union (CFMEU), but the CFMEU and Trades Hall put in a pretty good effort today to bring everyone together and organise it. The people there are real people. They have real jobs, they have real bills and they have real families. They need those real jobs. It is time that we, the Parliament, and the government stop playing with this issue and got down to it. We do not need this great forest national park. There are ways and means of doing what is needed without doing that. It is time we stopped messing with everyone's lives.

Cyclist safety

Ms HARTLAND (Western Metropolitan) — Just over a week ago in my electorate a young mother of two, Arzu Baglar, was killed while riding her bike. She was riding through Yarraville and was hit by a truck and died at the scene. My deepest condolences go out to Arzu's family, particularly her young children and her husband. I also have great sympathy for the driver who was involved, because this is a very difficult situation. Arzu's death is a tragedy, but it was not a freak accident. It is what we feared would happen sooner or later.

In the wake of Arzu's death more than 200 mourners gathered in Yarraville and embarked on a memorial bike ride to Williamstown to complete her journey, which she was never able to finish. I know that the inbox of Luke Donnellan, the Minister for Roads and Road Safety, has been flooded with personal messages from community members who are fed up risking their lives every time they get on their bike.

In an era in which traffic congestion is at its peak, air pollution is at dangerous levels and our lifestyles are becoming ever more inactive, the Andrews government should be doing everything it can to get more people onto bikes as well as walking and exercising. I encourage the government to take urgent action and boost funding for safe bike routes, particularly in the inner west, where people are forced to ride their bikes alongside massive trucks. Everyone deserves to make it home alive, and I want to make sure that what happened to Arzu never happens again.

Cultural Diversity Week

Mr MELHEM (Western Metropolitan) — This week is Victoria's Cultural Diversity Week. Today in particular is also Harmony Day and the United Nations Day for the Elimination of Racial Discrimination. Cultural Diversity Week is Victoria's largest multicultural celebration, which features a week-long program of festivals and events in metropolitan and regional areas. Presented by the Victorian Multicultural Commission and supported by the Andrews Labor government, all Victorians are invited to join in the celebrations and embrace our state's cultural heritage.

Harmony Day is a day of cultural respect for everyone who calls Australia home. It is an extension of the values of Cultural Diversity Week. Promoting the message that everyone belongs, the day encourages community engagement and respect for cultural and religious diversity and aims to foster a greater sense of belonging for everyone. Just as everyone belongs, every person is also entitled to human rights without discrimination. This indispensable truth is particularly important for refugees and migrants who are, unfortunately, popular targets of racial profiling and incitement to hatred. This is the focus of the United Nations Day for the Elimination of Racial Discrimination, which aims to encourage and support actions in our daily lives to defend the human rights of others.

Let us then, as I am sure all Victorians already do in their daily lives, carry and promote the message of Cultural Diversity Week, Harmony Day and the United Nations Day for the Elimination of Racial Discrimination that diversity is not a weakness but in fact a strength.

Criminal justice system

Mr FINN (Western Metropolitan) — Under the diabolical Andrews government Melbourne has become the crime capital of Australia. Victoria is now the state of fear. As gangs run rampant on our streets the elderly cower in their homes and none of us can be confident of being safe even in our own beds. Until just a couple of years ago carjackings in our capital were unheard of; now we are on a par with Johannesburg.

An undermanned police force is doing what it can, but no sooner does our thin blue line lock up wrongdoers than judges and magistrates set them loose on bail. Victoria no longer has a justice system, merely a legal system. That legal system hit rock bottom recently when two miscreants were sentenced to a minimum of just six years each for shooting a police officer in the head. Little wonder that Victorians have lost confidence in the judiciary.

Victoria is in crisis, and the Premier, Daniel Andrews, is doing precisely nothing to remedy the situation. Victorians have 613 more days to suffer under this corrupt, dodgy and incompetent government. For the overwhelming majority of our communities 24 November 2018 cannot come quickly enough. Unless his own party dispatches him first, Daniel Andrews will join the Heyfield workers in the unemployment line in November next year.

Wyndham technical school

Mr EIDEH (Western Metropolitan) — Some time ago I spoke on the announcement of the location of 10 technical schools which will open in 2017 and 2018 as part of the Andrews Labor government's $125 million Tech Schools initiative. One of these 10 state-of-the-art tech schools, the Wyndham technical school, will be hosted by Victoria University at its Werribee campus, and we are looking forward to it opening mid-2018. As the government representative for the Wyndham tech school site I was pleased at the announcement that this tech school is progressing with the appointment of the new director of the school, and I welcome Dr Sandra McKechnie to this role. Eighteen different schools across the western suburbs will have access to programs at this tech school.

As I have mentioned previously, this school will become an important stepping stone for students who need to gain the vital skills to be job ready in STEM industries — that is, science, technology, engineering

and maths. These are areas of education and industry which are experiencing remarkable growth, and the facilities at this site will allow students to network with local industry specialists and help them ease into the tertiary education environment. This will mean we have more skilled young people and stronger economic growth as new jobs in emerging industries are generated.

This school will be a centre for excellence through its delivery of high-quality education and training, and I am sure that under the direction and experience over 20 years of Dr McKechnie it will empower students to take on the innovative jobs of tomorrow.

Greater Geelong crime rates

Mr RAMSAY (Western Victoria) — I rise to express grave concern at the 23 000 criminal offences reported to Victoria Police in the City of Greater Geelong local government area over the 12 months to December last year, being almost 2200 or some 10.3 per cent more than were committed and reported in the previous year.

The latest report from the Crime Statistics Agency released last week shows that there is hardly a suburb of Geelong that has not been touched by a crime surge that has seen offences jump by more than 51 000 throughout Victoria from 500 000 by the end of 2015 to 552 000 a year later. This has exposed my constituents to soaring rates of offending in the order of 188.3 per cent in South Geelong, 122 per cent in Armstrong Creek, 104 per cent in Mount Duneed, 61 per cent in Drysdale and 60 per cent in North Geelong. It is a crime surge of crisis proportions. And it seems that their experiences as non-metropolitan residents of Victoria are closer to the norm than the exception under this government. The Melbourne *Herald Sun* newspaper headed its coverage of this crisis as 'Country crime on the rise' under the Andrews government.

None of this should surprise honourable members, because as I told the house in August last year several police stations were closed throughout the region at the time. Indeed while police stations were closed in Portarlington, Drysdale and Queenscliff in particular, surrounding residents were confronted with home invasions, carjackings and illicit drug use among other offending. Even worse, when those same residents then made application for $250 000 from the Public Safety Infrastructure Fund to install closed-circuit television cameras on their streetscapes to prevent further acts of similar crimes, they were refused by the minister. The Minister for Police is clearly not across her portfolio. I now demand that she step down.

Channel Nine regional news

Mr O'SULLIVAN (Northern Victoria) — Last week I had the pleasure to attend the launch of the central Victoria Channel Nine local news in Bendigo. It was great to see some 220 people in attendance at the launch, and we watched live the second edition of the central Victoria Channel Nine news, which incorporated as part of its one-hour news bulletin news covering local, state and international stories. Local news content is vital for regional areas, and I pay tribute to Channel Nine for having the courage to invest in regionally based news services. Channel Nine has employed 110 people as part of its expansion into local news in the eastern states, and I congratulate it for it.

Heyfield timber mill

Mr O'SULLIVAN — It was great to see so many logging trucks at Parliament today in support of Australian Sustainable Hardwoods' (ASH) fight to gain the timber supply they need to stay viable and save the jobs of the 260 workers and their families from being chucked on the scrapheap by the Minister for Agriculture and the Premier. While the plight of the Leadbeater's possum is real, the plight of the workers and their families takes precedence every day of the week. The government needs to grant the timber that ASH requires to keep the 260 jobs in Heyfield and the further 10 000 associated jobs in Melbourne of those who use the timber products for hundreds of different uses. This government has killed off Hazelwood and its 1000 jobs in Morwell, and it is now going down the path of killing off Heyfield and its timber workers and their jobs. What a disgrace.

Plan Melbourne: Refresh

Mr DAVIS (Southern Metropolitan) — Today I want to draw the house's attention to the announcement made 10 days ago by the government on the *Plan Melbourne: Refresh*. What I can say is that this is not a refreshing new plan at all; this is a plan for densification, a plan to destroy the nature of our suburbs and a plan to damage the livability of Melbourne.

It is clear that the government intends to lift heights to 11 metres in the general residential zone, it intends to massively increase density in activity centres, it intends to increase density along all transport routes and it intends to tear up the neighbourhood zones that were put in place largely by Mr Guy in 2013–14, although a

couple were put in place by this government in 2015. In those areas it seeks to remove the cap on the number of premises on each property. Currently in neighbourhood zones it is one or two — usually two — and that cap will be removed, so it could be two, it could be four, it could be six, it could be eight or it could be 10 on large blocks in a residential area. This has been done without proper consultation with local communities, and it is part of the government's arrogant attempt to override councils and communities right across this metropolitan area.

This insane plan that has been put out by Infrastructure Victoria and is backed up by the government has densification as the prime and principal objective of our 30-year infrastructure plan. It is densification — not a better life, not better quality of life, not better livability but densification. It is time Richard Wynne comes clean on the neighbourhood zone changes and that he gazettes the changes and talks to councils before he does so.

Heyfield timber mill

Mr O'DONOHUE (Eastern Victoria) — I wish to make a statement today about Gippsland and Gippsland jobs. Under Daniel Andrews Gippsland is being dudded by an ideological Premier who is more focused on saving the jobs of a few Labor inner city MPs than he is on saving those of thousands of Gippslanders whose jobs are currently at risk. Regrettably 1000 jobs will go at Hazelwood, but the Premier has a chance to save the 260 jobs in Heyfield. These are important jobs that represent about 10 per cent of the total population of Heyfield, and there are thousands and thousands of supply chain downstream jobs.

I want to read a statement from Australian Sustainable Hardwoods (ASH), which said:

> During this period ASH provided the government, in confidence, access to all areas of our financial accounts and operational modelling. It is fair to say that the board and management of the mill were disgusted to hear commentary about our financials by the Premier in the media …. This may be a warning to other companies that are asked to trust the government and the bureaucracy in such a manner in future.

Unfortunately the issue of sovereign risk is alive and well in Victoria under Daniel Andrews, from the disgraceful waste of $1.2 billion and the tearing up of the east–west link contract to the betrayal of this company and the confidence it showed in the Premier. Businesses will be thinking twice about doing business in Victoria with the most left wing ideological government in Victoria's living history.

PARLIAMENTARY BUDGET OFFICER BILL 2016

Committed.

Committee

Clause 1

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The first matter I would like to ask the minister about really goes to the essence of what the Parliamentary Budget Office (PBO) is about. It is to get a sense of the role the PBO will have. Essentially the PBO's role is around costing policies — assessing policies — so my fundamental question for the minister is: what is a policy, or what are the elements of a policy, that will come within the scope of the PBO?

Mr JENNINGS (Special Minister of State) — Well, Mr Rich-Phillips, I think you would appreciate that apart from this being an election commitment of the government, it is a gift to the Parliament and in particular a gift to the non-government parties in relation to their ability to have research and costings undertaken as a consequence of policy pronouncements or considerations by political parties in this place to ascertain what impact they would have on the budget or what costs would be associated with their implementation.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thanks, Minister. I guess what I am trying to get to, though, is what is within the scope of seeking that advice from the Parliamentary Budget Office. I appreciate that it is in respect of budget impacts, but what are the parameters around the policy? What is a policy and what is not a policy for the purposes of the PBO's activities?

Mr JENNINGS (Special Minister of State) — I believe that I have actually created the defining feature of what a Parliamentary Budget Office is. You, presumably, and other members of political parties within the Parliament, may come up with any idea about any prescription you may want to make in terms of either programs, legislative reform, community engagement or encouragement of any sector of industry or the community. There is a whole range of activities that are associated with the work of governments and the way in which governments relate to community life. Some of them can be implemented without any costs being associated with them or resources allocated to them. Some of them may be a draconian rewinding of people's rights, like what is being mooted in the federal

Parliament today. Does that actually come at a budget cost? No, probably not — —

Mr Barber — Or for the minister at the table to wear a clown suit, for example. That wouldn't really have a cost.

Mr JENNINGS — Well, I do not own a clown suit, so in fact if there was one — —

Mr Barber — A publicly funded clown suit.

Mr JENNINGS — If it was at the insistence of this chamber, then I might be forced to wear one. But ultimately the real test of all of the scope of the issues that I have outlined to you, the real issue that matters in terms of the operation of this office, is whether a policy does come at a cost to the budget or there is an implementation issue associated with it, and that is the brief that will be undertaken on behalf of the Parliament by the Parliamentary Budget Office. Ultimately if they make an assessment that it has no cost associated with it, it will be a very quick piece of advice. Will they provide any advice on the wisdom of the policy — the political wisdom of it — its utility or its appropriateness? They will not be commenting on those things. What they will be commenting on is the policy's financial implications and the impact it may have on the budget.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. The minister has indicated that, and I wrote down his words, we may come up with any idea with budget impact — program changes, community engagement et cetera — and he went on to say some might be without cost or resource implications et cetera. The reason this question is important is that the way the legislation envisages the PBO working is not only that members of Parliament or leaders of parliamentary parties may submit proposals for costing but also that there is an obligation on the PBO after an election to initiate their own costing of all policies that were announced by a parliamentary leader and to publish those costings. Therefore in order to do that the PBO will need to identify all policies that were announced. That is why it is important to have an understanding of what a policy is in the eyes of the PBO and not only in the eyes of the member of Parliament who may be submitting a policy. In that context is there any guidance or are there any parameters that the government envisages the PBO will take into consideration when determining whether something is a policy for the purposes of doing their post-election assessment as required by clause 41?

Mr JENNINGS (Special Minister of State) — As you would be aware, Mr Rich-Phillips, there is a distinction within the structure of the bill between the consideration of what occurs within an election campaign period and what occurs previously. I would think it would be wise for any leader of any political party to be mindful of any pronouncements they make during the course of a term that may fall within the scope of this legislation. We have seen past practice where on many, many occasions political leaders have committed to something by press release, or their MPs may have committed to issues on a similar basis or undertakings may have been made in community meetings that were subsequently reported. There needs to be a greater discipline applied by political leaders in the future about the nature of the policy pronouncements they make and the way in which they may be subsequently analysed and reported on by the Parliamentary Budget Office.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, that opens up a whole new scope of issues — talking about the discipline of parties or candidates, members of Parliament et cetera — because clause 41 only refers to policies publicly announced by the parliamentary leader. So if a backbencher makes an announcement, if a candidate makes an announcement, that will presumably not be within the scope of the work that the PBO does. Is that correct?

Mr JENNINGS (Special Minister of State) — I think that is the preference of this legislation and what its structure allows for. I was drawing Mr Rich-Phillips's attention to past practice that led to political parties alleging in an arbitrary way that budget exposure had been created by another party. This provision, by design, is a way to try to limit that feature of either public commentary or budget exposure into the future.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, it is tremendous to think that political parties will change the way in which they operate in election environments. I think that is probably unlikely, in which case the PBO is going to have to make decisions around what is within scope and what is not within scope. That is why I am really keen to get the government's understanding, or an indication of the government's intention, with respect to clause 41 as to what matters will be in scope — what is a policy announcement for the purposes of clause 41 and what is not a policy announcement for the purposes of clause 41? Because, as the minister has indicated, in all probability we will have candidates making statements in local electorates, in local newspapers or

on local radio stations. We will have incumbent members of Parliament — backbenchers, frontbenchers, whoever — making statements by press release, public meetings et cetera, and of course the leaders of parties will be making formal election announcements via their websites, press releases et cetera.

There are a whole lot of different types of announcements made by candidates, members of Parliament, parties — people who are not parliamentary leaders as defined in clause 41 — and the nature of those and the location at which those are made will vary. So what guidance or what expectation is being created around the PBO as to what things will be taken into consideration with that post-election report and what will not?

Mr JENNINGS (Special Minister of State) — Mr Rich-Phillips, you may actually want to spend a long time on clause 41 debating this issue, and I suggest to you that if we are going to debate it, that is where we will debate it. The issue at the moment is that you are potentially worried about the exposure you or other members of your party might have in relation to saying whatever comes into their heads in any public setting and then subsequently not being accountable for it. That is pretty much the effect of the member's amendment 8, and that is why the government will not be supportive of that amendment to clause 41. I imagine we might have that debate there.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, I am happy to deal with the amendment to clause 41 at clause 41, but more fundamental than the amendment is: what is a policy for the purposes of what the PBO needs to undertake? You have limited it to policy publicly announced by the parliamentary leader, but there is no understanding and there is no definition in the bill as to what a policy is for the purposes of the PBO undertaking that post-election report. As I said, it does not rely on the parliamentary leader having made a submission; this relies on the PBO examining widely and hoovering up, presumably, whatever they see or do not see to take into account in their post-election reporting.

Mr JENNINGS (Special Minister of State) — Mr Rich-Phillips, in relation to this concern, the philosophical centre that drives your concern is interesting. I would suggest to you that the way this bill has been constructed is extremely sympathetic to non-government parties in the fact that parties are going to be held accountable for those issues that are publicly announced by the leader of a non-government party — presumably they could relate to any leader but for all intents and purposes the non-government parties will actually be subject to this assessment. I would assume your concern is that in fact any pronouncements by the Leader of the Opposition may subsequently be costed by the Parliamentary Budget Office and you are wanting to limit those items that may be considered by the Parliamentary Budget Office but would only be reported on after the election.

I actually think the way this bill is constructed is quite sympathetic to the needs of opposition parties. It does encourage them not to make gratuitous comments or imply to the electorate that they are committed to a certain outcome and then not contain it in their own budget costings because they say, 'No, that was just trying to fudge the issue' or to report very late in relation to their compliance with the release of their pre-election estimates, hoping that they will never be made to account for that at any point in time. I think that the structure of the bill allows for that reconciliation, and I personally think it is very generous that in fact that reconciliation only takes place after an election.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Just one further question on this; I know Mr Barber wants to move on with it as well. I will come back to this on clause 41, but just to be clear, Minister, the framework we are talking about applies to all parties, including the government party of the day? Your comments have been about non-government parties, but can you just clarify that this framework applies to all parties?

Mr JENNINGS (Special Minister of State) — Yes. I said that, but primarily it relates to you.

Mr BARBER (Northern Metropolitan) — I am just taking a real-life example here. On 14 January an article appeared in the *Age* titled 'Daniel Andrews and Matthew Guy at odds over MP entitlements shake-up'. In the article the Leader of the Opposition in the Assembly was quoted in relation to setting up a parliamentary standards commissioner. The Leader of the Opposition said that that was a 'very good idea'. If Mr Guy had said during the election period that something was a very good idea, would that mean we would take it to be his policy or not be his policy for the purpose of this bill?

Mr JENNINGS (Special Minister of State) — It is a matter of whether he publicly announced it and whether in fact it was joined by anything else, because in fact he may have actually gone on to say 'and I will implement it'.

Mr BARBER (Northern Metropolitan) — My view is that what the Liberal amendment is attempting to do is introduce the Tony Abbott defence, which was that famous interview where Tony Abbott tried to explain to Kerry O'Brien that just because he goes around saying things does not mean they are his policy. It is only when they became considered and, he said, written down that you actually start to treat them as policies. Effectively it is the Tony Abbott trash talk defence, which means I can say whatever I want but it is not actually my policy.

I would be of the view that, if Mr Guy says something is a very good idea, in fact it is not that he is announcing his policy, and it will be the job of journalists and the job of other people in the political system to go on and ask that further question: you say it is a very good idea, but are you saying you are going to do it or not? That is the process that we are actually talking about. The Greens do not support this amendment, because if it were to be implemented in the way that is being proposed by the Liberals, it would in fact encourage leaders of parties to keep going on with this game.

Most of the Liberal amendments seem to approach the whole idea of the PBO as if it is some sort of trap that is being set for the opposition. I would say two things about that. First of all, the purpose of the PBO is in fact to assist voters to get more assurance around politicians' promises, and in this case we are talking about something that would actually happen after the election, but nevertheless that is part of the exercise. That is actually the philosophy behind why we are setting up a PBO, and the Liberal Party with their various amendments seem to be looking at it in a whole other way.

The second thing I would say is that some of the matters the Liberals raise in this amendment and other amendments, while they are arguable, have not in fact worked out that way in relation to the federal PBO, which was established in the time of Prime Minister Gillard, who received support on confidence and supply from the Greens amongst others. It was an initiative of that period. This bill follows quite closely the way that PBO was established, and the sorts of dark fears that the Liberal Party is proposing through its various amendments in fact have not eventuated through what we now have as the experience of the operation of that PBO at the federal level.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Without actually going to the subject of the amendments at this point in time — I am happy to talk to those when discussing the clause — I say to Mr Barber that I do not accept his characterisation that the coalition is concerned about the way in which the PBO is proposed to operate. What we are seeking with this discussion on the definition of policy — and I will come to the amendment when we get to clause 41 — is to understand the way in which the PBO is actually intended to operate.

Mr Barber gave a very good example of a party leader talking about something being a good idea, and the decision will need to be made and the intention needs to be understood as to whether a statement of that nature is a policy for the purposes of the post-election assessment. Mr Barber in his comments I think incorrectly referred to a statement made in the election period. In fact clause 41 does not relate to an election period; it is open ended as to statements made by parliamentary leaders. Does the government envisage any statement made from the previous election up to the election which is the subject of the post-election report being something that the PBO must be cognisant of?

The DEPUTY PRESIDENT — Minister, do you want to respond to that?

Mr JENNINGS (Special Minister of State) — At the moment I could almost opt out, but I will not opt out. What I want to make very clear is that in the example that Mr Barber gave and the example that you have responded to, Mr Rich-Phillips, at the end of the day there are probably three tests that apply. First of all is: what is the status of what is actually announced by a party leader in terms of its clarity or its lack of clarity in relation to whether there is an intention to implement that policy? That is one test. The second test is a test that is applied by the Parliamentary Budget Office: what impact does it have on the budget if it is deemed to be a policy announcement that would warrant implementation and incurring costs?

If the Parliamentary Budget Office, on its assessment of those first two tests, then publishes a report subsequent to an election, the third test would be: does that ring true to the community's acceptance that they have made a reasonable assessment of both of those issues? They would be tested by that issue because if your leader goes out and says something completely ridiculous that is uncosted, has no intention of implementing it and has never been pinged about whether he is going to implement it or not, but the budget office interpret what has been announced as being something that would indicate that it is going to be implemented, they would rely on the nature of that announcement to justify their analysis of its financial implications, and then the community would make an

assessment about whether the Parliamentary Budget Office got their assessment right or wrong.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, I think the first two criteria you have outlined — an intention to implement and the impact on budget — actually go quite some way to getting a better understanding of the matters that the PBO will consider, and that was the essence of where my initial question was going as to what a policy is for the purposes of this legislation. That does help substantially. I am not sure that the third element — the pub test, for want of a better term — actually goes to whether the PBO actually assesses something, but certainly those first two elements of the intent to implement and the budgetary impact are useful guidance as to the types of things the PBO would look at. On the second element of period, can you just clarify with respect to clause 41 — because this clause does not reference a time frame, whereas other elements of the legislation do talk about the pre-election period — what time period that report under clause 41 would cover?

Mr JENNINGS (Special Minister of State) — I received advice about a whole range of related matters. Rather than volunteer all the content that I have just discussed, I may wait for an opportunity to discuss that later in the committee stage. Having said that, this clause can apply to the entirety of the term. Given there is an opportunity for opposition and party leaders to actually use the Parliamentary Budget Office to do costings for their own internal purposes during the running of the entire term, it would be expected that there would be the opportunity for that information to be used. They might choose to formalise the announcement that they may be making prior to the election period or subsequently to reannounce it in a more formal way during the course of the election period — which is in fact what the Parliamentary Budget Office would be mindful of. It could be that the formal election period, which is designated in the bill, is used by the leader of the party to either formalise or replace what may have been previously referred to and announced either in a costed or uncosted way during the course of the election period. That is the basis on which it would be anticipated to be used.

The inherent preference for the way in which parties may operate within this framework would be that from their perspective they be clear during the course of the election period what the consolidated lists of items are that they have either costed or understand will be costed by the Parliamentary Budget Officer, and that would be used as a template by the office in building its analysis in relation to its subsequent reporting.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I guess the complication here, Minister, and the area I am particularly interested in is where a parliamentary leader — and a parliamentary leader includes what we accept as the Leader of the Opposition, the Premier et cetera, but it also includes Independent members of Parliament defined as parliamentary leaders for the purposes of this legislation — has not used the Parliamentary Budget Officer and has not had any engagement with the Parliamentary Budget Officer as to how those policy announcements would come within the scope of a post-election report, and obviously the time frame of that report would cover where there has not been that negotiation. Obviously where policies have been costed by the PBO in concert with a parliamentary leader it is a relatively straightforward process. Where a party or an Independent member has elected to use an alternative third-party costing mechanism, it is going to be far more complex, and in that regard I would seek the government's intentions around that time frame for that post-election report.

Mr JENNINGS (Special Minister of State) — I will take some advice in relation to the time frame, but as a first-order issue I think it is extremely unlikely that, certainly in their own right, an Independent member of Parliament will be forming government after an election. So in terms of the scrutiny that may be associated with the government or alternative governments or alternative ways in which government would be structured, I would think the priorities would be both how this work would be undertaken and how ultimately it would be understood by the community as being the centrepiece of their work. But I will come back to that.

The team who are advising me remind me of the two-month reporting time frame after the election, which would be the outside time frame by which this analysis would be undertaken. It would be expected that even if there had been no contact by the party leader — or in this case the Independent members who are deemed to be party leaders for this purpose — with the Parliamentary Budget Office prior to the election, to acquit this obligation in the subsequent Parliament, it would be intended that the leader furnish the Parliamentary Budget Office with their consolidated list from their perspective of policy announcements, and that that would be cross-referenced by the Parliamentary Budget Office's assessment about prominent announcements that may have been made by those members and analysed within the two-month time frame.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. Minister, could you just clarify something in relation to the expectation that parliamentary leaders as defined would furnish that information? Is there an obligation within this legislation that would require parliamentary leaders to do that, noting that parliamentary leaders would in this case include obviously the Leader of the Opposition and the Premier of the day? It would include Mr Barber. It would include Dr Carling-Jenkins, Mr Purcell, Ms Patten, Mr Bourman — —

Mr Barber interjected.

Mr RICH-PHILLIPS — It would include Ms Sheed in the other place. Is there a head of power in the bill that requires parliamentary leaders to provide that information to the PBO post-election?

Mr JENNINGS (Special Minister of State) — It is good to know that Mr Barber is campaigning as we speak. Good for you! I look forward to your ongoing interest in these matters and looking at how that may manifest itself over the years. In relation to the obligation, there is no obligation.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. Just to clarify the reference to 'parliamentary leader' for the purpose of clause 41, as indicated it would include the Independent members I referred to. Obviously there is always going to be a Premier and there is always going to be a Leader of the Opposition. This is a report produced post-election in respect of announcements made pre-election, so regarding the parliamentary leaders for the purpose of the post-election report, can you just clarify how that relates to people who were parliamentary leaders before the election and made announcements and who obviously may not be parliamentary leaders post the election?

Mr Barber interjected.

Mr RICH-PHILLIPS — Mr Barber interjects about Matthew Guy, and I re-emphasise the point: there will always be a Premier and a Leader of the Opposition, whether it is that individual or not. But in the case of other people who are parliamentary leaders, such as the member for Shepparton in the other place, who is by this definition a parliamentary leader but who may not be a member of Parliament in the post-election period, which set of parliamentary leaders does it apply to: those who continue through the election or those who were in office prior to the election?

Mr Barber interjected.

Mr JENNINGS (Special Minister of State) — Mr Barber is encouraging me through interjection to say, 'Does it matter?'. Probably the further you are from government, the less it matters — probably the further you are away. Nonetheless the point remains that it is envisaged that there would be some degree of continuity with whoever the leader is of the party in question and that a line of communication is available to the Parliamentary Budget Office to enable that to occur after the election.

Even if there is a change in who the individual may be in terms of a party leader, you would expect them after the election, on behalf of their party, to take responsibility for consolidating or to engage in conversations relating to announcements that they made prior to the election. So there would be an expectation of some degree of continuity, and for the ease of the work program of the Parliamentary Budget Office you would hope that there would be a reasonably quick reconciliation between what the leader believes they have committed to and what the assessment is of the Parliamentary Budget Office. You would hope that that could be the case. In absence of that confirmation by the parliamentary leader, the budget office would be making their own best assessment of those matters on the basis of material that is already available to them that they would have compiled in the lead-up to the election.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, thank you for that response. I just make the point that in my view it does matter. It matters to the extent that this legislation obliges the PBO to undertake that post-election costing for all people who were parliamentary leaders. I use the example of the member for Shepparton in the other place, who is, by this definition, a parliamentary leader. She may or may not continue as the member for Shepparton post the next election, yet there will still be, seemingly, a residual obligation on the Parliamentary Budget Office to cost any announcement that she may have made between 2014 and 2018, where, because she is not a member of a registered party but nonetheless is a parliamentary leader by this definition, there would not be that continuity that the minister spoke about in a party sense.

Mr JENNINGS (Special Minister of State) — I totally accept that, and I made reference to it not mattering or that potentially the further away from government you are it matters less, but of course there is a formal aspect of this legislation and there are the activities of the office which mean that all the analysis matters, all the accountability matters. I was making perhaps a careless statement to suggest the further you

are from government, the less it matters to the community — not necessarily the formal requirement of the work program.

Clause agreed to; clauses 2 to 18 agreed to.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Heyfield timber mill

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Agriculture. Minister, it was reported that you and the Premier took to cabinet a submission to guarantee supply of 135 000 cubic metres of resource to ensure the Heyfield mill continued to operate and the 260 people employed at the mill continued to have employment. It is widely known that this proposal was knocked back and ministers such as you were rolled by the hard-left and inner-city MPs. Given the deep divisions within your government about this issue, what are you as the responsible minister going to do to overcome this green zealotry and fight for each and every one of the 260 jobs at Heyfield, as the Premier promised to do before the election?

Ms PULFORD (Minister for Agriculture) — Golly, that is a bit strange. That is a bit strange, even for something concocted by Peter Walsh in the Legislative Assembly. Firstly, let me just say that I do not and will not comment on cabinet deliberations. I think though that for the benefit of people with an interest in the challenges facing the Heyfield community in a broader sense I will respond to Mr O'Donohue's very strange question.

As members are no doubt now well aware, the government has for the last seven or so weeks been working closely with the Hermal Group, the owners of the Australian Sustainable Hardwoods mill, on what are and continue to be a very difficult set of challenges. An offer was made some time ago by VicForests to the company, based on VicForests's assessment of the amount of supply that they are confident they could meet in entering into a new contract with a company. The quantity, as again I am sure many of you are familiar with, is 80 000 cubic metres in the first year and then two more years at 60 000 cubic metres. This offer was not one that was acceptable to the company, and they announced that they would close, and they announced that in mid-January. The company then agreed over the course of February, following some further discussions with government, for us to continue working on this problem.

A working party was established involving the company, the union that represents the people who work at the mill — the Construction, Forestry, Mining and Energy Union — and the government, and this group met weekly throughout February. Among other things, an assessment of VicForests's modelling was commissioned and undertaken, and there was some consideration around the company's ideas around retooling to enable the business to transition from how it currently operates to perhaps something different that would provide for a more viable future for it.

The government was able to confirm for the company last week that the offer on timber supply is unchanged. VicForests can only enter into contracts that they are confident that they can deliver, as I have said in this place on many occasions before, and that is the quantity that they are confident that they can provide. VicForests manage many contracts at any given point in time, and it is not that this one contract can be seen in isolation of all of their existing contractual obligations. So that is the quantity that was provided. The government made, in addition, an offer of — —

Ms Wooldridge interjected.

Ms PULFORD — Ms Wooldridge, I did. I said at the outset that I would not be commenting on cabinet deliberations. The government is certainly very keen to see this mill on the market. The company have made some comments about other options, but we believe there are willing buyers and we have not ruled out being a buyer of last resort if that is what is necessary to provide a future for the mill at Heyfield.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I note the minister's answer and I ask by way of supplementary: Minister, it has also been reported that your leader, Gavin Jennings, was the minister with principal carriage of the negotiations regarding Heyfield. Minister, given you were sidelined despite this being your portfolio, what exact role have you played in negotiating with the company to try and save the 260 jobs at Heyfield?

Ms PULFORD (Minister for Agriculture) — Members who were ministers in the former government and who sat around the cabinet table while the former government and the former environment minister, the member for Warrandyte in the Legislative Assembly, put in place a protection regime for the Leadbeater's possum and who were well aware of the completely unrealistic deal that Peter Walsh entered into when he was the Minister for Agriculture and Food Safety

would know and understand that these are issues that cover a number of different areas of ministerial responsibility.

As the Minister for Agriculture and indeed the Minister for Regional Development, part of this is in my remit and part of it is in the remit of the Minister for Energy, Environment and Climate Change. For instance, the protections for the Leadbeater's possum are functions of the environment portfolio. Of course the Premier has a very strong interest in protecting and creating jobs, particularly in regional Victoria, and as the Special Minister of State indicated — —

Honourable members interjecting.

Ms PULFORD — Fine, I can do it in the next question.

Heyfield timber mill

Ms BATH (Eastern Victoria) — My question is to the Minister for Agriculture. Minister, in the past eight protracted weeks of negotiation with Australian Sustainable Hardwoods did you receive advice from VicForests that a quantity of timber greater than the original offer could be supplied to support the viability of the Heyfield mill?

Ms PULFORD (Minister for Agriculture) — I thank Ms Bath for her question. VicForests's advice to government has been absolutely consistent throughout this period. VicForests's advice is that they are confident that they can fulfil a contract of 80 000, 60 000 and 60 000 cubic metres.

Honourable members interjecting.

Ms PULFORD — That is the answer to your question. You might not understand your question but I do, and VicForests have been absolutely consistent in what they say is the available quantity.

Supplementary question

Ms BATH (Eastern Victoria) — I thank the minister for her response. My supplementary question is: why did the government even request the negotiation period and subsequent extensions if it was always your intention to stand by the original grossly inadequate 80 000, 60 000 and 60 000 cubic metre timber supply offer?

Ms PULFORD (Minister for Agriculture) — The Nationals and the Liberals have been, I think, very dishonest with the community of Heyfield. They set in place two wildly competing things when they were in government, and we have been working hard over the period Ms Bath refers to to try and resolve this problem. I think we have been very up front about how difficult this is.

The member for Warrandyte in the Legislative Assembly put in place a regime that has placed additional pressure on a resource that was already under pressure due to a number of other factors. Meanwhile the now Leader of The Nationals in the Legislative Assembly set expectations for this company in a wildly unrealistic place. The advice from VicForests has been completely consistent. What we have been doing during this period, though, is testing their assumptions, having them independently evaluated and also exploring discussions with the company about options for retooling.

What we have said is that if this offer is unacceptable to the company, then we want the company to put this on the market. We believe that there are willing buyers at that quantity, and we have also said we do not rule out buying it ourselves if that is what is necessary to provide a future for the mill at Heyfield.

Heyfield timber mill

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is also to the Minister for Agriculture. Minister, there are reports that the Premier has told you directly that he is frustrated at your poor handling of the Heyfield mill timber supply issue. If the Premier does not have confidence — —

Honourable members interjecting.

Mr Jennings — On a point of order, President, you have made some rulings that go back to sessional orders and your rulings earlier in this term of the Parliament which remind us all of our obligation when couching questions to ensure that they are based in fact, not speculation. There has already been a series of questions raised during the course of question time today that have no substance in fact. Ms Wooldridge now rises to her feet alleging a view of the Premier that has never been expressed, never been reported on, is not his view and yet is actually being spoken about as if it is fact. There should be no way this question, on that premise, survives the test of your ruling.

Ms WOOLDRIDGE — On the point of order, President, it is the right of those who are asking the questions to pose the question. Presumably the minister can answer the question in any way she chooses, including that response. Unfortunately what we have seen is Mr Jennings once again stepping in to

overshadow a minister in their capacity to answer the question directly. He obviously does not have confidence in the minister's capacity to answer the question as posed.

Honourable members interjecting.

The PRESIDENT — Order! I ask the Leader of the Government to withdraw the term that he used.

Mr Jennings — I withdraw.

The PRESIDENT — Order! Thank you, Minister. In respect of the point of order raised by Mr Jennings I actually do have some sympathy for it in the sense that the question was posed in the context of a suggestion that someone or some people have made an assertion, but it is not to the knowledge of the house how this has been attributed to a genuine source. Whilst I do not question the integrity of the Leader of the Opposition, it would concern me greatly if there were this nature of question going forward whereby an assertion is made but without any sort of substantiation of where the supposed comment might have come from and then a minister is expected to respond to it. In that context it is true, as Ms Wooldridge says, that a member can ask questions and a minister is entitled to answer them in any way they see fit.

Can I suggest to you from the chair that if I hear a comment that is perhaps fishing and perhaps unattributed, then I will be very mindful of that in deciding whether or not I seek to have any further response from the minister, because I think it is important that comments of the nature of the one that the Leader of the Opposition raised do need to be sourced to be dealt with by ministers.

Ms WOOLDRIDGE — Thank you, President. I will go again from the top. My question is to Minister for Agriculture. Minister, there are reports that the Premier has told you directly that he is frustrated at your poor handling of the Heyfield mill timber supply issue. If the Premier does not have confidence in your performance and if you have been unable to convince the government to support our future timber industries, on what basis should Heyfield timber workers have any confidence in you?

Ms PULFORD (Minister for Agriculture) — Ms Wooldridge comes in here and refers to reports that I think she has imagined. I am certainly unaware of these imaginary Snuffleupagus reports. I have not heard this before at any point. I do not believe this thing that Ms Wooldridge is asserting to be the truth, but what we do know is the truth is that this is a very difficult and challenging set of circumstances that we inherited from the former government. Ms Wooldridge was quiet as a mouse about this the day that it happened, when the member for Warrandyte in the other place put in place protections that would put this kind of pressure on resources and when the Leader of The Nationals in the other place entered into a handshake agreement.

You should hear what the CEO of the Hermal Group has to say about all of that. What he said was the prior state government promised that they would do certain things and that:

> Peter Walsh allowed a contract to be signed with us and then did not sign the indemnity at the close of government, despite promises, undertakings and gentlemen's handshakes. That man, Peter Walsh — do not vote back in, voters — he is the biggest liar you will ever come across and will lie and lie.

Where was Ms Wooldridge when this was happening and her colleagues were engaged in this kind of deceptive conduct with this company and setting in place two competing sets of government activities — their government — that have come together to create this pressure for the people in Heyfield?
Ms Wooldridge has a lot — —

Honourable members interjecting.

The PRESIDENT — Order! Ms Pulford is very close to me, and I am having trouble hearing her.

Ms PULFORD — I think Ms Wooldridge has a fair bit to answer for to the community of Heyfield about why she was quiet on both of those things. She comes in here and she makes things up. Our government is working to find a solution to this problem that we inherited from the former government, and we will continue to do so. We want the Hermal Group to put this mill on the market. We know that there are people in the market who are interested in buying this mill, and we have said that we do not rule out buying it ourselves, such is our commitment to providing a future for this mill.

I think it is also worth noting that at the timber quantity that VicForests is confident can be made available this would still be the second-largest mill in the state. So it is less than they have said that they wanted and it is less than they were told in these worth-absolutely-nothing-at-all promises from the former government, but we continue to support the community of Heyfield and these workers. We are determined to find the best possible solution we can, in spite of the very big mess that you people put in train.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — I note the minister's response, but I also note that she has been the minister for over two years and three months. Minister, it is clear that you have been unsuccessful in obtaining cabinet and government support for the supply of around 135 000 cubic metres to the Heyfield mill. A precedent was set last year when the Assembly member for Brunswick was rolled by cabinet and she subsequently took a principled position and resigned her commission. Given the resounding lack of confidence across the board, including from your government colleagues and Victoria's timber industry, and the fact that you have been rolled on a critical issue, will you now take the honourable position and stand down, like the former Minister for Emergency Services?

Honourable members interjecting.

The PRESIDENT — Order! Can I just caution that I am within a whisker of asking Ms Wooldridge to repeat the entire question. Minister, did you get that question?

Ms Pulford — I got the general gist of it. She was making things up.

The PRESIDENT — That is not helpful to me.

Ms PULFORD (Minister for Agriculture) — President, at the risk of you finding this unhelpful, Ms Wooldridge is making things up. She is coming in here and telling fairytales, and you are inviting me to respond to this. But again what I will say is that this is a difficult set of issues — —

Mr Davis — Did you go out and meet the truck drivers?

Ms PULFORD — I met a number of people that were here this morning. I have met the people who work at — —

Mr Davis interjected.

Ms PULFORD — Yes, I did, and I have been to Heyfield and I have met and addressed both shifts of workers. I cannot say that I have met absolutely each and every one of them, but I have spoken to many of the people who work — —

Ms Shing interjected.

Ms PULFORD — I am sure that is right, Ms Shing. But I have spoken to people from the Heyfield community and I understand very well the pressure that they are under. As I have indicated, we continue to work as a government through these very difficult sets of issues — a combination of decisions of the former government and decisions of the commonwealth government as well that place considerable pressure on this resource. But we are determined to find the best outcome for Heyfield that we can.

Heyfield timber mill

Mr O'SULLIVAN (Northern Victoria) — My question is to the Special Minister of State. You have previously admitted to the Legislative Council that the Premier appointed you to act as a mediator between government and the Forest Industry Taskforce. Why were you appointed to fix this issue when the Minister for Agriculture is directly responsible?

Mr JENNINGS (Special Minister of State) — I thank Mr O'Sullivan for his question. I did not actually know that it fell into the category of an admission. I volunteered the information in response to a question that Ms Dunn asked me. I would have been happy to answer that question at any time in the months preceding my return to the Parliament.

My ministerial colleague Ms Pulford, in her answer to the very, very mischievous at best questions that she has been asked today — if not far worse than that — has indicated that there are a range of responsibilities across government which straddle her portfolio in agriculture. The Treasurer is a shareholder in VicForests; my ministerial colleague the Minister for Energy, Environment and Climate Change is responsible for environmental regulation in the state; and the cross-section of the industry task force that comprises representatives of industry, unions and the conservation movement all brought their vantage points over a lengthy period of time to consider what should be the pathway forward for industry transition to make sure that we have a viable timber industry in Victoria and to provide for the appropriate conservation values and protection of environmental values in the state. That is what the task was.

The task force found that a very difficult responsibility to acquit. When we came to government and issued a statement of intent the Premier believed that in terms of across-portfolio coordination it would be appropriate to engage me as the interface with the task force so that in fact there would be one central clearing house of government views in relation to these matters across the cross-section of interests that were represented within the task force. That is what has occurred and that continues to be the case.

What Mr O'Donohue said before in his question when he asserted a falsehood in relation to the responsibility of my ministerial colleague and in relation to her submissions to cabinet shows that he has no idea what he is talking about. There is no fact that was based within his question. There is no fact that I have been a prime negotiator with the Hermal Group and Australian Sustainable Hardwoods at Heyfield. I have not been the prime negotiator. In fact that has been undertaken at departmental level by officers representing the Minister for Agriculture. That is the way in which the negotiations have taken place, and that is the way that it should be.

Supplementary question

Mr O'SULLIVAN (Northern Victoria) — Minister, as the fixer why has your government chosen to prioritise possums over people?

Mr JENNINGS (Special Minister of State) — I do not accept the premise of Mr O'Sullivan's question. If he accepts the premise, then in fact his criticism would be of the former environment minister in the Legislative Assembly, Mr Ryan Smith, who actually introduced the prescriptions in relation to possum protection that inevitably and inextricably led to being one of the drivers of the reduced resources available to the timber industry in the future. In fact the contested idea of possum protection and jobs being at risk is actually something that directly relates to decisions made by the previous coalition government and it continues to be the regulatory environment that operates up until this very day. What it also is blind to are the outcomes of the 2009 fires and the significant reduction in the timber availability to the industry that derive from the significant loss of timber resource due to those fires in 2009. It has obviously been blind for the last six years.

Heyfield timber mill

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is also to the Leader of the Government. The Premier has stated — indeed the Minister for Agriculture has repeatedly restated today — that the government does not rule out being a buyer of last resort of the Heyfield mill. What evidence does the government have that it can run the mill on a viable basis with only 60 000 to 80 000 cubic metres of timber a year when Australian Sustainable Hardwoods cannot?

Mr JENNINGS (Special Minister of State) — Whether the government ends up being the purchaser of this mill or whether in fact there will be other commercial interests that may be interested in running this mill, one thing is certain — that at 80 000 cubic metres and 60 000 cubic metres for the subsequent two years, if that volume of timber is made available to this enterprise and is processed, it would still continue to be the largest green mill in Victoria. It would be one of the largest mills in the nation, and in fact it is far larger at those volumes than 11 other sawmills in Victoria that currently process mountain ash timber. It would still continue to be the largest mill by a significant proportion on the basis of the volume that would come to it.

So the idea that any mill that is smaller than that mill would be unviable is actually a ridiculous proposition that does not see the light of day and does not bear analysis of what the existing sawmill industry is in Victoria. This would still be the largest mill in Victoria by a mile if it operated with those volumes, so the inbuilt assumption that it could not be run viably as a commercial interest is a ridiculous proposition and actually is at the heart of the hysterical nature of the political intervention that has occurred from the opposition in relation to this matter. They do not understand about timber availability, they do not understand about environmental protections, they do not understand about the consequences of bushfires and they do not understand about the decisions that were made by former minister Ryan Smith in the previous government. They certainly choose to live in denial of the false promise that was made by Peter Walsh in the Legislative Assembly when he was the minister in relation to the volumes that he was actually prepared to indemnify — volumes of timber that former Treasurer Michael O Brien as a shareholder in VicForests was not prepared to sign off at the conclusion of the last term of government.

So at every single turn the opposition is not up to understanding the pressures of this industry, the viability of this industry and the ways in which you achieve not only environmental protections but, most importantly in this context, the viability of jobs to be maintained in timber activity and forest communities in Victoria. That is actually something that the government is committed to doing — to stand up for our responsibilities, not run away from them, not lie to people or be disingenuous with false promises and not introduce policies that it has no idea what the consequences are going to be and then actually blithely walk away from them.

This is a government that is taking responsibility to acquit all of those various obligations, and we will do it each and every day because that is what we do. We take responsibility for making things happen. We have an obligation to protect those jobs and to work with industry to deliver protection for those jobs, and we will do it, regardless of this political intrigue and the opportunistic approach you adopt.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — It is appropriate the minister mentioned being disingenuous in his answer, because that is exactly what he was in talking about a mill with 60 000 to 80 000 cubic metres still being the largest in Victoria while ignoring the issue of viability. Australian Sustainable Hardwoods has stated that the Heyfield mill, operating with only 60 000 to 80 000 cubic metres of timber, will incur annual losses of over $12 million per annum. Prior to floating a government takeover of the mill, what funding mechanism did the government identify to cover that deficit?

Mr JENNINGS (Special Minister of State) — I totally refute the way in which Mr Rich-Phillips has referred to my answer. I believe on that basis I would probably be well within my rights not to actually answer any further. Mr Rich-Phillips has no idea about the commercial standing of this operation. He has no idea about the cash flow of this business. He has no idea about the timber royalties and the relationship between that company and VicForests, so the idea that he knows what is viable — —

Honourable members interjecting.

The PRESIDENT — Order! The football starts on Thursday night, not today. Do not practise your shouting in here! The minister, without assistance.

Mr JENNINGS — Thank you, President. I had virtually concluded my answer. Mr Rich-Phillips, just like his colleagues, has demonstrated a lack of appreciation of the fundamental issues that are in play here. The political opportunities that are available to them have just blinded them to the truth.

Heyfield timber mill

Mr ONDARCHIE (Northern Metropolitan) — The irony of this government telling us they know how to run a business! My question is to the Leader of the Government. Minister, the Premier, the Minister for Agriculture and you yourself excitedly have flagged buying the Heyfield mill at a fair and reasonable price. Has the government prepared a business case for this purchase?

Mr JENNINGS (Special Minister of State) — What the government has undertaken during a period of collaboration with Australian Sustainable Hardwoods and the Hermal Group is to work out what its business structure is, what its value is, what its cash flow is, what its liabilities are and what its assets are. So in fact the answer is that the government is fully appraised of those issues in terms of its commercial reality and is well versed in those matters. In fact the company itself shared that information: it provided that information through independent parties for us to assess the nature of that business and its cost structures.

Mr Ondarchie interjected.

Mr JENNINGS — I am not quite sure what Mr Ondarchie thinks he has got. There is a full appraisal of the business costs of this entity, its assets, its liabilities, the equity that is involved in it and its commercial cost structures. The government is fully apprised of all of those issues. With respect to any decisions the company makes or the government makes or any potential purchaser may make in relation to this mill, they will all be fully apprised of those circumstances.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — Thank you, Minister, for not answering the question directly, but I put to you then — —

Mr Jennings — Just because you don't know what an answer is.

Mr ONDARCHIE — So you have read a balance sheet — do not get too excited! I asked if there was a business case. Minister, the following companies have closed or are closing under the Andrews Labor government: Hazelwood, Ford, Holden, Toyota, Stawell Gold Mines, Alcoa in Geelong, General Mills Australia in Mount Waverley, Betta Foods, Ernest Hillier, Homeart — previously Copperart — the Rivers warehouse in Ballarat, Pumpkin Patch, Masters Home Improvement, Dick Smith, Payless Shoes and Howards Storage World. Minister, did the Andrews government at any stage offer to purchase any of those companies?

Mr JENNINGS (Special Minister of State) — This is a government that has created jobs — 180 000 jobs have been created — partly through its contribution to the Victorian economy but partly because the Victorian economy is actually doing very well because of the infrastructure programs that it has driven and the job

creation activities that it is associated with each and every day.

The circumstances that are associated with this mill and this industry in transition and the false promises that have been made by previous governments in relation to establishing a false premise on which the business would operate in the future warrant that there should be some degree of duty of care demonstrated by the government in this exercise that normally would not be a feature of public policy in Victoria. It is on that basis that we are contemplating that outcome. We would be very happy for the mill to continue. We would be very happy for the mill to continue in commercial hands. We are prepared to step in and make sure the mill stays open as our duty of care given the negligent train wreck that this industry was as you left it.

Local government rates

Mr PURCELL (Western Victoria) — My question is to Minister Dalidakis representing the Minister for Local Government. Farmers are under extreme emotional and financial pressure and local council rates are a large expense to farmers, yet farmers usually only receive a poorly maintained gravel road and no access to other services. Despite this the system used to charge rates is based on capital improved value, and this disadvantages the valuable farm. Some councils provide a discount to farmers while others provide none. Therefore my question is: will the minister give farmers a fair go by forcing councils to provide a rates discount to their farms?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Purcell for his question. As people in this chamber would be aware, the government went to the last election with a rate capping policy, which we have since successfully passed as legislation. The reason we chose to do that was that we believed that ratepayers had a right to have some certainty that rates in their municipalities or shires would not skyrocket or continue to go up from year to year. We have very much attempted to address issues of concern to ratepayers. In relation very specifically to the issue that you raised, I will take that to my ministerial colleague in the other place and seek a response to it.

Disability housing

Dr CARLING-JENKINS (Western Metropolitan) — My question today is for the minister representing the Minister for Housing, Disability and Ageing, Ms Mikakos. Minister, the long-awaited new national disability insurance scheme (NDIS) specialist disability accommodation rule was recently introduced. While we are one step closer to seeing payments for much-needed specialist disability housing, the rule raises some concern. In particular there is the potential that it will undermine participant choice and control regarding housing — a fundamental right under the NDIS act and the convention. I note that people eligible for specialist accommodation represent people needing the highest levels of support. Under the new rule state governments will have the ability to list some disability housing as in kind. This would require the National Disability Insurance Agency (NDIA) to direct participants to select any available in-kind housing option before they choose another provider. Given in-kind housing is likely to be existing stock, many specialist disability accommodation options will presumably be outdated and no longer appropriate for people with high support needs. So I ask: Minister, is the government planning to reduce participant choice by listing any of their housing as in kind in the NDIS and, if so, what steps is the government taking to ensure that all in-kind housing for people with a disability under the NDIS is adequate and appropriate to their needs?

Ms MIKAKOS (Minister for Families and Children) — I thank Dr Carling-Jenkins for her question, and I acknowledge her continued interest in and commitment to getting the best outcomes for people with disabilities. As I have said in this house on previous occasions, I think the national disability insurance scheme is a tremendous reform for this nation, and it is important of course that we continue — and we will continue as a state government — to press the commonwealth government to ensure that it does deliver on the spirit and the intention of what had originally been envisaged, and that is to give Victorians with a disability a fair go in life and to give them choices about a range of things, including choice in housing.

Choice in housing is fundamental to a person's wellbeing and their sense of belonging, and people with a disability deserve to have this choice. My understanding is that the bilateral agreement that Victoria has with the commonwealth counts in-kind arrangements that fund specialist housing that it owns and/or runs towards its contribution to the NDIS. During the NDIS transition only, the NDIA have planned management rules that have been agreed nationally that require them to utilise in-kind arrangements first in participants' plans. However, Victoria has an agreement with the NDIA to ensure that this does not impact on choice and control of accommodation. As the NDIS expands of course so too will models of supported accommodation that will

move away from the traditional group homes of the past and towards more independent and innovative living options, so participants who choose to select non-government housing or indeed newer models of housing will be supported to do so where alternative accommodation is available. No participant who would prefer a non-government place will be required to accept or stay in a government place if there is a suitable place available in the non-government sector.

As the member did refer to in the preamble to her question, of course people who are seeking this type of accommodation option are people typically with the most complex of needs. I know that the minister responsible has also been addressing this and working very closely with both the department, through the Department of Health and Human Services, and the NDIA on the establishment of a complex needs working group to ensure that the particular needs of this group of people with disabilities are addressed.

I just add that I know that Minister Foley is a minister who is very passionate to see the best possible outcomes for people with disabilities and that the vision, as I said, of the NDIS is in fact delivered to Victorians with disabilities. I am sure he would be very happy to sit down with the member and have a discussion with her, in particular in relation to her concerns about this specific issue.

Duck season

Mr BARBER (Northern Metropolitan) — My question is to the Minister for Agriculture. Minister, in the run-up to the opening of duck hunting season you received numerous warnings about the presence of threatened bird species on wetlands that were to be made available to hunters. On the first weekend of the season — in fact in the first hours — there were numerous threatened and listed bird species shot, and your department's response was to actually fine people who collected evidence of hunter illegality. It is not surprising that these birds were shot, given that shooting actually started in the dark. Minister, do you now admit it was a mistake to allow hunters onto wetlands where protected, threatened and listed waterbird species were present?

Ms PULFORD (Minister for Agriculture) — I thank Mr Barber for his question and his interest in the opening weekend of duck season. The long-term average hunter participation over the opening weekend is estimated to be around 13 000 people. There are 26 000 people licensed to hunt duck in Victoria, and just shy of 5000 hunters were present at patrolled wetlands. As members are aware, the government takes advice in the days leading up to opening weekend about the presence of any protected species and puts arrangements in place to close or modify access to some wetlands. As a result of that process a number of changes were made. For instance, the use of motorboats at Lake Linlithgow, near Hamilton, was prohibited. A couple of areas are reasonably consistently closed — Kow Swamp and Reedy Lake — but there are also closures or partial closures in a number of other areas as well, based on sightings in the couple of weeks immediately prior to opening weekend.

Mr Barber referred to infringement notices. Given the level of participation in the season, there were actually quite a modest number of infringement notices issued. In terms of hunting offences, there were 15 infringements issued for minor offences. The most common offence was a failure to have a valid game licence. There were four infringements issued for failure to retain a wing on a duck.

On the subject of protester compliance, again, as is always the case for opening weekend, there was quite some protester activity across the state as well — 120 people present at First Marsh, 42 at Lake Connewarre and another 40 at Lake Martin. Some protesters illegally entered special hunting areas, and six protesters on the Saturday and five on the Sunday were issued with banning notices.

We absolutely respect the right of people to legally protest and express their views, for those who do not like duck hunting. For those who do, I think we have had an opening weekend that has had very high levels of participation. We have not had the challenges in managing the opening weekend that we had last year, which I am sure was a relief to hunters, and in general it has been a very orderly weekend.

Supplementary question

Mr BARBER (Northern Metropolitan) — Thank you, Minister, for your statistics in which you describe an orderly duck hunting weekend. Let me provide you with some other statistics. These are the birds that have been picked up so far by those with an interest in the environment: 68 threatened freckled duck, 21 threatened blue-billed duck, 24 vulnerable and protected blue-winged shoveler, 34 Eurasian coot, 25 grebe and hundreds of birds that were simply shot and discarded. And you are telling us that there were only 15 infringements issued. Minister, are you telling us that you think these rates of shooting of threatened species are acceptable? And if not, do you intend to take any measures in the remainder of the season to stop this carnage from happening?

Ms PULFORD (Minister for Agriculture) — I thank Mr Barber for his supplementary question. Mr Barber referred in his substantive question to evidence of illegality, and I would certainly encourage Mr Barber or anyone that he is in contact with who has evidence of illegality to provide that information to the Game Management Authority.

There are measures in place to ensure the protection of endangered species. It is not for me to speak on behalf of Victorian duck hunters, but certainly the overwhelming majority of duck hunters do the right thing, want to do the right thing — I am sure Mr Young would have some views about this he would happily share with the house — want this to be something that can be participated in by future generations and are committed to ensuring that protections are appropriate. If Mr Barber has evidence of illegality, as he indicated, the authorities will continue to be present on wetlands and the Game Management Authority, I am sure, would be very keen to receive the evidence to which Mr Barber refers.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have written answers to the following questions on notice: 5281, 7464, 7629, 7694–8, 7722, 9001–4, 10 492, 10 495, 10 499–502, 10 509, 10 521, 10 522, 10 582, 10 600.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! In regard to today's question time, I ask for the supplementary question put by Mr Rich-Phillips to Mr Jennings and Mr Purcell's substantive question to Mr Dalidakis to receive written answers. There are no others. Two days for those.

Mr O'Donohue — On a point of order, President, two sitting weeks ago I asked a question of Minister Tierney in relation to the cost overruns for the implementation of the Callinan recommendations for the adult parole system. Last sitting week, on the Tuesday, the minister provided me with an answer, and I think I gave you a copy of that, President, seeking guidance as to whether a further supplementary response should be provided given that in my opinion that question had not been responded to. I seek your advice about that matter.

The PRESIDENT — Order! I do have the question. In respect of that question that was asked on 23 February the minister has responded in the context that fine detail is being undertaken on the finalisation of plans for the facility, and because of that she has indicated in her answer that that is commercial in nature. I had already asked for a written response, and I am not sure that the minister is going to vary that response if I order it to go again, because clearly she has taken the position that given the finalisation of the plans it would not be in the state's interest to reveal what the calculations are at this point in time. The minister has indicated that the funds will be in the existing budget, and I do not believe there is a particular value in me reinstating this particular question.

Mr O'Donohue — Thank you, President. Can I just clarify that we are talking about the Callinan review recommendations, not the Harper review recommendations?

The PRESIDENT — Yes.

CONSTITUENCY QUESTIONS

The PRESIDENT — Order! I indicate that Ms Fitzherbert raised with me the reinstatement of a constituency question. Members should be reminded that I actually do not have a power to reinstate constituency questions.

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My question is for the Minister for Roads and Road Safety, and it is regarding the speed limit on the Murray Valley Highway as it goes through Strathmerton. I recently met with a group of progressive, forward-thinking local Strathmerton businesspeople who are working with Moira Shire Council to develop a clear plan for the future direction of Strathmerton. During this meeting the committee advised that one priority issue of concern on its agenda is the speed limit of the section of the Murray Valley Highway that goes through the town. This is an 80-kilometre-per-hour section of road normally, except when it is 40 kilometres during school times, but the committee want to see it reduced to 60 kilometres during all non-school hours. This road travels right through the main shopping section of town, yet there are no traffic lights or other crossings, and there are legitimate concerns about the safety of those crossing the road with the current 80-kilometre speed zone. Will the minister reduce the speed limit for this section of the Murray Valley Highway to 60 kilometres during general, non-school times to improve safety for the Strathmerton community?

Western Metropolitan Region

Ms HARTLAND (Western Metropolitan) — My question is for the Minister for Roads and Road Safety, Mr Donnellan. Just over a week ago in my electorate a young mother of two by the name of Arzu Baglar was killed while riding her bike. She was riding through Yarraville and was hit by a truck and died at the scene. Her death was not a freak accident; we all know it was bound to happen sooner or later. Countless people have told me how trucks often cross over into bike lanes. Everyone I speak to tells me how unsafe they feel riding through the inner west. There are countless more people who, like me, just do not ride at all because the dangers are too real and we do not feel at all safe. Can the minister outline what plans the government has to create safer bike routes in Melbourne's inner west?

Eastern Victoria Region

Mr MULINO (Eastern Victoria) — My constituency question is for the Minister for Education, and it relates to Gum Scrub Creek primary school, which received a funding allocation in the 2015–16 budget. Construction of Gum Scrub Creek primary is currently underway. It will be much needed in the Officer community, with an expected enrolment of around 475. My question for the minister is whether or not construction is still on track and when it is expected that construction will be completed at that school.

Eastern Victoria Region

Ms BATH (Eastern Victoria) — My question is to the Premier in relation to a handshake agreement he made with a constituent of mine, Mr Wilkes**.** On 24 February the Australian Sustainable Hardwoods (ASH) green mill supervisor, Anthony Wilkes, tracked the Premier down in Morwell at a media conference. Speaking with Mr Wilkes yesterday, he informed me that the Premier looked him in the eye, shook his hand and promised to visit the Heyfield mill to speak to the mill workers. He guaranteed that he would be there within the next four weeks. The deadline is up this Friday. ASH put a practical proposal on the table that would enable the 260 workers to have full employment until January next year while a comprehensive review of Leadbeater's possum colonies and special protection zones is conducted. The government has rejected this. Will the Premier keep his promise and come to Heyfield and explain how he is going to keep all those 260 jobs?

Western Metropolitan Region

Mr MELHEM (Western Metropolitan) — My constituency question is for the Minister for Families and Children and Minister for Youth Affairs, the Honourable Jenny Mikakos. The western metropolitan region of Melbourne is one of the fastest growing regions of greater Melbourne, and young families with school-age children are a key demographic. We know that community participation is an essential part of ensuring our suburbs thrive and that local volunteers play a vital role in this. Can the Minister for Families and Children please provide me with information on what investment the Victorian government is making in my western metropolitan electorate to help promote volunteering and community participation among young people?

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Families and Children. Minister, the last time you were questioned about your proposed youth detention centre you were resolute in assuring the house that Werribee South was the place for such a facility. Given the recent change of mind on the site, will the minister provide the reasons for her choosing this particular new site for her youth prison?

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question is for the Minister for Roads and Road Safety, and it is in relation to a very poor section of road between Deans Marsh and Birregurra. A constituent of mine has raised concerns about the deteriorating approach to the Barwon River bridge just prior to the Birregurra township proper. I inspected that section of road on the weekend on his behalf and had some discussions with VicRoads in relation to where the priority might be to significantly upgrade that section of road. It is very dangerous. It has a number of hollows leading up to the bridge and has obviously been impacted by flooding on many occasions, which has caused severe depressions in the asphalt. This is a significant problem in that trucks loaded with hay or produce actually lurch from left to right as they sink into these quite substantial holes on their approach to the bridge, so my question to the minister is to see what priority this section of road has in relation to the VicRoads works program and to move it up to the high-priority list if it is not already there.

Eastern Victoria Region

Mr O'DONOHUE (Eastern Victoria) — My constituency question is for the Premier, and the question I have is: will the Premier visit Heyfield and meet with the affected workers at the Heyfield timber mill? The Premier has been in Gippsland on a number of occasions in recent weeks and yet has failed to drive the extra 25 minutes or so to visit the Heyfield timber mill, meet with the workers and learn more about the challenges and issues they face given the botching of this negotiation by him and the other relevant ministers, of which, we are learning, there are several. Heyfield is a town of only a couple of thousand people. The mill is the lifeblood of that community, as well as contributing significantly to the surrounding communities in places such as Maffra and Sale and indeed Traralgon and further afield, so it is important for the Premier to speak to those people, given that he did not attend the rally today or speak to those people today. I call on him and ask him to visit Heyfield personally and meet with these affected workers.

Southern Metropolitan Region

Ms FITZHERBERT (Southern Metropolitan) — My constituency question is to the Minister for Roads and Road Safety, and it regards the proposed freight link. On 16 March the *Age* reported that an elevated freight road could be built through Fishermans Bend's new suburbs for truck traffic in and out of the port of Melbourne. Indicative maps from Infrastructure Victoria show the freight link running through Wirraway, which is planned to be a family-friendly neighbourhood in Fishermans Bend. Many locals have expressed concern over many years about the impact of heavy truck traffic locally, including multiple safety issues and also noise issues. My question to the minister is: can he explain what plans, if any, the government has to build a sky road for trucks in Fishermans Bend?

Southern Metropolitan Region

Mr DAVIS (Southern Metropolitan) — My question today is for the attention of the Minister for Planning, and it concerns the announcements on *Plan Melbourne* that have been made in recent days and in particular the neighbourhood residential zones (NRZs). I seek two things from the minister. The first is a commitment that he will consult on the changes to the neighbourhood residential zones, and he has not yet done that in a precise sense. The second is that the neighbourhood residential zones have not yet been gazetted, although we now know that what will occur here is that in the NRZs the government will remove the cap of two residences per property and is now going to allow any number of residences, so what I seek is that the minister will commit to consult and also confirm in that process that there is no limit, that the sky is the limit, in terms of the number of properties — it could be five, it could be 10, it could be 20 — on a suburban block.

PARLIAMENTARY BUDGET OFFICER BILL 2016

Committee

Resumed.

Clause 19

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

1. Clause 19, page 19, line 4, omit "This section does" and insert "Subsections (1) and (2) do".

2. Clause 19, page 19, after line 10 insert—

"( ) In making a request to any person (other than the parliamentary leader concerned) for information for the purposes of preparing a costing, a PBO officer must, as far as practicable, not disclose any information that is not in the public domain regarding—

(a) the policy that is the subject of the costing; or

(b) the identity of the parliamentary leader who requested the costing.

( ) In making a request to any person (other than the member of Parliament concerned) for information for the purposes of preparing analysis, advice or a briefing that is to be provided under section 47, a PBO officer must, as far as practicable, not disclose any information that is not in the public domain regarding—

(a) the matter that is the subject of the analysis, advice or briefing; or

(b) the identity of the member of Parliament who requested the analysis, advice or briefing.".

Clause 19 as it stands creates a general confidentiality requirement for PBO officers and provides that an exception with respect to the carrying out of their functions as PBO officers otherwise requires them to maintain confidentiality of information that they receive. The coalition though is concerned that the nature of the PBO is that it will need to have access to policy proposals by government as well as by non-government parties and, as we have already discussed, that includes the Independents in the Parliament and the minor parties in this chamber as well as the main opposition and government parties.

Accordingly, when it receives information on policy proposals it needs to be handled with a high degree of confidentiality.

While the general provisions of clause 19 go to confidentiality and the disclosure of information outside the proper functions of the PBO, the coalition is concerned that this provision does not require the PBO to maintain confidentiality in the carrying out of its functions, to the extent that it can, when it is discussing particularly non-government proposals with offices elsewhere in the Victorian public service and with other Victorian government bodies.

My first amendment is consequential. My second amendment seeks to insert a new provision that requires PBO officers as far as practicable to not disclose any information that is not in the public domain regarding the policy about which they are seeking information or the identity of the parliamentary leader who requested the costing. This is just to provide an increased degree of confidence around the operation of the PBO, particularly for non-government parties when they are providing their policy ideas to that body for costing.

Mr JENNINGS (Special Minister of State) — The government is not in a position to be able to accept the amendment. We think it is overly prescriptive in that we would assume that those who work within the Parliamentary Budget Office would appreciate their obligations under the act, as they are pre-existing and spelled out, and that in fact the confidentiality requirements as they were originally envisaged in this bill would satisfy the policy intent that Mr Rich-Phillips is seeking without being overly prescriptive in the way that the government views his amendments to be.

Mr BARBER (Northern Metropolitan) — The minister's tone was just a bit low there so I did not quite hear all of his answer, but it is our view that this amendment is redundant because the matters that Mr Rich-Phillips seeks to cover would be under the definition of protected information that is already in the bill. If the minister can just clarify that he is of the same view, then I am quite happy to not support this amendment.

Mr JENNINGS (Special Minister of State) — I will lift my tone and confirm Mr Barber's construction.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thanks, Minister. Just to clarify, I accept the definition of protected information, as Mr Barber has highlighted. Subclause (1)(a) of clause 19 provides that the exception to confidentiality is in the carrying out of the functions of the PBO, and our concern is that that exemption is very broad and would not provide the protections that non-government parties may seek in having both their ideas and the fact that they are seeking a policy costing protected from wider disclosure to Victorian government agencies as the PBO is seeking information.

Mr JENNINGS (Special Minister of State) — It is intended that the operations of the Parliamentary Budget Officer would be firewalled in operation and act independently of other government agencies in this regard. So with the combination of that and the provisions that I have referred to and that Mr Barber has relied on, the government does not believe this is necessary.

Committee divided on amendments:

Ayes, 21

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

Noes, 19

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

Amendments agreed to.

Amended clause agreed to; clauses 20 to 35 agreed to.

Clause 36

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

3. Clause 36, line 8, omit "Tuesday" and insert "Wednesday".

Clause 36 sets out the process by which a parliamentary leader in an election period may request a costing of a policy. It provides, as drafted, that a request should be made before 5.00 p.m. on the Tuesday preceding election day. I am proposing with my amendment that

we replace the reference to the Tuesday with a reference to Wednesday to add an extra day to that period. The basis for that is recognition of the fact that many election policies, indeed many significant election policies, are announced during the final week of a campaign, and the addition of that extra day would allow policies obviously made on the Wednesday — after 5.00 p.m. on Tuesday through to 5.00 p.m. on Wednesday — to be taken into account in the cost assessment process. We believe that better reflects the actual release timing of election policies and believe a more appropriate mechanism would lead to better aggregate outcomes being released by the Parliamentary Budget Office in those final days before the election.

Mr JENNINGS (Special Minister of State) — The government's preference, which interestingly enough coincides with a previous construction that the former administration may have been interested in, indicates that the Tuesday would be a preferable time just in terms of the sequencing of acquitting the lead-up to the election time frame, in that it provides a more realistic time frame by which assessments could be made and put into the public domain and that a later time frame may invite less ability for the work to be completed and scrutinised by the community prior to the election. I understand it is an arguable call about the community's appetite for ongoing policy announcements right up until election day, but from the government's perspective the greater the opportunity within that critical last week to enable scrutiny to apply and be well understood by the way in which the office is constructed means that on balance we would prefer Tuesday to Wednesday.

Mr BARBER (Northern Metropolitan) — There is something about this amendment that we find a bit odd, and it is quite possibly even an error in drafting. The comments from the opposition speaker in the lower house seemed to indicate that the Liberals intended to extend the deadline for the PBO to complete their costings, not the deadline for the party leader to request costings, but instead this amendment suggests that the Liberals intend to give to the PBO new policies for costing on the Wednesday before election day and expect a 24-hour turnaround or perhaps no costings at all simply because the PBO just does not have enough time.

The lower house speech supported extending the election costing period to end at 5.00 p.m. on the Thursday before the election, which is actually the date that is in the bill, but instead this amendment appears to extend the deadline for the party leader to request a costing. Personally I think if the Liberals had confidence in their own policies, they would be planning to release their costings well before pre-polling started. In the last election 34 per cent of all votes were pre-polls; that was more than double the number of pre-poll votes cast at the 2010 election. Why would the Liberals want to come up with new policies for costing after one-third of Victorians have already voted?

Worse still the amendment could leave the PBO with only 24 hours to complete one or more costings and would increase the likelihood of the PBO having insufficient time or information to complete them. Certainly most recently at the federal election the Greens MPs released our fully costed policies in a timely way — at the last two federal elections in fact — using the resources of the PBO. Some of them were released before the election was even called. Why would anyone vote for a party that cannot get its act together to decide what it stands for until three days prior to the election?

Mr JENNINGS (Special Minister of State) — Earlier I predicted that Mr Barber was campaigning, and he has demonstrated that he is.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister and Mr Barber for their responses. I can confirm to Mr Barber that his reading of the amendment is correct; this amendment is to extend the envelope which a party leader has to request that a costing be prepared. Mr Barber hypothesised that around the release of policy costings — the preparation and release of policies — the reality is parties continue to make policy announcements up to election day, rarely on election day but certainly up to election day. Notwithstanding we recognise that this particular amendment does put pressure on the PBO. The PBO will be under considerable pressure during those final days of the election cycle in any case, but we believe having an extra day in which policies can be submitted for costing would be a useful step and therefore I intend to proceed with the amendment.

Mr JENNINGS (Special Minister of State) — Whilst I acknowledge Mr Barber's campaigning on the issue, I happen to agree with his argument and the government will not be supporting this amendment.

Committee divided on amendment:

Ayes, 21

Atkinson, Mr	O'Donohue, Mr
Bath, Ms	Ondarchie, Mr
Bourman, Mr	O'Sullivan, Mr (*Teller*)
Carling-Jenkins, Dr	Patten, Ms

Crozier, Ms
Dalla-Riva, Mr
Davis, Mr
Finn, Mr
Fitzherbert, Ms
Lovell, Ms
Morris, Mr
Peulich, Mrs
Purcell, Mr
Ramsay, Mr (*Teller*)
Rich-Phillips, Mr
Wooldridge, Ms
Young, Mr

Noes, 19

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

Amendment agreed to.

Amended clause agreed to.

Clause 37

The DEPUTY PRESIDENT — Order! We are dealing now with clause 37. I call on Mr Rich-Phillips to move his amendments 4 and 5 which seek to include additional election policy costing information, if such information is contained in a financial report or budget update under part 5 of the Financial Management Act 1994. I consider these amendments a test for Mr Rich-Phillips further amendments 6, 7, 9, 10, 11 and 12.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

4. Clause 37, page 37, line 26, omit "provision." and insert "provision; and".

5. Clause 37, page 37, after line 26 insert —

"(h) must include the following information if the costing was prepared using financial information or economic or other assumptions contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**—

(i) a statement to that effect; and

(ii) a statement identifying the nature of that information or assumption.".

Deputy President, just on your latter point, it would be my intention to, if necessary, test those subsequent amendments you referred to, noting they relate to a different report in a different section of the bill.

Specifically on amendments 4 and 5 to clause 37, clause 37 relates to the preparation of an election policy costing and the clause, as drafted, makes reference to the fact that the PBO may reference material which is not in the public domain in preparing an election costing, in particular a budget update or a financial report which has been prepared in Treasury but has not been released.

The coalition has no difficulty with that. However, what we are seeking in relation to this clause is that where the PBO relies on a financial report or a budget update that has not been released the intention of this amendment would be to require the PBO to disclose in their policy costing that they had in fact referred to and drawn upon information or assumptions that are not in the public domain. This is just for the purposes of transparency so that anyone referencing the policy costing is aware that the PBO has relied on a report or a budget update that has not yet been released. It would not require the PBO to disclose what that information is and in fact clause 37 would prevent them disclosing what that information is. It would merely require a statement that they have relied on otherwise unpublished information.

Mr JENNINGS (Special Minister of State) — The government is not of the view that this amendment is required, nor are the other amendments that Mr Rich-Phillips has foreshadowed are intended to be tested by this provision, and I will outline to the chamber why that is the case.

We are of the view that the effect of the proposed amendments in each case where the PBO is costing a policy, whether under an election costing policy request from a parliamentary leader or a request from an MP, or preparing a pre or post-election report, and has used as a basis for costing that policy or preparing that report some updated financial information or economic assumptions which have not been publicly released, the PBO must state that he or she has made such usage and disclose the nature of the updated information or assumptions.

These amendments appear to be based on a misapprehension concerning the bill's proposals for the use of unpublished information or assumptions. In each of the cases instanced by the opposition the bill requires that a policy costing must not include any information contained in a financial report or budget update that has been prepared but not released under part 5 of the Financial Management Act 1994.

The intended effect of the proposal in the bill is that if, for instance, the Department of Treasury and Finance is aware that a financial report containing updated information or assumptions has been prepared and is

scheduled to be released in coming weeks, DTF may provide the updated information or assumptions to the PBO together with advice of the proposed or in some cases statutorily required release dates, so that the PBO may prepare a costing using the most up-to-date information in the expectation that the updated information will have been released by the time the PBO finalises the costing or report and provides it to the person requesting it or, in the case of a post-election report, releases it.

The intended effect of the subclauses cited above is that a costing or report must not be provided or released if the updated information or assumptions have not been released, and instead the PBO must rework and then provide or release the costings or report based on the most recent information or assumptions that have been made publicly available. This means that there will never be a situation where a costing or report has been provided or released which is based on financial information or assumptions which are required to be publicly released but have not been released at the time the costing or report is provided or released to the public. The provisions of the bill therefore ensure that the circumstances can never arise in which the provisions proposed to be inserted by the amendments would become operational.

Mr BARBER (Northern Metropolitan) — I appreciate what it is that Mr Rich-Phillips is trying to do here and that his amendments do not prohibit the use of unpublished information but do require a statement that the info is being used and something about the nature of the information. The question is: would a statement identifying the nature of that information or assumption disclose the content of an unpublished budget update? Because if it would, then that may conflict with the PBO's other obligations with regard to confidentiality, which I am sure the government and any future government would hold quite dearly, myself perhaps not so much.

Maybe the government thinks these are worthwhile amendments; I am not sure. I think I missed whether the government has said it is supporting or opposing them. But there are existing provisions in each of these clauses for what is called explanatory information. No doubt that would be footnotes. It could be miles of them. We could perhaps sit here for some time asking the government to clarify how it intends that existing provision would be interpreted, but what we cannot ask the government is how the PBO will decide to include those footnotes because the PBO is in fact an independent body. So I am not sure that there is necessarily a lot of value in going into all the many ways that the PBO might interpret these various clauses and indeed how they would then wind up disclosing information when they write their reports.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Just in response to Mr Barber's question about 'Would the nature of the amendment lead to the disclosure of information?', I would say, just to clarify to Mr Barber, that amendment 5 relates to financial reports or budget updates prepared pursuant to the Financial Management Act 1994 (FMA), and in that sense they are both proforma reports. It is not a case of drawing on a confidential business case from an unrelated project. The amendment relates specifically to two types of reports under the FMA, which are essentially proforma. Therefore the coalition's view is that a statement that information from a budget update had been used relating to the latest forecast of net result would not disclose information simply by the inclusion of such a note. Indeed a similar note in respect of any other element in those two proforma reports would not disclose the type of information that Mr Barber is getting to, but I certainly appreciate where his question is going.

Notwithstanding the minister's views on the way in which the PBO would use information in unpublished reports, if the minister's interpretation is correct, then my proposed amendment would not come into operation and indeed would do no harm. If the minister's interpretation is not the way in which the PBO operates, this will provide some assurance as to the information that is used in costing reports. Therefore I will proceed with putting these amendments.

Mr JENNINGS (Special Minister of State) — Given that I was not compelling as far as Mr Rich-Phillips is concerned in relation to the material that I read into the transcript, let me take another approach. Let me go to the source of the bill itself. Clause 37 is headed 'Parliamentary Budget Officer to prepare election policy costings'.

Mr Rich-Phillips intends to add an additional provision. Clause 37(2)(g) of the bill provides that such an election policy costing:

> must not include any information —
>
> …
>
> (iii) contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**.

Mr Rich-Phillips now wants to insert a paragraph (h) to say, 'Yes, but if it does include that information, it has got to issue a statement to say that it has'. So in fact

subparagraph (iii) is far more definitive than Mr Rich-Phillips's proposed amendment. He is actually creating an exposure to say, 'Yes, you can use the information, and if you do so, you must say that you have'. But in fact the bill as written precludes it being used in that way.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for that response. I guess, Minister, that takes us to the definition of what an election policy costing is. Is it the publication of a document or is it the calculations that underpin that document? The minister's interpretation, which may be how the PBO interprets the legislation once it is in place, suggests that that unpublished information will not be used in the preparation of a policy costing, as opposed to not disclosed in the release of a policy costing. Given it is certainly the coalition's view that that is not clear in the provision the minister referred to, we believe that the insertion of proposed paragraph (h) by amendment 5 would provide some assurance around that matter.

Mr JENNINGS (Special Minister of State) — My argument is that it does not add to the surety. Rather it adds to the potential for confusion with the Parliamentary Budget Officer in the way in which they understand that provision of the act, how they would read clause 37(2)(g)(iii) being in conflict with your intended paragraph (h). I think you are adding to the potential for there to be confusion. The intention is to insert paragraph (h) after paragraph (g), which provides a prohibition on using information that has not being published. You are actually saying subsequently, 'Yes, but if you use information that has not been published, tell us that you have used it'. I would think that paragraph (g) is stronger in its own right and proposed paragraph (h) can only lead to confusion.

Committee divided on amendments:

Ayes, 21

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

Noes, 19

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

Amendments agreed to.

Amended clause agreed to; clause 38 agreed to.

Clause 39

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

6. Clause 39, page 42, line 9, omit "provision." and insert "provision; and".

7. Clause 39, page 42, after line 9 insert—

"(h) must include the following information if the pre-election report was prepared using financial information or economic or other assumptions contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**—

(i) a statement to that effect; and

(ii) a statement identifying the nature of that information or assumption.".

Clause 39 relates to pre-election reports, and we are seeking to insert a provision that mirrors the one that the committee just accepted in relation to clause 37 requiring the disclosure of the use of unpublished information contained in financial reports or budget updates.

Mr JENNINGS (Special Minister of State) — The government considers that Mr Rich-Phillips's last amendment effectively tested this and the subsequent clauses and will not divide on the matter.

Amendments agreed to; amended clause agreed to; clause 40 agreed to.

Clause 41

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

8. Clause 41, line 28, omit "publicly announced" and insert "published in writing".

This goes to the issues that the committee considered in clause 1 of the bill. Clause 41 of the bill relates to the production of a post-election report by the PBO, and what my coalition amendment is seeking to do is to clarify that a post-election report should be prepared in relation to policies that were announced by a

parliamentary leader and published in writing. The reason for this amendment is simply to provide some scope around the activities that the Parliamentary Budget Officer needs to include in the post-election reports. The coalition is concerned that the clause as drafted provides no guidance to the PBO as to what they need to include or not include, what is a policy and what is not a policy. Therefore clarifying that it is a document from the leader published in writing, being obviously a website announcement, press release et cetera, does provide some parameters around what is a policy and what is not a policy for the purposes of costing.

Mr JENNINGS (Special Minister of State) — We had the debate about this matter; I did say that my preference would have been to have the debate now, but given that you and I and Mr Barber to that extent had that debate earlier on, let us just take it as read. The government believes that the bill as it stands has a better construct in that it enables the Parliamentary Budget Office to make its decision based upon what it believes is the gravity of the commitment — the way in which it can justify that it sees a commitment that has been made by a party that costs that accordingly — and when it publishes its report after the election then I think the community can make an assessment about how well it has acquitted its responsibilities.

The government believes that that is a better way than limiting the application of the work in the way that Mr Rich-Phillips is seeking to amend the bill. We think that that diminishes the integrity of the purpose of the bill rather than adding to it, and so we will oppose this amendment.

Committee divided on amendment:

Ayes, 20

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

Noes, 20

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

Amendment negatived.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

9. Clause 41, page 45, line 14, omit "provision." and insert "provision; and".

10. Clause 41, page 45, after line 14 insert—

"(g) must include the following information if the post-election report was prepared using financial information or economic or other assumptions contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**—

(i) a statement to that effect; and

(ii) a statement identifying the nature of that information or assumption.".

Amendments 9 and 10 are the same as the amendments that the committee previously considered in relation to requiring the PBO to make a statement where they have used unpublished information. Amendments 9 and 10 relate to that same requirement being put in place in respect of post-election reports.

Mr JENNINGS (Special Minister of State) — As I foreshadowed before, the government believes that this principle has been tested and we will not divide on this question.

Amendments agreed to; amended clause agreed to; clauses 42 to 44 agreed to.

Clause 45

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

11. Clause 45, page 50, line 26, omit "provision." and insert "provision; and".

12. Clause 45, page 50, after line 26 insert—

"(h) must include the following information if the costing was prepared using financial information or economic or other assumptions contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**—

(i) a statement to that effect; and

(ii) a statement identifying the nature of that information or assumption.".

Again these amendments insert, in this case in relation to clause 45, 'Parliamentary Budget Officer to prepare policy costings', a requirement that a statement be made where the PBO has used a financial report or budget update that has not yet been released, so it is again parallel to the amendments the house has just considered.

Mr JENNINGS (Special Minister of State) — The government will accept these amendments in the course of this committee.

Amendments agreed to; amended clause agreed to; clauses 46 to 53 agreed to.

Clause 54

Mr BARBER (Northern Metropolitan) — This is just a matter for clarification for the government, and it relates to the Public Accounts and Estimates Committee's (PAEC) functions and interaction with this body. PAEC has indicated that it is interested in whether the committee is required to be consulted on the PBO's budget, and if so, what is the process for getting the budget to the committee, since, unlike the Auditor-General, there is no requirement for the PBO to submit a budget for consideration by the committee. PAEC has noted that with the exception of clauses 54(1)(a) and 54(1)(c) there are no other references to these activities and functions in the bill. It also notes the discrepancy between clause 6(4), which says the committee may specify terms and conditions of employment of the PBO, and clause 54(1)(a), which says that specifying terms and conditions of the PBO's employment is a function of PAEC. Which of the clause 54 functions is compulsory for PAEC, and how will those functions be funded?

Mr JENNINGS (Special Minister of State) — I am going for a walk; I will come back.

Mr Barber, it was a good series of questions that you asked me and that I replicated over the fence over there, and the significant structure that was outlined to me to convey to you is that for all intents and purposes we should think of this office as being established in a statutory sense in a similar way to the Auditor-General in that it is a statutory body that works within the framework of parliamentary administration and would be administered through Parliament's budget.

The obligations of PAEC, whilst they would have the potential to be prescriptive in relation to the terms and conditions of employment, would not necessarily always be a feature of ongoing reflection or decision by PAEC, but the enduring employment relationship would be maintained through Parliament's administration. Within the head of power that is provided for within this bill, the Public Accounts and Estimates Committee may have regard to the statutory appointments or potential failure of the statutory appointments or indicate where there may be some remedy that may be required.

But for the day-to-day running of the office it will operate under the same administrative processes that other people who are employed under the Parliamentary Administration Act 2005 operate under and will be subjected to budget scrutiny or the provision of budget allocation in a similar way, so that there would be a line item that would come through Parliament's budget. There may be a recommendation about that budget setting from PAEC — maybe a budget recommendation that comes through the body itself; maybe a budget recommendation that would come through PAEC's consideration — but ultimately at the end of the day it is anticipated that the level of funding would be provided by the government in accordance with its allocations made to Parliament.

Mr BARBER (Northern Metropolitan) — That sounded like a lot of maybes, and that question should not have exactly come as an Operation Barbarossa surprise attack. It was the Labor chair of PAEC who wrote to all party leaders with this question, and I would have thought there was a pre-prepared or even pre-considered answer.

But let me move on to another somewhat related question — also, though, from the background that I have received through PAEC. Can the minister please give some more information about the review of the PBO under clause 54(1)(e)? How often will this review be performed? Is this intended to be similar to the independent financial auditor or performance auditor of the Victorian Auditor-General?

Mr JENNINGS (Special Minister of State) — I am advised that there is a standard agreement that operates between the Parliament and the Auditor-General on the basis of which aspects of the Parliament's activities are audited, and that would be envisaged to apply to the Parliamentary Budget Office on an ongoing basis and a regularised basis within that structure, but as Mr Barber has indicated, there is an additional provision should the timing suit PAEC, as it sees fit, to instigate a specific order to review in line with clause 54(1)(e).

Clause agreed to.

Clause 55

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

13. Clause 55, after line 28 insert—

"( ) Despite subsection (1), a member of Parliament who receives information referred to in subsection (1) in relation to a costing requested by the member may publish that information—

(a) after notifying the Parliamentary Budget Officer that the member intends to do so; and

(b) whether or not the Parliamentary Budget Officer consents to that publication.

( ) A notification referred to in subsection (3)(a)—

(a) must be in writing; and

(b) may be given by email.".

Clause 55 of the bill inserts a confidentiality requirement with respect to preliminary documents and provides that a person must not publish any of the information as listed in paragraphs (a) through (c) in subclause (1) — documents relating to draft documents, draft costing documents et cetera. My amendment seeks to provide an exemption to that confidentiality requirement where a person is a member of Parliament who has sought a costing and the documents in question relate to that costing. The intention of the amendment is to allow the person who has sought the costing from the PBO and has received the draft documents et cetera as listed to release those documents, if they see fit, following notification to the PBO.

It is envisaged that this amendment would be desirable in circumstances where there is a dispute between the PBO and the party requesting the costing as to the nature of the outcome of that costing — for example, where there is wide variation between what the requesting party believes a policy proposal would cost and what the PBO has come back with or, indeed, where there is wide variation between something that may have been submitted to the requesting party by way of a draft document and the final document that has been released.

The provision in the bill as drafted allows a person to publish if they receive the consent of the PBO. What I am seeking via my amendment is to change the requirement that consent be obtained from the PBO to, where the document is sought to be released by the person requesting the policy costing, simply that they be required to advise the PBO of their intention to release that document, rather than requiring the approval of the PBO.

Obviously where there is a dispute over costings, a particular costing or a variation between a draft and a final costing, relying on the agreement of the PBO to release that information may not be in the interests of transparency, particularly where it exposes the PBO to scrutiny or, indeed, criticism of the way in which they have costed something or changed a costing. We believe that in the interest of transparency the party who has requested the costing should have the as-of-right capacity to release those documents — that correspondence — where they wish to, which would typically be where there is a dispute with the PBO over the work that they have produced.

Mr JENNINGS (Special Minister of State) — The government does not accept this amendment. If we accepted this amendment, we would be accepting the notion that by design the Parliamentary Budget Office is not capable of acquitting its responsibilities. I think effectively under the argument that Mr Rich-Phillips has just outlined, if there is a discrepancy between the policy costings of a political party and the Parliamentary Budget Office, the party could form the view that it now has the opportunity to shame, embarrass or expose the Parliamentary Budget Office in the court of public opinion in relation to its costing structures. The intent of this bill is to allow for greater regard in the public domain for the standing of the Parliamentary Budget Office in relation to being a reliable authority of information, rather than the potential circumstances in which Mr Rich-Phillips seeks to undermine it.

If, in the circumstances that he outlined to justify this amendment, there were circumstances where a political party has great confidence in their costings that have been either ascertained by their own assessment or verified by other authorities, then I would have thought that argument could be mounted in their own defence without the legislation necessarily having to be used in the fashion that Mr Rich-Phillips has outlined. I think it would be more appropriate, to maintain the operation and the integrity of the body, to keep it in the form that is outlined in the bill.

Mr BARBER (Northern Metropolitan) — It is a fine point, or perhaps a balancing act, that Mr Rich-Phillips is seeking to raise with his amendment. Clause 55 is aimed at preventing inappropriate leaks and disclosure of personally identifying information, which the Liberals or otherwise are quite keen to prevent. If we had seen an amendment that limited the PBO's ability to

unreasonably refuse to consent to release the documents in circumstances where perhaps the publication is necessary to assist in explaining a policy costing, the amendment could perhaps operate in a way that is a bit unfair because the PBO cannot publish the same information without the MP's consent or even in some cases at all, even with the MP's consent. I do not see a great hazard of a kind of tit-for-tat discussion going on back and forth between the requesting party and the PBO. On the other hand, the PBO can respond to correct a misrepresentation under clause 52. On balance, while I understand the issue that Mr Rich-Phillips is raising, the Greens will not be supporting his amendment in this instance.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister and Mr Barber for their comments. In response to the minister, he spoke about the standing of the PBO and the PBO's standing being established past the passage of this legislation. The coalition does not believe that that standing should be based on the PBO being able to withhold information that may be embarrassing to it. We believe the standing of the PBO will be established and maintained by the rigour of the work it performs, and simply being able to withhold consent to the release of information that is inconvenient to its argument will not improve, enhance or maintain its public standing. To that extent, if that is what the minister is getting at in not supporting this amendment, we would reject that proposition. We believe the PBO should be open to having its analysis subject to rigour and comparison and that this amendment would facilitate that where there are typically disagreements between the parties as to the assessments.

Committee divided on amendment:

Ayes, 20

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

Noes, 20

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

Amendment negatived.

Clause agreed to; clauses 56 to 62 agreed to; clause 63 postponed.

Clause 2 recommitted

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Deputy President, can you just outline why you are seeking for the committee to give leave for clause 2 to be amended?

Mr JENNINGS (Special Minister of State) — In the interim until the Deputy President formally responds I can assist the committee by suggesting that the government appreciates any assistance from the committee at this point in time by granting leave to enable the government to move amendments to allow the operative date of the bill to come into effect, given this piece of legislation has been on the notice paper for a long period of time. This matter should have been dealt with in clause 2, and if leave is granted, then we would be afforded the opportunity to make that amendment.

The DEPUTY PRESIDENT — Order! Leave is granted.

Mr JENNINGS (Special Minister of State) — If I may, Deputy President, I would like to move amendments in my name to give effect to the matters that I have just raised in the committee. I move:

1. Clause 2, line 14, before "This" insert "(1)".

2. Clause 2, line 14, omit "This" and insert "Subject to subsection (2), this".

3. Clause 2, line 14, omit "1 July 2016." and insert "a day or days to be proclaimed.".

4. Clause 2, after line 14 insert—

   "() If a provision of this Act does not come into operation before 1 July 2017, it comes into operation on that day.".

If I may, whilst I am formally moving amendments 1 to 4, I would like to indicate to the committee that the net effect of amendments 1, 2, 3 and 4 is to give effect to an operative date to be proclaimed, given that the original bill had an operative date of 1 July 2016. Then within the provision of amendments 1 to 4 that I have moved the effect on the bill would be that it comes into effect on a date to be proclaimed, and if this is not proclaimed before 1 July, it comes into operation on that date. So

that is setting the outer limit of the date on which it will be taking effect.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The coalition does not oppose the amendment moved by the minister; I just seek clarification. I appreciate this bill is not in the first instance the responsibility of the minister at the table; it is the Treasurer's bill. I wonder if the minister's advisers perhaps can clarify why this amendment is being made by way of four individual amendments rather than simply replacing the reference to '2016' with '2017' in clause 2. I appreciate very much this is not this minister's legislation; it is the responsibility of the Treasurer in the other place.

Mr JENNINGS (Special Minister of State) — Mr Rich-Phillips, you and I know that we have debated in relation to some of your amendments whether they are in fact required or not. The government argued that some of your amendments may have been redundant when in fact there is one instance where we may have believed that it was running contrary to the provisions in the bill immediately before it. So I understand that there are a variety of ways in which we can be advised by our officers and by parliamentary counsel of the way of remedying it. I may like the simple elegance of what you are putting to me. That is not what I have before me.

Amendments agreed to; amended clause agreed to.

Postponed clause 63

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

5. Clause 63, line 21, omit "2017." and insert "2018.".

As a rejoinder to the amendments that I have just made to clause 2, I am very pleased to adopt the method that Mr Rich-Phillips would prefer in relation to a simple insertion within clause 63 — to delete '2017' and insert in its place '2018' as the date by which this part is repealed.

Amendment agreed to; amended clause agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Treasurer

The ACTING PRESIDENT (**Mr Finn**) — Order! I have received the following message from the Legislative Assembly, signed by the Speaker:

> The Legislative Assembly has agreed to the following resolution:
>
> > That this house refuses to grant leave to the Treasurer, the Honourable Tim Pallas, MP, to appear before the Legislative Council economy and infrastructure committee to give evidence and answer questions in relation to the committee's inquiry into infrastructure projects.

I suspect that the committee chair will be very disappointed about that.

WRONGS AMENDMENT (ORGANISATIONAL CHILD ABUSE) BILL 2016

Second reading

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

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise to make some remarks on the Wrongs Amendment (Organisational Child Abuse) Bill 2016. This bill arises from the work in 2013 of the Family and Community Development Committee on the issue of institutional child abuse. This was work commissioned by the previous coalition government and led by Ms Crozier in this place as then chair of the Family and Community Development Committee. It led to the groundbreaking *Betrayal of Trust* report, which is one of the most significant parliamentary committee reports produced in the Parliament of Victoria in recent years, and went a long way to providing an outlet, an opportunity for those citizens of Victoria who had been subjected to child abuse in an organisational setting to highlight their experiences and to see the first glimmers of justice that they had been denied throughout their lives prior to that work being undertaken.

It was of course the fantastic work of that parliamentary committee that ultimately led to the federal government, and indeed the Victorian government in parallel, establishing the royal commission that is currently on foot looking at child abuse. It is a great credit to the parliamentary committee system and

indeed to Ms Crozier and the members of her committee at the time that that work was undertaken and that it was such a groundbreaking piece of work both here in Victoria and around Australia.

One of the recommendations from that *Betrayal of Trust* report is recommendation 26.4 with respect to the issue of organisations where child abuse occurred having a duty of care imposed upon them for the actions of individuals in their organisation. This was recognition that so much of what had taken place in an organisational setting in relation to child abuse had been attributed to the acts of individuals. We had seen time and time again over many decades leading up to that inquiry — and indeed continuing to this day with the Royal Commission into Institutional Responses to Child Sexual Abuse — institutions in which abuse had taken place seeking to deflect any responsibility from the institution, deflect any liability from the institution, and attribute responsibility to the individuals in the institution who may have been perpetrators of child abuse, without the institution itself accepting any responsibility.

The *Betrayal of Trust* report recommends that a duty of care be established for organisations which are exercising care, supervision or authority over children, and that recommendation was supported in principle by the coalition government in its response to the *Betrayal of Trust* report. The bill we have before the house this afternoon gives effect to that recommendation. The bill will amend the Wrongs Act 1958 to impose on organisations a new and additional statutory duty of care in relation to organisations which are exercising care, supervision or authority over children to prevent physical abuse or sexual abuse. So the bill will establish a statutory duty of care to prevent physical or sexual abuse of children who are in their care, supervision or authority.

The bill is a relatively short bill. It amends the Wrongs Act. It seeks to insert a new section 90 into the Wrongs Act which outlines that for an individual to be associated with a relevant organisation this includes if they are an officer, an office-holder, an employee, an owner, a volunteer or contractor, a minister of religion or religious leader. It establishes the relationship between the individual who may be the perpetrator and the relevant organisation, so if any person is in a relationship of that nature with the organisation — an employee, an owner, a volunteer et cetera — and child abuse occurs in that setting, then that will create the nexus between the individual perpetrator and the organisation with which they are associated.

The key clause of the bill inserts a new section 91 into the Wrongs Act. This imposes a duty of care that forms part of a cause for action in negligence on a relevant organisation to prevent the abuse of a child by any associated individual while the child is under their care. Importantly it provides that the burden of proof will be shifted in a proceeding such that on proof that abuse has occurred the organisation is presumed to have breached its duty of care unless it can prove on the balance of probabilities that it took reasonable precautions to prevent the abuse in that particular case.

The other substantive provision is a new section 92, which provides that if an entity is not capable in law of being sued, it may nominate, with the consent of the nominee, a legal person that is so capable as the appropriate defendant for the purposes of a claim. So this is a very important step from the *Betrayal of Trust* report in establishing that organisations will have a statutory duty of care in respect of the children in their care, supervision or authority to prevent physical and sexual abuse, that that duty of care extends to associated individuals as defined in the bill, and that encompasses all the types of relationships that we have heard about time and time again through the inquiry that led to the *Betrayal of Trust* report, through the royal commission — being staff in institutions, being religious leaders, being teachers et cetera.

The bill establishes very clearly that an individual is associated with an organisation in that way and that does trigger the statutory duty of care. Importantly, where the abuse is proved, the burden sits on the organisation to demonstrate on the balance of probabilities that it took reasonable precautions to prevent that abuse. So they are presumed to be negligent, to have breached their duty of care, unless they can prove on the balance of probabilities that they took appropriate action.

An amendment like this to the Wrongs Act is not taken lightly. Anything that seeks to reverse the burden of proof is a significant step. Anything that seeks to attach liability to a party who does not perpetrate an action is a substantial step. That said, there are already provisions in the Wrongs Act which do this, but having regard to the circumstances which have come to light through the *Betrayal of Trust* report and which continue to come to light through the royal commission, linking the actions of an associated individual with the institution for the purpose of negligence and an action in negligence is an appropriate step. Likewise, providing that where the abuse is proved there is a presumption that the institution was negligent is also an appropriate step given the nature of these cases and the way they have

been continuously denied by relevant organisations over a long period of time.

I note that the Law Institute of Victoria has raised some concerns that reversing the burden of proof, as this legislation does, is an unusual step which is not to be taken lightly. But given the circumstances which have given rise to this legislation which were canvassed extensively in the *Betrayal of Trust* report and which continue to be of concern to the community, as we see with the royal commission, the coalition believes that this is an appropriate course of action. It does reflect recommendation 26.4 of the *Betrayal of Trust* report which was supported in principle by the previous coalition government. Accordingly, we will not be opposing this legislation.

Mr MELHEM (Western Metropolitan) — I also rise to speak on the Wrongs Amendment (Organisational Child Abuse) Bill 2016. The bill will amend the Wrongs Act 1958 to impose a duty of care that will allow an organisation to be held liable for negligence in relation to child abuse committed by individuals associated with that organisation. We all know the origin of this bill, coming out of the inquiry carried out by the previous Parliament in relation to child abuse in the state of Victoria.

The bill will now put the onus of proof on these organisations to demonstrate that they have taken reasonable action to address any issue they might become aware of in relation to any of their employees who have committed sexual abuse or a sexual act against a child in particular. The current legislation is a bit deficient in relation to that point, so this bill will provide a mechanism whereby organisations, employers in this instance, are responsible, whether the employees working under their control are paid or voluntary. The bill will provide the opportunity to victims and survivors of child abuse to sue these organisations. That is in line with implementing recommendation 26.4 of the *Betrayal of Trust* report. It also addresses recommendations 91, 92 and 93 of the Royal Commission into Institutional Responses to Child Sexual Abuse inquiry.

I am pleased that the bill has everyone's support, because as legislators and custodians of the law in Victoria it is our role to protect the most vulnerable in our society, and in this instance we are protecting our children. Unfortunately, as we learned from the *Betrayal of Trust* report and the current Royal Commission into Institutional Responses to Child Sexual Abuse inquiry, a lot of organisations, instead of doing the right thing, instead of protecting vulnerable children in their care, protected the perpetrators who committed these abuses. The bill will go a long way towards addressing that loophole.

As I said earlier, victims will be able to sue the organisation in question. I think it is very important that they are able to do that because we are dealing with individuals who have committed a sexual abuse crime. They might get dealt with, but it is also important to send a message to these institutions. That includes the state government; the government is not immune from the bill. Whether it is the state government, whether it is a religious institution, whether it is a not-for-profit organisation or any employer who is in a situation where they are looking after children, if a person working for them commits these horrible acts against children, this legislation will act as a deterrent.

We are not just punishing the individuals who commit these horrible acts; we are sending a message to these organisations that they are responsible as well. That should be an incentive for the people who are running these organisations to make sure they have systems in place, regular audits and checks and balances, and that the people working for them are compliant with the law. They need to not only have processes to report child abuse but also take the necessary action. Organisations really need to look at whether they have proper systems and deterrents in place so that child abuse becomes a thing of the past and they can prevent any further child abuse under their care into the future.

This bill is not retrospective, so it does not deal with cases that have already been dealt with; it deals with future cases. It will provide a tool that not only can be deployed to ensure we fix the past but also can be deployed to make sure that child abuse perpetrators are dealt with as well as organisations, particularly organisations that have done the wrong thing over the years and that for whatever reason have hidden or moved an individual to another place or pretended that the problem did not occur or tried to sweep it under the carpet.

The victims or survivors who find themselves in that situation can go and sue these organisations. As I said, that will now give an incentive to these organisations to make sure that if such an unfortunate thing occurs they have taken all the necessary steps to make sure those sorts of abuses do not take place and they have taken all such steps to comply with rules and regulations and the law of the land. If they have done everything within their scope and within their power to prevent these things from happening and have taken all of the necessary actions, then they have nothing to fear. This bill gives the victims the ability to sue these organisations. Obviously the onus of proof will be on

the organisations to prove that they have taken these steps, and the court will decide.

There is a bit of argument about what the reasonable steps that can be taken by a particular organisation are and how we can determine whether or not they have been complied with. My understanding is that purposely the bill does not clearly define that particular point. I think it is a matter for the court. I think it is very important that the court is able to hear the evidence and then make a judgement on a particular case, case by case, about whether or not a particular organisation has made a reasonable attempt to address a particular situation.

As I said earlier, this is a straightforward bill. It deals with recommendations from the royal commission into child sexual abuse and also gives effect to recommendations coming out of the *Betrayal of Trust* report. It is one of a series of many actions taken by the Andrews Labor government to address the outcome of that report and also the ongoing work of the royal commission to make sure we improve our systems in Victoria through legislation to make sure we have got the right tools in place to protect the most vulnerable people in our community, who are our children, and make sure that the perpetrators, whether they are individuals or organisations, are dealt with accordingly should they offend against any of our legislation. With those comments, I commend the bill to the house.

Ms SPRINGLE (South Eastern Metropolitan) — The Greens welcome this bill as a key component of the government's response to the recommendations of the *Betrayal of Trust* report. Organisations have been dodging responsibility for their failure to protect children for far too long, and the results have been devastating. Not only have children and adults who suffered as children been forced to live with the fallout of serious abuse but their recourse to justice has also been severely limited. As a result their capacity to rebuild their lives has been undermined.

For these reasons I think we are all in agreement that this is a particularly important bill and that it is absolutely key to furthering the government's work on the *Betrayal of Trust* report. We recognise a number of difficult challenges that the government has no doubt grappled with in developing this bill, and several of those challenges are particularly concerning to the Greens. We do have concerns about which forms of abuse are included and the issue of accountability in relation to unincorporated entities. These concerns are substantial, and they risk undermining the ability of this bill to fully implement the relevant *Betrayal of Trust* recommendations as well as relevant recommendations arising from the Royal Commission into Institutional Responses to Child Sexual Abuse.

I will address each of these concerns in turn, but I want to start by highlighting a particular strength of this bill. This bill creates a presumption of liability on the part of the organisation. This is hugely significant given that historically the burden of proof to demonstrate negligence has generally fallen on the victim or a group of victims. Proposed section 91(2) establishes that a relevant organisation has a duty of care to prevent the abuse of a child by any individual associated with the organisation while the child is under the care, supervision or authority of that organisation. Proposed section 91(3) deals with presumption of liability, and I quote:

> In a proceeding on a claim against a relevant organisation for damages in respect of the abuse of a child under its care, supervision or authority, on proof that abuse has occurred and that the abuse was committed by an individual associated with the relevant organisation, the relevant organisation is presumed to have breached the duty of care referred to in subsection (2) unless the relevant organisation proves on the balance of probabilities that it took reasonable precautions to prevent the abuse in question.

The Greens welcome this shift, as I am sure dedicated campaigners around the state and the country will. Finally, with this and the passage of the Children Legislation Amendment (Reportable Conduct) Bill 2016 two weeks ago, we are starting to see the establishment of genuine organisational accountability for child abuse and the development of systems designed to prevent abuse.

The issues of what kinds of abuse constitute a legal definition of child abuse where intervention is warranted and who is held accountable for different types of abuse represent a real challenge in developing robust and fair legislation. One particularly contested area relates to the status of psychological abuse as a form of childhood abuse. Psychological maltreatment and emotional abuse have been recognised in legislation in a number of countries around the world for several decades. However, the way in which they have been defined and dealt with has been inconsistent, and this has contributed to some persistent problems, which continue to persist today. Insufficient provisions in law mean that both here and internationally a large body of case law has not been produced in this area. Additionally, emotional abuse has tended to be perceived by many as a component of physical and/or sexual abuse, not a form of abuse on its own.

These barriers are problematic. They contribute to perceptions that psychological abuse is somehow not as serious as other forms of abuse that are more widely

recognised in law, but the evidence shows us that this is simply not the case. Over the past 50 years or so a huge body of evidence has been developed enabling us to understand the severe and pervasive impact of emotional abuse on children both throughout their childhood and into adulthood. Recent research in the US examined more than 5600 cases of the sexual, physical and psychological abuse of children and found that children who had been psychologically abused suffered from anxiety, depression, low self-esteem, symptoms of post-traumatic stress and suicidality at the same rate and in some cases at a greater rate than children who are physically or sexually abused.

Among the three types of abuse, psychological maltreatment was most strongly associated with depression, general anxiety disorder, social anxiety disorder, attachment problems and substance abuse. Psychological maltreatment that occurred alongside physical or sexual abuse was associated with significantly more severe and far-ranging negative outcomes than when children were sexually and physically abused and not psychologically abused. Evidence shows that this kind of abuse causes most harm when inflicted by a primary caregiver. But regardless of the context in which it occurs, psychological maltreatment can cause serious damage.

According to the Children, Youth and Families Act 2005 a child is in need of protection if the child has suffered or is likely to suffer emotional or psychological harm of such a kind that the child's emotional or intellectual development is or is likely to be significantly damaged and the child's parent has not protected or are unlikely to protect the child from harm of that type. Any action by any adult that causes this kind of harm is an offence.

The government has clearly taken the decision to prevent and report emotional and psychological harm in whatever context it occurs and regardless of whether it has occurred in conjunction with physical or sexual abuse. Recent legislative changes have reinforced the commitment to prevent, report and prosecute that type of abuse. I refer here to the child safe standards and the Children Legislation Amendment (Reportable Conduct) Bill 2016. The Wrongs Amendment Bill, however, establishes the offence of failure to fulfil a duty of care to protect children from sexual and physical abuse only. The Greens find this inconsistency troubling. Frankly it is based on an outdated understanding of how any form of childhood trauma impacts on children's development.

As a society we deal with the outcomes of childhood trauma on a daily basis. Aside from the implicit messages we send as a society, we also bear a financial cost of child abuse, including emotional abuse where it is not accompanied by physical or sexual abuse. Children whose development is impaired — the very functioning of their brains is shaped by neglect and emotional abuse — very rarely come out of childhood unscathed by these experiences. In many cases they will go on to become high-functioning adults suffering from anxiety and depression, and as a result of them being functioning members of society, that is often hidden.

Still in those cases we rightly provide medical subsidies for therapy and often medication. In the most damaging cases these children are not able to function effectively in regular workplaces or in other aspects of their lives. In those cases the cost to society of dealing with the fallout from childhood abuse is much more significant. In a minority of cases these children become involved in antisocial behaviour and crime, and of course we are seeing the outcomes of the most difficult behaviour in our youth justice system right now.

There is a very clear message coming from all of this. The government's rhetoric focuses on early intervention and prevention, although it must be said that that focus is fairly recent. Nevertheless it is a welcome shift. But if we are going to genuinely and effectively tackle child abuse and the wide range of outcomes of child abuse, we need to get serious about all forms of abuse.

In 2015, during the debate on the Limitation of Actions Amendment (Child Abuse) Bill, I proposed the inclusion of psychological abuse without it having to arise from an act or omission in relation to the physical or sexual abuse of child. Mr Herbert, the Minister for Training and Skills at the time, argued that the government had got the balance right in relation to the scope of abuse included and that inclusion of psychological abuse was beyond the scope of the *Betrayal of Trust* report recommendations. Mr Rich-Phillips, speaking for the coalition, also believed that the nexus that is created between psychological abuse and a requirement for that to arise out of an act or omission was an appropriate one.

At this point we need to re-examine the issue of consistency with regard to this bill and within the broader context of the child protection regime. It is important to note that this decision was taken with respect to abuse committed in the past. What we are discussing today is an entirely different issue, and it relates to the standards we want to hold our society accountable for meeting now and into the future. As a society we believe that the psychological abuse of children, regardless of where it occurs and whether it

happens in conjunction with other forms of abuse, is unacceptable. This is enshrined in Victorian law. In holding organisations to account for upholding their duty of care we should be consistent in relation to these standards.

On that note the Greens are proposing an amendment to the bill to include psychological abuse as well as sexual abuse and physical abuse and that the definition of psychological abuse be drawn directly from the Children, Youth and Families Act. We have been advised that the courts have generally taken a conservative approach in applications for compensation arising from emotional or psychological harm, so it is highly unlikely that the inclusion of emotional or psychological harm in this way would per se open any floodgates to compensation.

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

Ms SPRINGLE — I would like to acknowledge at this point the desire of many victims and advocacy groups that legislation responding to abuses of the past be made retrospective. The Greens share those concerns. We acknowledge that in getting to this point where clear progress is being made in holding organisations accountable for preventing and reporting child abuse we have relied on and sought the honesty and efforts of victims and their families. The awful irony here is that the legislation will apply prospectively and will not provide the victims of the past with the rights that victims will have going forward. Notwithstanding that awful irony, we note substantial difficulties in making a bill such as this retrospective. We note the positions taken in both the *Betrayal of Trust* report and the Royal Commission into Institutional Responses to Child Sexual Abuse that legislation of this kind not be made retrospective due to substantial legal complexities in applying legislation in this way.

To all those survivors, family members and advocates who have helped us to get to this point, we owe you an explanation on this, and I hope in seeing many of your efforts come to fruition through legislative change, even if it cannot be applied to past wrongs, some form of relief and achievement is forthcoming.

Our final concern, and this is an important one, relates to the failure of the bill to hold organisations accountable for fulfilling their duty of care to children. The relevant section of the bill is in clause 3, which inserts new clause 92(1) into the Wrongs Act 1958. It reads:

> (1) If an entity is not capable in law of being sued, it may nominate, with the consent of the nominee, a legal person that is so capable as the appropriate defendant for the purposes of a claim brought in reliance on the duty in section 91 and any liability incurred by the entity by reason of section 91(2) is incurred by the nominated legal person.

If an unincorporated entity is not obliged to nominate a legal person, child abuse survivors may be denied justice simply by virtue of the abuse happening in a certain type of organisation. We and the Law Institute of Victoria are concerned that this undermines the ability of the bill to fully implement the relevant *Betrayal of Trust* recommendation. In the section on legal barriers to claiming against non-government organisations that report recommended that the Victorian government consider requiring non-government organisations to be incorporated and adequately insured when it funds them or provides them with tax exemptions and/or other entitlements and working with the Australian government to require religious and other non-government organisations that engage with children to adopt incorporated legal structures.

In April 2015 my colleague Colleen Hartland asked Mr Herbert when we could expect to see legislation requiring religious organisations and other institutions to become incorporated legal structures capable of both having insurance and being sued by victims. Mr Herbert responded that it was a very complex issue and that work was currently underway to resolve these issues. No time line was given. Nearly two years on we have legislation on the table that highlights how problematic this situation is.

Allow me to talk through a few hypothetical situations in order to demonstrate exactly why this is not good enough. At present all kinds of organisations, whether incorporated or not, take out insurance against a plethora of eventualities, and our legal system provides protection and the ability to take legal action where negligence on the part of an organisation results in serious injury. So if I were to break my ankle at work, there are clear avenues for action within our legal system that would require an organisation, if found guilty of negligence leading to that accident, to compensate me for that injury. Compare that with the hypothetical case of a child who has been gravely abused over a sustained period of time by an employee of an unincorporated organisation that works with children. If the perpetrator of that abuse was to die or leave the country permanently, that child would be left

with limited opportunities for redress and no opportunities for action through the courts.

We have noted the concerns of the Legislative Assembly member Mr Pesutto regarding the possibility of insurance premiums skyrocketing as a result of requiring all unincorporated organisations that work with children to nominate a legal person for the purposes of litigation, but we are not prepared to accept that the issue of insurance premiums trumps the safety of children and their right to be protected from abuse.

There is an issue of inconsistency here too. Under the child safe standards and the reportable conduct scheme all organisations working with children, including unincorporated ones, will have to put in place strong safeguards to protect children from abuse and to prevent anyone associated with their organisation from abusing them. So the reality is that any organisation that is compliant with this legislation is highly unlikely to be liable for negligence, as they will have taken reasonable precautions. Let us just for one moment imagine an organisation that has not met child safe standards and that has failed to either develop or properly communicate its internal policy on child protection and reportable conduct, and let us imagine that an employee of that organisation abuses a child in the care of that organisation. This is not an organisation that deserves our protection. It is a negligent organisation that has allowed a child in its care to come to harm, and it should bear the consequences. This bill is not about protecting the insurance premiums of unincorporated organisations; it is about protecting children. The Greens will therefore be proposing a second amendment providing that if an entity is not capable in law of being sued, it must nominate, with the consent of the nominee, a legal person capable of acting as a defendant for the purposes of the claim.

We note that public hearings of the royal commission took place in Sydney several weeks ago, and part of that process aims to examine the level of consistency across states and territories in relation to redress and litigation and to examine consistency within the actions of states and territories in relation to findings of the royal commission. No doubt that time line is partly driving the passage of this and related legislation, and as I said, the Greens are pleased that this bill is now before the house, even if it has taken a bit of a push to get it here, but I would urge serious consideration of our amendments and an honest reflection on what it means to either support or reject those amendments.

Mr FINN (Western Metropolitan) — This bill is an important bill; it is a very important matter that we are discussing in relation to this bill. The background of the bill, of course, is the *Betrayal of Trust* report, the final report of the inquiry into the handling of child abuse by religious and other non-government organisations of the Family and Community Development Committee of the Victorian Parliament. It has almost become customary to pay tribute to the chairman of that committee, Ms Crozier, who did a very good job — and not just Ms Crozier: I think the committee members generally did an exceptionally good job on what must have been an extraordinarily difficult task. I cannot begin to imagine how I would have coped with some of the information they uncovered. I cannot begin to imagine how I would have coped with seeing the damage and the harm that was done to children by, well, low-life scum. There are no other words that I could use to describe them — well, there probably are, but they would be most unparliamentary and I might save them for another day. Certainly I might think that the *Betrayal of Trust* report is something that documents very effectively one of the great evils we have seen in our nation in the last 50 or 60 years.

As somebody who is a member — although tentatively I have to say at the moment — of one of the religions that seems to be most prominent in that abuse, I have to say that I feel disgust for those responsible. When I say 'responsible', I am not just talking about the priests and the brothers who did this but am particularly speaking about the bishops who were responsible for shifting around the vile pond scum from parish to parish, sometimes even from state to state, in order to allow them to continue their abuse of children. I cannot imagine what the good Lord must have thought of what those people — and I use that term very loosely — did over such a long period of time. It worries me that I think, just looking at the religions — whether it is the Catholic Church or some of the sections of Judaism, and I think the Salvation Army had a bit of it going on as well — it may well have been a lot more prominent than the report found.

I am certainly concerned that this sort of abuse has gone on across the board for a very long time, because there are some evil people out there who almost live on this sort of thing. I do not understand it. It disgusts me beyond words. I think kids are the greatest thing that God has ever given us; I think kids are absolutely wonderful. Anybody who abuses a child — not only anybody who sexually abuses a child but anybody who abuses a child at all — just might deserve all they get. There have been some people over the time who have said — and I read this in newspapers — that some of these priests and brothers who were guilty of these heinous crimes against children died without facing justice. I do not think that they missed out on justice at all, because when they faced their maker, their justice

would have been pretty full on. It is not a fate that I would want. So do not be mistaken into thinking that they missed out on justice, because they got, and they are no doubt suffering now, the ultimate justice for what they did.

This is the Wrongs Amendment (Organisational Child Abuse) Bill 2016. It refers largely to organisations and I suppose is directly related to some of the churches that have been involved in this dreadful practice, but what concerns me right now is what is happening to children in a number of Aboriginal communities across the country. It is well known that child abuse, sexual and otherwise, is widely practised in a lot of Aboriginal communities, and not just child abuse but abuse of women — domestic violence. This is a national outrage. It is a national outrage that we have not done more to stop it. In fact I do not think we have done anywhere near enough to stop it, because there are literally thousands of women and children in Aboriginal communities in this country who are suffering from exactly the sort of thing that we are talking about in this bill. It is happening today, it happened yesterday and it will be happening tomorrow. It is still happening because we have not done anything about it. We talk a lot about it, but we do not actually do anything about it.

It infuriates me because it seems to me that we give our Indigenous population what I would call conscience money, and a lot of it — we give billions of dollars every year to Aboriginal welfare, if you want to call it that — and then we just forget about it. Personally I think there should be a royal commission into Indigenous affairs in this country. The billions of dollars that have gone into Aboriginal affairs in Australia over a 40-year period have achieved nothing. We still have people living in Third World conditions, we still have people who are subject to Third World health services and we still have people who just do not have the sort of education that the rest of us take for granted.

As I said, we have far, far too many children and women who are subject to abuse — sexual, physical or psychological abuse — on a daily basis. That is to our national shame. If we want to talk about what we should be ashamed of, that is what we should be ashamed of — that we have not as a nation done anywhere near enough to stop it. We can talk about, as some of our friends opposite do, what happened a couple of hundred years ago, but we cannot do anything about what happened a couple of hundred years ago. You cannot change the past, but you can change the present and you can change the future. That is what we should be doing, and we are not.

I am pleased that this bill is before the house. I am very hopeful that it will go some significant way towards stopping future abuse in various organisations. But I ask the house and I ask the government in particular to take on board the comments that I have made this afternoon about our Aboriginal communities and the problems that they face, because I am strongly of the view that irrespective of where a child is or who a child is there should be zero tolerance on child abuse. Whoever that child is, wherever that child is and whatever cultural background that child may have there should be zero tolerance. We should as a matter of priority be protecting every child in this nation — every single child. Wherever they may be, however small they may be and whatever environment they may live in we should be protecting every child in this nation. It seems to me that there are some who talk about it a lot but their actions do not actually meet what they would have us believe, and I think that is a tragedy in itself.

We on this side of the house will not oppose the Wrongs Amendment (Organisational Child Abuse) Bill 2016. I am very hopeful that it will go some considerable way to protecting children in the future. As has been mentioned in the debate earlier, this changes the onus of proof, which is a fairly substantial jump. Our legal system is based on ‘innocent until proven guilty’, but given what has happened in a number of organisations, whether they be religious or whatever, over a long period of time — and I fear to think what would happen if we had a full investigation into government-run organisations, government-run homes and so forth because I suspect that the sexual abuse and other abuse of children in those particular places would shock us all and would set us all back on our tails — I am very hopeful that this bill will go some way towards protecting those children who need protection.

As legislators — and this has always been my view, and I think I have expressed it in this house a number of times in the past — we have as our number one responsibility the protection of those who cannot protect themselves, and children inevitably fall into that category. To hear what happens to some children — and I am not just talking about children who are subjected to the sort of abuse that we are talking about today — to hear about some of the conditions that the children are forced to live in and to hear about some of the conditions these children regard as a normal way of life, such as living in boarding places and just having not much hope in life, is to my way of thinking a black mark against us all and a black mark certainly against the society that we live in. But I am very hopeful that this legislation will go some way toward — not rectifying; we cannot rectify what has happened

before — protecting children in the future and that it will go some way toward ensuring that never again will we have the sort of systemic and institutionalised abuse that we have seen over such a long period of time.

I am very hopeful that those victims of abuse who have come forward of recent years, who have spoken before royal commissions, who have spoken before committee hearings and who have gone to the media and talked about what happened to them and the difficulties — well, more than difficulties — and the trauma that they have faced through all of their lives will look at legislation such as this and will feel some degree of satisfaction and will feel that they have in some way contributed to making Victoria and making Australia a better place and a safer place for children. And I am hopeful that they will sit back and say, 'Yes, it was a dreadful time, but it was not all for naught as we have actually contributed to protecting children in the future'. So I will not be opposing this bill, and I urge the house to follow suit.

Ms PATTEN (Northern Metropolitan) — I rise to speak to the Wrongs Amendment (Organisational Child Abuse) Bill 2016. I will not restate the purpose; I think it has been canvassed very well by the previous speakers. But in addressing child abuse the effect that this most abhorrent epidemic has had on our community is literally unquantifiable. As survivors of institutional sex abuse speak out — and we have been hearing it over the years, and certainly it has been on our TV screens most recently — usually they are speaking out after decades of painful, secretive silence. There is a terrible consistency in the effect the abuse has had on their lives. We have heard them say:

> I feel pain and self-hatred. I tried to obliterate it with alcohol.
>
> I've lost my right to a normal life.
>
> I can no longer trust anyone; I always wonder whether they will betray my trust the way my abuser did.
>
> I didn't know who to trust, so I trusted no-one.
>
> It made my life the living embodiment of hell.

Depression, post-traumatic stress disorder, drug abuse and other mental health problems are described by nearly all the victims. Suicide and suicide attempts are all too frequent. Abuse destroys people's ability to have close relationships, and it destroys their lives. It destroys communities, as we saw in Mildura, where Monsignor John Day was able to abuse tens and tens of children with almost the knowledge of that community. The police knew. The courts knew. The hospitals knew. I visited Mildura last year, and the pain nearly 50 years later is still palpable up there.

After being up there I read Denis Ryan's *Unholy Trinity*, and while this bill goes some way to addressing some of the issues that he raised, what he raised was that secrecy allowed these institutions like the Catholic Church to perpetrate these most heinous crimes against children, and sadly many people in the community not only tolerated it but protected the people who did it. This bill goes some way to ending that type of protection.

When we look at how horrifyingly widespread this epidemic has been we see that 65 000 child abuse redress claims are anticipated nationally, with 19 000 in Victoria. In February 2017 the full extent of paedophilia in Catholic institutions was laid bare before the royal commission. It heard that almost 4500 people have made claims of child sexual abuse in Catholic institutions. This is a massive failure of the Catholic Church to protect vulnerable children from their abusers, and this was all too brutally laid out in former policeman Denis Ryan's book *Unholy Trinity*. It has all been brutally laid out for us in the royal commission that we have been hearing about most recently.

It is a vile stain on the fabric of our society, and redress for these survivors is vitally important. I do not have the same faith that Mr Finn has that somehow, if there is an afterlife, these brutal abusers will be suffering retribution. I do not think that answers the need, and I do not think it addresses any of the pain the survivors have felt. I had a call from Mrs Chrissie Foster from Ballarat, talking about her children Katie and Emma**.** Whatever happens in an afterlife, if there is one, to the abusers of those two daughters, it will never stop or address the suffering of that family.

In fact it was after that call that I was proud to be the leader of the first political party in Australia to call for a royal commission into institutional sexual abuse, and it is very important work that the royal commission has done. I am proud also that we as members of Parliament are working hard to implement legislative change that will confine systemic sexual abuse of this nature to the past.

In its final report into redress and civil litigation the royal commission found that the common law had not developed sufficiently in relation to organisational sexual abuse. Recommendation 91 proposes legislative reform that will make organisations liable for abuse perpetrated by persons associated with the organisation, unless the organisation proves it had taken reasonable steps to prevent abuse, and we certainly have not seen those reasonable steps in the past.

I too would like to commend the chair, Ms Crozier, on the work that was done in the Betrayal of Trust inquiry. It must have been quite harrowing to listen to some of the experiences and stories that those committee members would have heard. Recommendation 26.4 of the *Betrayal of Trust* report recommended that the Victorian government identify whether legislative amendment could be made to ensure organisations are held accountable and have a legal duty to take responsible care to prevent criminal child abuse. This bill provides that important legislative change. In doing so, it deals with both recommendation 91 of the royal commission and recommendation 26.4 of the *Betrayal of Trust* report. I support this bill — I do not just not oppose it, but I absolutely support it — and I commend the fault-based duty and the reversal of onus of proof as key features of this statutory response.

But we need to go a lot further. We can do a lot more. This is important change, but it only extends to organisations that are capable of being sued, and sadly it is only prospective. Many religious institutions exist as sizeable and wealthy organisations in the real world, but as unincorporated associations they have no distinct legal personality and therefore cannot be sued. For this reason many victims of child sexual abuse will continue to experience difficulty seeking redress, despite the important changes that are being made by this bill. It is my party's policy that we should legislate to give faith-based institutions a corporate identity so they may sue and be sued, just like anyone else. The duty to prevent child abuse must extend to unincorporated associations, where so much of this abuse has occurred.

I acknowledge that some unincorporated associations have done this and set up legal entities for child abuse plaintiffs to sue, and I commend those organisations, while others have pledged to nominate legal entities to act as proper defendants in child abuse litigation. But others of course have not pledged to do anything, nor will they volunteer to be sued. Those organisations in which child abuse occurred must be liable for that abuse. An opt-in redress scheme is simply not strong enough.

I support the changes introduced by this bill, but I encourage this government to go further. We need to ensure that those 19 000, or probably more, Victorians who have already experienced child sexual abuse receive appropriate redress that can go somewhat towards helping the pain and damage that has been perpetrated against them. We must ensure that unincorporated organisations cannot hide from their obligations to victims of child abuse. I commend the bill to the house.

Mr EIDEH (Western Metropolitan) — I rise to speak briefly on the Wrongs Amendment (Organisational Child Abuse) Bill 2016. I have spoken about this most serious of matters on several occasions now, and it remains at the forefront of essential government legislation and responsibility. This bill is an affirmation of the Andrews Labor government's commitment to tackle the insidious scourge of child abuse, but above and beyond that it is confirmation of the government's moral obligation to protect the single most vulnerable section of Victoria's community, our children.

As the house knows, the bipartisan Family and Community Development Committee's inquiry into the handling of child abuse by religious and other non-government organisations made numerous recommendations, and this bill is the culmination of the government's commitment to implement all outstanding recommendations from that report. The inquiry's *Betrayal of Trust* report, tabled on 13 November 2013, found:

> … organisations should have a clear legal duty to take appropriate measures to minimise the risk of abuse that can arise because of the creation of relationships of trust for which they are responsible.

And:

> … there is a need to recognise the legal obligation of organisations to reasonably ensure the safety of children who come into contact with their members.

Victims of organisational child abuse and legal experts told the inquiry that the current law was inadequate. Relevant common law and statutes have not developed sufficiently to recognise the liability of organisations for abuse perpetrated by their personnel. The government agrees. Recommendation 26.4 of *Betrayal of Trust* asks:

> That the Victorian government undertake a review of the Wrongs Act 1958 (Vic) and identify whether legislative amendment could be made to ensure organisations are held accountable and have a legal duty to take reasonable care to prevent criminal child abuse.

The government is proud to be implementing recommendation 26.4 in full. The government will continue its detailed work on further *Betrayal of Trust* reforms, including work in 2017 towards a redress scheme for survivors of organisational child sexual abuse.

In an Australian first, the bill creates a broad new statutory duty of care to prevent the sexual and physical abuse of children that will apply to all organisations that exercise care, supervision or authority over children by

individuals associated with that organisation. The new duty will apply to all government and non-government organisations in Victoria that are capable of being sued and to associated individuals, whether they be staff, contractors, office-holders, ministers of religion or volunteers, with appropriate safeguards.

In a strong step to protect victims the bill will also reverse the onus of proof so that organisations will have breached the new duty unless they have taken reasonable precautions to prevent the abuse in question from happening. The court will examine what the reasonable precautions would have been in each case. To provide an appropriate balance between plaintiffs and defendants, especially smaller community organisations, the test of reasonable precautions will take into account different sizes, resources and relationships between affected children and organisations. Larger state and religious organisations will therefore have proportionately higher standards to meet than smaller community organisations.

This bill engenders an Australian first in comprehensive child protection law. It is regrettable that we need such a law in modern society, but the reality is that we do. The Andrews Labor government is leading the nation in the protection of children and victims of sexual abuse. This bill is as necessary as its existence is lamentable, but our children must come first in terms of community and government legislative priorities. I commend the bill to the house.

Ms FITZHERBERT (Southern Metropolitan) — During this Parliament it has been satisfying to see the legislative impact of the *Betrayal of Trust* report. This was of course the result of a cross-party committee chaired by Ms Crozier. I now observe what Mr Finn called the traditional reference to Ms Crozier and the work that she as well as other members did on that committee, all of whom contributed in that cross-party body. I was not a member of this place at the time, but I remember that it was considered very ambitious to undertake the kind of committee work that ultimately produced the *Betrayal of Trust* report. It was argued that a parliamentary committee could not do this work — that it was not resourced to do so — which was such a massive undertaking. Some said it should be left to a royal commission. Ultimately we have had a royal commission, but this was triggered in part by the *Betrayal of Trust* report. I for one am pleased that this work began because of the obvious need within the community for this work to be done. Putting it off for a few more years seemed to be delaying the healing.

As I said earlier, the *Betrayal of Trust* report has also led to a number of amendments to Victorian law. This obviously cannot address the failings of the past nor comfort those who suffered a great deal as a consequence, but we can work harder to ensure that we have a legal framework that provides much better protection for children and those who are similarly vulnerable against institutional abuse. The *Betrayal of Trust* report included specific recommendations in relation to the Wrongs Act 1958 through recommendation 26.4, and the coalition supports these. The bill amends the Wrongs Act to impose a duty of care that forms part of a cause of action in negligence on organisations exercising care, supervision or authority over children to prevent the physical or sexual abuse of those children when committed by individuals associated with those organisations. It also makes consequential amendments to the Victoria Police Act 2013.

Recommendation 26.4 is:

> That the Victorian government undertake a review of the Wrongs Act 1958 (Victoria) and identify whether legislative amendment could be made to ensure organisations are held accountable and have a legal duty … to prevent criminal child abuse.

This is a very broad recommendation, and the second-reading speech added more detail, explaining that it was intended to:

> … create a duty of care that will allow an organisation to be held liable in negligence for specified contexts of organisational child abuse committed by individuals associated with the organisation, unless the organisation proves that it took reasonable precautions to prevent the abuse.

It also notes that:

> The duty created by the bill requires organisations to take the care that in all the circumstances of the case is reasonable to prevent the abuse of a child by an individual associated with the organisation while the child is under the care, supervision or authority of the organisation. If child abuse within the scope of the above duty occurs, this duty will be presumed to have been breached unless the organisation proves it took 'reasonable precautions' to prevent the abuse in question.

This is similar wording to provisions in other comparable legislation — for example, section 109 of the Equal Opportunity Act 2010 and section 106 of the commonwealth Sex Discrimination Act 1984. These provide that employers or principals have to take reasonable precautions to prevent an employee or an agent contravening the act. Nonetheless, it is a very significant change in the context of institutional child sexual abuse.

Typically organisations have not been held responsible or liable for child abuse and other serious criminal acts

against children. For example, organisations have not been held liable for the actions of employees or other people, such as contractors, who have been under their direction and supervision where the acts in question that caused loss or injury or which were illegal were outside the scope of the person's duties within that organisation. The principle to date is that employers who have otherwise discharged their responsibilities to maintain a safe workplace, for example, will not be generally held responsible where the action which lies at the heart of the loss and injury was an intentional criminal act.

The *Betrayal of Trust* report openly tackled this very difficult issue and discussed some of the difficulties of liability of non-government organisations and the duty of care. It noted that non-government organisations have usually maintained that responsibility for child abuse in their organisation was that of the perpetrator. The committee decided there should be easier access for victims to seek redress for abuse, and this is what this bill will seek to do.

The *Betrayal of Trust* report considered trust and breaches of trust in a variety of different ways. It did acknowledge that organisations rely on the reputation of their members and that members of the organisations and others who are involved in some way, such as volunteers, also share in an organisation's reputation when they represent them.

On page 544 of the *Betrayal of Trust* report we read exactly that sentiment:

> The committee found that non-government organisations not only rely on the reputation of their members, but those members gain that reputation substantially as a consequence of their relationship with the body concerned. Organisations hold out members, employees, volunteers and others who represent them in the community as credible and trustworthy individuals.

Through the report we see that the committee went on to note that perpetrators too often rely on that reputation and exploit the relationship of trust that exists between those who are usually in a more vulnerable position, such as students, parishioners or other people associated with the organisation. The committee examined the current state of the law in some detail and on page 545 stated:

> … the civil law has not developed to recognise liability of non-government organisations described above for the criminal abuse of children perpetrated by their representatives. Although the law recognises that such organisations may owe a duty to ensure that reasonable care is taken, that duty does not extend to intentional or criminal acts perpetrated by their representatives.

We see this expressed clearly in proposed section 91 of the act under 'Liability of organisations':

> This section imposes a duty of care that forms part of a cause of action in negligence.

Organisations need to:

> … take the care that in all the circumstances of the case is reasonable to prevent the abuse of a child by an individual associated with the relevant organisation while the child is under the care, supervision or authority of the relevant organisation.

Further, subsection 91(3) states:

> In a proceeding on a claim against a relevant organisation for damages in respect of the abuse of a child under its care, supervision or authority …

when abuse has been proven and it —

> was committed by an individual associated with the relevant organisation, the … organisation is presumed to have breached the duty of care referred to …

unless it can prove —

> on the balance of probabilities that it took reasonable precautions to prevent the abuse in question.

This is a very significant change in law. It is a direct response to organisations that not only failed to protect children and keep them safe from abuse but in many instances instead actively protected the abusers. It puts organisations on notice, indicating that this will not be tolerated in future and that significant penalties will follow where children suffer abuse in the terms anticipated by this act.

In my view this is long overdue. A number of earlier speakers whom I listened to while outside the chamber, including Mr Finn and Ms Patten, have spoken of the pain experienced by victims and their families in relation to the kind of abuse which is at the heart of this bill. Often this pain lasts for many years and through different generations. I hope this bill helps prevent others from experiencing this appalling pain and suffering, and I commend the bill to the house.

Dr CARLING-JENKINS (Western Metropolitan) — I rise tonight to speak on the Wrongs Amendment (Organisational Child Abuse) Bill 2016, and I want to say right from the beginning that I commend the government for bringing this bill to the house. This bill reinforces by statute the existing duty of care which all organisations have when exercising care, supervision or authority over children to ensure organisations take the care that, in all the circumstances of the case, is reasonable to prevent the physical or sexual abuse of any child while under such care or

supervision. The physical or sexual abuse of children is an abhorrent act which the whole community needs to work together to prevent, and preventing it is no easy task. Many perpetrators of sexual abuse against children are notoriously deceptive and skilled at gaining access to children and at disguising their criminal intentions.

Much of the focus of recent public discussion on the sexual abuse of children has been on the systemic failures in the past of some religious organisations to respond appropriately when presented with suspicions or evidence of abuse by ministers of religion. I note encouragingly that the approach taken by the bill has been supported by the Salvation Army, the Anglican Church and the Catholic Church. For example, the Truth, Justice and Healing Council, which was established by the Catholic bishops and religious orders to speak for the Catholic Church on matters related to child sexual abuse, welcomed the bill as:

> … an important step forward in making it easier for survivors of child sexual abuse to sue institutions for damages.

I also note that the bill rightly applies to all organisations, whether religious or community-based or government departments or agencies. Child sexual abusers can and do and will in the future infiltrate any organisation which provides access to their potential victims.

The key provision of this bill before us tonight is to insert new subsection 91(2) into the Wrongs Act 1958, stating:

> A relevant organisation owes a duty to take the care that in all the circumstances of the case is reasonable to prevent the abuse of a child by an individual associated with the relevant organisation while the child is under the care, supervision or authority of the relevant organisation.

Then proposed new subsection 91(3) provides:

> In a proceeding on a claim against a relevant organisation for damages in respect of the abuse of a child under its care, supervision or authority, on proof that abuse has occurred and that the abuse was committed by an individual associated with the relevant organisation, the relevant organisation is presumed to have breached the duty of care referred to in subsection (2) unless the relevant organisation proves on the balance of probabilities that it took reasonable precautions to prevent the abuse in question.

In considering any legislative provision that reverses the onus of proof, it is important to scrutinise the provision carefully to see that it is fully justified and to consider whether it may have any inadvertent or undesirable outcomes. I note, firstly, that the burden of proving on the balance of probabilities that an organisation 'took reasonable precautions to prevent the abuse in question' can only kick in when it is first proved by the complainant that 'abuse has occurred and that the abuse was committed by an individual associated with the relevant organisation'. I do believe that this is an appropriate threshold.

The note to this provision helpfully observes that:

> Reasonable precautions will vary depending on factors including but not limited to —

and then it lists a number of factors, for example:

> (a) the nature of the relevant organisation; and
>
> (b) the resources … reasonably available to the … organisation; and
>
> (c) the relationship between the … organisation and the child; and
>
> (d) whether the relevant organisation has delegated the care, supervision or authority over the child to another organisation; and —

of course —

> (e) the role in the organisation of the perpetrator of the abuse.

This note is important because there was some concern that the definition of an individual associated with an organisation may be too broad, especially in regard to contractors. So I really appreciate the effort that the government has gone to in getting this bill right and as tight as possible.

I am also concerned about the notion of ostensible authority introduced into the definition of authority by new section 88 of the act; this means stated or appearing to be true but not necessarily so. If an individual claims to be exercising the authority of an organisation but is doing so falsely, we will of course need to be careful in how we attribute negligence to that organisation for the actions of the individual making a false claim to authority. The note does refer to the resources that are reasonably available to the relevant organisation as a factor to consider in determining the kinds of reasonable precautions a particular organisation ought to have taken. It would not be of overall benefit to children if these new provisions precluded some community organisations from operating services for children due to an unsustainable increase in insurance costs to cover the new liabilities set out in the statute.

Finally I draw attention to a concern that the phrase 'reasonable precautions to prevent the abuse in question' may make it difficult in some cases to ever satisfactorily establish that reasonable precautions were

taken, even when an organisation has implemented all best practice precautions within its means. The abuse in question may be of such a specific and unforeseeable nature that no precautions could have prevented it. In such cases a perpetrator must be held entirely responsible and must be held accountable for the deceit and cunning in committing such a heinous crime. But I digress, because we are talking here about the duty of organisations and it is the duty of organisations to take all reasonable precautions to prevent child physical and sexual abuse in general.

So despite these minor reservations about the specific wording of the bill — I understand that you cannot please everyone in the specific wording of any bill — I agree with the assessment of the Truth, Justice and Healing Council that the bill is, and again I will quote:

> … an important step forward in making it easier for survivors of child sexual abuse to sue institutions for damages.

This of course is their right. This will make it easier for them to do so in the future. So I will be supporting this bill, and I do again want to thank the government for bringing this bill to the house.

Ms CROZIER (Southern Metropolitan) — I am very pleased to be able to rise to speak to the Wrongs Amendment (Organisational Child Abuse) Bill 2016. As other speakers have very eloquently put the case in relation to why this is necessary, I want to commend those speakers who have spoken on this bill, but before I go to the detail of the bill can I also acknowledge the work of and how this bill originated from the Victorian Parliament's inquiry into the handling of child abuse by religious and other non-government organisations and the subsequent report, the *Betrayal of Trust*, which I had the privilege as chair to work on.

As members have highlighted, this was a really very thorough inquiry that looked into so many issues that were extraordinarily difficult, and one of the areas that we constantly faced as a committee was the legal barriers to claims by these many, many victims who were victims of child abuse through organisations that children were in the care of. Looking at the bill, it does go to the heart of some of those areas of the barriers and it implements recommendation 26.4 from the report.

This, may I say, was also supported in principle by the previous coalition government — and in fact all of the recommendations were — and I was very pleased that the former coalition government wasted no time in actually implementing the recommendations that the committee made. In doing so some excellent legislation has gone through to further protect children in this state, so I am very proud of that and very proud of that work. This work continues, and I am pleased that the government is continuing with the important work of protecting children. The main provisions of this bill will provide a number of things, and they are really to amend the Wrongs Act 1958 and impose a new and additional duty of care on organisations that exercise care of, supervise or are in positions of authority over children. That will then prevent physical or sexual abuse.

As I said, the committee and the report made a number of recommendations, and in relation to the findings that this particular recommendation came from I will go back and look at the work we did. There were a whole range of witnesses that we heard from, and the barriers were really significant. One was the statute of limitations. We heard very famous cases in relation to that, and we heard about those various elements.

Of course we heard from Father Kevin Dillon in relation to a number of areas into which he provided insight for us as a committee. I commend all the work that Father Dillon has done and continues to do in relation to this excellent work, and I know Ms Tierney is nodding because she would know him, being a representative of the Geelong area.

Father Dillon when he spoke to the committee about his responsibility highlighted to the committee the grey area, if I can call it that, of the elements of how a priest is employed. I think that goes to this issue, because there was no real relationship in relation to how the priests were employed. As Father Dillon points out, they were on one hand employees and then they were not employees on the other hand. This was one of those areas because there was no sense of belonging. In this quote he explains this. He says it felt 'disengaging' when the church considered him to be self-employed or a contractor. He told the committee:

> I have been a priest for 44 years. I started studying for the priesthood in 1962. I have spent all my life in parishes, and I am grateful that I have. I would not call it an insult to be told that I am self-employed or a contractor, but I would call it disengaging. There is a sense of not belonging.

He was really so persuasive and so sincere in his commitment to getting this right, and he explained to the committee just that confusion. That is what the committee found. There was no responsibility by many organisations to take on that. Indeed there were a number of, as I said, barriers to those people taking legal action.

If you look back on this chapter where we were discussing all of this and teasing out the issues, the key findings include:

> Victims of criminal child abuse find it difficult to:
>
> > find an entity to sue because of the legal structures of some non-government organisations;
> >
> > initiate action within the limitation period for child abuse cases specified in the statute of limitations;
> >
> > establish that an organisation has a legal duty to take reasonable care to prevent child abuse by its members;
> >
> > identify a legal relationship between the perpetrator and the entity;
> >
> > convince courts that organisations should be subject to vicarious liability for criminal acts.

If I go back again, it was Father Dillon's evidence that really made it very clear to us that there was this grey area and that for many people it was very hard to be able to sue an organisation such as a religious organisation. Many of the perpetrators in these settings could, as we found, derive their credibility from their association with the organisation, and they were able to hide behind that. So the organisations were also able to hide behind that.

In relation to this particular recommendation, finding 26.9 states:

> Because perpetrators of criminal child abuse in organisational settings derive their credibility from their association with the organisation, there is a need to recognise the legal obligation of organisations to reasonably ensure the safety of children who come into contact with their members. This includes implementing effective employment controls and adopting best practice in relation to risk management and prevention.

Really that is what this is about in relation to understanding the obligations and ensuring that some of these heinous crimes that were conducted by some of these perpetrators can never happen again and that organisations have an obligation and a duty to ensure that that does not occur as well.

There are many elements to this issue. I will not go on about what else we found in relation to some very significant evidence that came before the committee, but it was very evident that there was vicarious liability. There were statutory models that we found through organisations, as already stated. I think it was Ms Fitzherbert who spoke about the Equal Opportunity Act 2010 here in Victoria and the commonwealth Sex Discrimination Act 1984. That really set out how that can be undertaken through those provisions and how those organisations also have a duty under those acts.

As I said, I was very proud to be a part of this report, and the ongoing royal commission is looking into many of these issues as well. I know the royal commission is, quite frankly, experiencing many of the issues that we found during the course of the extensive inquiry we conducted here. I am very pleased that the government is moving on with implementing the recommendations. This bill is yet another one of those. Whilst the royal commission at a national level might be coming to its conclusion, I think many of the issues in that inquiry will be similar to what we found. But this is one area where we can put in place some safeguards to ensure the safety of children in Victoria. This amendment to the Wrongs Act 1958 will provide those.

I note that the Attorney-General and others have spoken about this issue. I think it is very reasonable that organisations are held accountable for their actions and that they have a legal duty to take reasonable care to prevent criminal child abuse from occurring in whatever organisation it may be. With those words I concur with my colleagues. I am pleased that the bill is before us and that we have got to this point, and I look forward to more recommendations from the *Betrayal of Trust* report becoming law.

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Thank you, Ms Crozier, and again congratulations for the work your committee did in that inquiry.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 and 2 agreed to.

Clause 3

Ms SPRINGLE (South Eastern Metropolitan) — I move:

1. Clause 3, line 16, omit "or sexual abuse" and insert ", sexual abuse or psychological abuse".

2. Clause 3, page 3, after line 9 insert—

> "***psychological abuse*** means an action that results in, or appears likely to result in, emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged; ".

I flagged these amendments in my second-reading speech. They seek to include in the bill the definition of

psychological abuse as defined in the Children, Youth and Families Act 2005 for all the reasons I outlined in my speech. There is a significant and growing body of evidence to suggest that psychological and emotional abuse is as damaging as physical and sexual abuse and therefore should be included in this bill.

Ms TIERNEY (Minister for Training and Skills) — The government will not be supporting the amendments moved by Ms Springle, essentially because psychological abuse is not currently clearly actionable under existing law and including psychological abuse as a standalone cause of action in this bill would create a new tort creating an entirely different, novel and positive duty that did not previously exist. I understand that there have been a number of people who have made contributions to the inquiry that led to the *Betrayal of Trust* report as well as the royal commission on this matter. This is not a new matter that Ms Springle brings to the chamber, but this has been by and large the response of those bodies.

This bill in no way precludes though the recovery of damages for psychological harm which results from sexual or physical abuse. Indeed this may be one of the main reasons plaintiffs wish to utilise the bill. For example, survivors of abuse can suffer from post-traumatic stress disorder — PTSD. Survivors will be able to use the bill to seek damages for PTSD suffered as a result of sexual or physical abuse in line with the existing law.

Mr O'DONOHUE (Eastern Victoria) — On behalf of the opposition, the opposition will not be supporting the amendments moved by the Greens either. I note the reason given by the minister at the table. This issue has been canvassed in the *Betrayal of Trust* report, the royal commission and other forums as well. But as the minister said, this would be creating a new legal tort, so the opposition will not be supporting the Greens amendment.

Committee divided on amendments:

Ayes, 6

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

Noes, 34

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

Amendments negatived.

Ms SPRINGLE (South Eastern Metropolitan) — I move:

3. Clause 3, page 8, line 3, omit "may" and insert "must".

This pertains to entities nominating a body to be sued if they are not an incorporated entity in and of themselves. It is my contention that if a body cannot find someone to nominate to be their legal entity, their liable entity, then they probably should not be in operation. I do not think that there is any situation that I can think of where it is okay to excuse the possibility of child abuse, and this amendment to the bill would preclude that from happening.

Ms TIERNEY (Minister for Training and Skills) — I think this is more an issue of timing and the need for the more appropriate legal infrastructure to be put in place, Ms Springle. But to avoid delays in introducing this bill, options for ensuring the effective identification of a proper defendant are currently in progress in a separate package of reforms that I believe you are aware of. This includes the consideration of recommendations from both the *Betrayal of Trust* report and the royal commission dealing with this issue. However, in the meantime in response to the difficulties identified in *Betrayal of Trust* and the royal commission with suing unincorporated organisations some of these organisations have pledged to resolve these uncertainties by nominating legal entities to act as proper defendants for child abuse claims. The bill facilitates these arrangements and allows organisations to act upon these commitments. It allows unincorporated organisations to voluntarily nominate a proper defendant to be covered by the bill. This nomination can occur at any time.

The amendment before us, which we believe is to create an oversimplistic, compulsory nomination, is insufficient to meet the objectives of *Betrayal of Trust* and the royal commission in relation to compulsory identification of proper defendants. It provides no practical guidance to victims, defendant organisations or courts as to how compulsory nomination would work in practice. The government is committed to implementing all the recommendations from the

Betrayal of Trust report and is progressing detailed policy work and consultation on this important issue as a priority this year. The government will not have this important work rushed — —

Business interrupted pursuant to sessional orders.

Sitting extended pursuant to standing orders.

WRONGS AMENDMENT (ORGANISATIONAL CHILD ABUSE) BILL 2016

Committee

Resumed; further discussion of clause 3.

Ms TIERNEY (Minister for Training and Skills) — Just to repeat, the government is committed to implementing all recommendations from *Betrayal of Trust* and is progressing detailed policy work and consultation on this important issue as a priority this year.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! I ask members to be quiet so we can hear the minister.

Ms TIERNEY — The government will not have this important work rushed by a premature amendment at this stage. Stakeholders, including most importantly victims of organisational child abuse, expect detailed consultation and consideration and a policy response to this issue that will deliver on the recommendations of *Betrayal of Trust*.

I can indicate to you, Ms Springle, that what is known in common law as the Ellis defence is part and parcel of what we are attempting to achieve in the next raft of reforms.

Mr O'DONOHUE (Eastern Victoria) — The opposition will not be supporting the amendments by Ms Springle on behalf of the Greens. We note the position as articulated by the minister and the foreshadowed extra reforms flowing from the *Betrayal of Trust* report and other associated reforms as identified by the minister.

Ms HARTLAND (Western Metropolitan) — I have a question for the minister. We are sitting here being told that there is another tranche of reforms to come. One of the reasons why we put forward these amendments today is that this is very much the excuse that the Catholic Church has used over decades as to why they cannot be sued. We are proposing amendments so that small organisations can actually deal with that. Can the minister please talk about the other reforms that she says are coming that will actually deal with this?

Ms TIERNEY (Minister for Training and Skills) — I refer Ms Hartland to the Attorney-General's contribution in the other house where he stated:

> The legal status of unincorporated non-government organisations was the subject of separate recommendations from *Betrayal of Trust*, and is not directly addressed by the bill. The government is instead examining this issue in a separate package of work.

This is not new information; it was stated when this bill was dealt with in the other house.

Committee divided on amendment:

Ayes, 5

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

Noes, 35

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

Amendment negatived.

Clause agreed to; clauses 4 and 5 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

ADJOURNMENT

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

That the house do now adjourn.

Goulburn Valley Health

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Health and regards outstanding freedom of information requests I have placed with her office and her department regarding the Goulburn Valley Health advisory committee. My request of the minister is that she and/or her department respond to my requests submitted via freedom of information by providing my office with all of the information that I have applied for in these requests and also that the original end date of the request of 20 December 2016 is extended to be the date on which she and the department respond.

Given how often I raise the topic of Goulburn Valley Health, most members in this house will be aware that Goulburn Valley Health is and has been for some time in critical need of a major redevelopment. Part of the Labor government's response to this crisis was to form a Goulburn Valley Health Community Advisory Group to, in the government's own words, 'ensure that community needs are front and centre of the proposed redevelopment'. However, with no report or indeed anything released by the government since the group's inception in 2015, the local community is rightly sceptical and feels the formation of this group was just a stalling tactic.

On 20 December last year I submitted two FOI requests in identical terms to the Minister for Health and the Department of Health and Human Services, seeking information relating to the progress of the group since its formation. Specifically I sought a copy of all the minutes and agendas for the meetings of the group from 1 November 2015 until 20 December 2016, a copy of all briefing documents and reports provided to or received from the group within the aforementioned date range and a copy of all correspondence sent to or received from the group again for the same date range. In subsequent correspondence with my representative, the department, which is processing both requests, confirmed I was entitled to receive a decision no later than 5 February 2017, which is the 45 days from the receipt of request that is set out by the Freedom of Information Act 1982. To date I have still not received a response, and Wednesday this week will mark 90 days since the minister and the department received my requests — double the 45-day time frame the act sets out for dealing with a request.

The requests I have placed are simple requests. They are not voluminous or difficult, and the minister failing or refusing to release the information I seek reinforces the public's fear that it is nothing more than a sham consultation designed to keep the Shepparton community quiet while the government further delays delivering our hospital. Given the unacceptable delay in response to my requests, the minister and the department should adjust the end date of my request to be whatever date on which the minister or her department respond, because their failure to respond means the original end date is now unacceptable, as a further three months — or a quarter of an entire year — have now passed.

My request of the minister is that she and/or her department respond to my requests submitted via freedom of information by providing my office with all of the information that I have applied for in these requests and that the original end date of the request of 20 December 2016 is extended to be the date on which she and the department respond.

Furlong Road, St Albans, level crossing

Mr EIDEH (Western Metropolitan) — My adjournment matter today is for the Minister for Public Transport and Minister for Major Projects, the Honourable Jacinta Allan. Before the last election one of the most pronounced concerns of my constituents in Western Metropolitan Region was the gridlock and long delays caused by the railway crossing at the intersection of Furlong and St Albans roads. Traffic would bank up for miles in all directions, and all local residents would essentially become captives in their homes, unable to travel by road for many hours of the day.

My electorate office received many complaints about this intersection, and I am pleased to see that the Labor government has responded to the concerns of my constituents. In fact it is quite encouraging to be receiving positive feedback from constituents on this matter. I am proud that the Andrews Labor government has fulfilled its election commitment to remove the level crossing at this notorious intersection. There is already a noticeable improvement in traffic flow in the area, and this is despite significant ongoing works at the site. My question for the minister is: when will work on this site and surrounding sites be completed, and how can my constituents find further information on this and other level crossing removal projects?

Summary Offences Act 1966

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Police. It was brought to my attention that last Sunday there was a nude bike ride through Melbourne.

An honourable member — Was it lewd?

Mr FINN — It probably was lewd as well, but it was certainly nude. Whilst I can see the amusing side of this, I can also see that there has clearly been a breach of the law. I recall that some years ago when I brought my three daughters into the city to see a show — I think it was *Wicked*, from memory — these people were doing the same thing on that day. My three daughters were confronted by, I have to say, some rather gross sights on bikes. One particular gentleman — and I use that term exceedingly loosely — was actually fully naked on the steps of Parliament House. This full-frontal nudity was not a pleasant sight at all. It was embarrassing for my kids. When you are taking your kids out for a day out in the city, you do not need to be confronted with this sort of thing.

Clearly there has been a breach of the law. I heard an interview with the chap who organised this nude bike ride on the Neil Mitchell program yesterday morning.

Mr Jennings — There are all sorts on that program.

Mr FINN — That is true, Minister. The chap who organised this bike ride intimated that not only did the police allow the bike ride to go ahead but they in fact facilitated it. It seems to me that if we have a clear breach of the law, and in this particular instance I do not think there is any doubt that we have offensive — —

An honourable member interjected.

Mr FINN — It is offensive anyway. We clearly have a breach of the law, and the police are facilitating that breach of the law. I wonder where exactly that leaves us as a community. So I am asking the minister to provide for me the criteria on which the police decide which crimes they will prosecute and which crimes they will ignore. I think this is a fair enough thing. Given that there are some people in Melbourne who can be locked up for a year just for standing somewhere and offering some help, I think it is only reasonable that the police tell us exactly which laws we need to follow. I ask the minister to provide that information.

Child protection

Ms SPRINGLE (South Eastern Metropolitan) — My adjournment matter is for the Minister for Families and Children. The action I am seeking is that she remove the requirement for government school principals and school council presidents to sign statutory declarations as part of their child safe obligations, noting legal advice that it is unnecessary and unsuited to the purpose and noting that there are alternative instruments that would fulfil the same purpose.

As part of the rollout of child safe standards all school principals and school council presidents are required to sign statutory declarations confirming that the information they provide as part of their self-assessment is true and that they intend to comply with the child safe standards. Signing off on documentation and commitments is part of a principal's day-to-day role, but the instruction regarding statutory declarations is a completely new legal requirement. There is a huge amount of support for child safe standards within schools, particularly at principal level. Their support and a productive working relationship with other child safe stakeholders are fundamentally vital to creating child safe schools. However, significant numbers of principals question the need to sign a statutory declaration that they intend to do their job and are telling the truth. A legal commitment by government school principals to undertake their duties and comply with legislation already exists in their contracts with the Department of Education and Training.

Many principals have signed and submitted statutory declarations under duress. Some have refused to sign at all. Those refusing to sign have recently received letters from the regional offices of the Department of Education and Training stating that their school is at risk of being non-compliant with the standards and that non-compliant schools are liable to be deregistered. Principals have received legal advice that statutory declarations are unnecessary and indeed unsuitable for this purpose. This requirement is having unintended and negative consequences on the rollout of child safe standards, and it is undermining the process as a whole. I therefore call on the minister to urgently review and remove the requirement for statutory declarations in this instance.

Mouse control

Mr O'SULLIVAN (Northern Victoria) — The matter I wish to raise tonight is for the Minister for Agriculture. The action that I am seeking is for the minister to make available some resources from within her department to allow a smooth transition for the approvals to allow bait-mixing stations to be up and running quickly and available for farmers to deal with the impending mice plague in some parts of northern Victoria. In terms of doing that, the minister's department would have to work closely with the Department of Health and Human Services to ensure that these bait-mixing stations can be set up as soon as possible.

With the 2016 grain season having been a very strong season, there is plenty of grain left around on the ground. The warm spring has meant ideal conditions for mice to breed, and they have been very much doing so in South Australia and Victoria. The CSIRO have already said that there are going to be significant mice problems in the Mallee, the Wimmera and South Australia in the coming autumn period.

We are just about to go into the 2017 sowing season. That is when the mice will be a particular problem for farmers, as when farmers sow the grain into the ground to grow the mice, who get very hungry as they get into larger numbers, will dig down into the ground and actually eat the seed out of the ground, which will restrict the crop from growing as it should. What is required is a multipronged approach in terms of dealing with this impending problem, and the farmers will certainly take their own measures to deal with it. They will avoid sowing dry, because that makes it much easier for the mice to dig down and eat the grain, and they will also use an increased seeding rate per hectare to make sure that if some grain is eaten, there will be other grains there that can grow up into their crop.

They will be using poisons such as zinc phosphide. They will mix that into grain through these mobile baiting stations, and then they will be able to spread that out around where the mice are particularly bad, where the holes have formed, and they will be able to hopefully poison those mice so they do not do any damage. The mice do not like the onset of winter, and they will eventually die off when it gets very, very cold, but that intervening autumn period is when the zinc phosphide baiting will need to occur so that the farmers can hopefully have a great season without a mouse plague destroying the crops before they are even out of the ground.

Greater Geelong City Council

Mr DAVIS (Southern Metropolitan) — Today I want to raise a matter for the attention of the Minister for Local Government in the other place, and it concerns the return of local government to Geelong. It is the Liberal Party's contention — and indeed this chamber and this Parliament's contention — that that should occur in 2017. It is also the coalition's contention that the model should be a directly elected mayor and preferably with some reform closer to the Melbourne model, which also has a deputy mayor as part of that elective process.

The state government has undertaken a process in Geelong, one that we do not give high validity to — a citizens jury process. In the early phase of that citizens jury it was very clear that the very good citizens who were part of that jury — how they were chosen was always a great question — were being led by the nose to predetermined outcomes. It was also clear that the model that was laid out by the citizens jury was something that required a great deal of manipulation by the facilitators who were part of that process. We say that citizens juries perhaps have a role in certain circumstances but need to not be citizens juries that are given riding instructions or predetermined outcomes. It was pretty clear that there was a fix in this to make sure that the citizens jury came back with a recommendation against a directly elected mayor. After plenty of manipulation it did, but now the jury has gone further in terms of the model in Geelong. Interestingly the model proposed by the jury in recent days is at variance with the model proposed by the Victorian Electoral Commission (VEC). I lay greater store on the VEC's approach on this than the model that has been laid out by the carefully chosen groups down there and the carefully chosen facilitators of the citizens jury.

I want to make sure that the Minister for Local Government, in framing up the return of local government, ensures that the VEC has prime process and that she does not count out a model that sees a directly elected mayor, and potentially a deputy mayor as part of that package, and also a sufficient number of councillors in a fair system — maybe a three-three-three system or some other model. It is pretty clear from the proposals that have been pushed forward in recent days and the comments that surround them that this is an attempt to gerrymander or fix the outcome in Geelong. I seek the full involvement of the VEC and a guarantee that this is a fair system.

William Angliss Institute

Mr ELASMAR (Northern Metropolitan) — My adjournment matter is for the Minister for Training and Skills, the Honourable Gayle Tierney, and is in relation to training facilities in my electorate of Northern Metropolitan Region. Over the past two years the Andrews government has invested hundreds of millions of dollars in Victoria's TAFE and training system so all Victorians have the opportunity to train and retrain regardless of their circumstances. This investment has resulted in reopening campuses that were shut under the previous government, and I understand that the minister was at the Greensborough TAFE campus open day in Mr Leane's electorate just last Sunday for the campus's official opening.

As well as the reopening of campuses closed under the previous government and further new buildings, Labor's investment has also resulted in cutting-edge equipment for our TAFEs to make sure our TAFE institutes have the equipment needed to train locals now and into the future. Through Skills First, which came into effect at the beginning of this year, Labor is overhauling Victoria's training and TAFE system. This includes guaranteed funding to secure the future of TAFE and make sure Victorians have the right skills for the jobs of today and tomorrow.

These initiatives and this investment are so important for our community. My request is for the minister to visit the William Angliss Institute in my electorate in the near future to discuss further support for the institute, to see the truly great work that is undertaken at William Angliss and to meet with the executive group, staff and students.

Community safety

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the attention of the Minister for Police. As I am sure members are aware, the crime statistics for the year to the end of December last year were released by the Crime Statistics Agency last week. They confirm what most Victorians know, and that is that we have a major issue with community safety and crime in Victoria. Indeed these statistics show that justice procedure offences in the 12 months to December were up 51 per cent, transport regulation offences were up 43 per cent, alarmingly robbery was up 24.4 per cent, dangerous and negligent acts endangering people were up 22 per cent, theft offences were up 15.9 per cent and assaults and related offences were up 11.8 per cent. Breaches of orders were up 10.6 per cent, burglaries and break and enters were up 10.1 per cent and drug use and possession offences were up 6.9 per cent.

As we know, behind each of these alarming statistics are the victims of an extra 93 000 offences committed in 2016 compared to 2014, when the coalition left office, so there are many thousands of extra victims of crime out there. We are aware of the horrific examples of home invasions, carjackings and gang violence that we are seeing on our streets. We saw it on our streets even at Moomba. Despite the best efforts of Victoria Police and the deployment of enormous resources — 'columns of police', I think, is how the Police Association Victoria secretary referred to the deployment — we still saw enormous unrest as well as violent and other illegal incidents.

Obviously this is a major concern to the opposition, but clearly the government now realise they have a major concern, because the police minister herself has said that Victorians do not feel safe in their homes. What an indictment it is of two years of Labor for the Victorian police minister to say that Victorians do not feel safe in their homes. Two years of Labor, two years of head in the sand, two years of soft-on-crime policies and two years of neglect, and we have a situation where the police minister of Victoria is saying Victorians do not feel safe in their homes. What an indictment of her, what an indictment of Daniel Andrews, what an indictment of the minister's predecessor and what an indictment of the cabinet for their priorities, their choices and their failings.

The action I seek from the minister is: can she give a date when safety will be returned to our streets, when the growth in carjackings and home invasions will be stopped and when Victorians can feel safe in their homes? Can the minister give us a date when that will occur?

The ACTING PRESIDENT (**Mr Melhem**) — Order! Mr O'Donohue, you may need to rephrase your action. I am not sure about asking a minister to give a date for something she may or may not be able to control, so I invite you to rephrase that.

Mr Finn interjected.

The ACTING PRESIDENT (**Mr Melhem**) — Mr Finn, I did not ask for an opinion. I think in the adjournment debate you need to be asking for an action where you will get an answer.

Mr O'DONOHUE — Thank you for the opportunity, Acting President. Noting that crime under Daniel Andrews is up over 20 per cent in the last two years, can the minister advise when this crime wave that Victorians are currently experiencing will be brought under control?

The ACTING PRESIDENT (**Mr Melhem**) — Order! Again, that is a question; it is not really an adjournment action. Maybe that is something you can ask during question time. Mr O'Donohue, I will give you a few minutes to rephrase the question. I will deal with other adjournment matters, and I will get back to you in about 5 or 6 minutes.

Gatwick Hotel

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is for the Minister for Police. Last week it was announced that the Gatwick Hotel in St Kilda will probably close in a few months time. I welcome this; it is long overdue. I have spoken of this a number of times in this place, although I note that the Assembly member for Albert Park has been conspicuously silent until very recently. The Gatwick had been for sale for a long time — estimates vary as to how long — when it was announced last October that it was being taken off the market, and this was met with dismay by local residents and traders who were sick of the effect that it had on local businesses and local people. This has ultimately led to calls again for it to close.

Recently I have received a range of emails, calls and letters from constituents, many with horrifying stories. One told me of her alarm at learning that the man charged over the Bourke Street tragedy had visited the Gatwick to buy drugs in the days before his fatal journey to the city. She was appalled that someone so dangerous and who had committed such a horrific crime a short time later had been drawn to her neighbourhood by the Gatwick. One reason why the Gatwick should have closed long ago is that, while it gave people a roof, it gave almost nothing else except danger and exposure to a range of very serious crimes. Indeed we know that some people who were homeless decided to sleep rough because they considered that they would be safer than being at the Gatwick.

Recently I have come into possession of a number of documents obtained under freedom of information, and they add some horrifying figures to the stories that residents and traders tell. Between 1 January and 11 October 2016 Ambulance Victoria had 97 call-outs, which means a minimum of 97 ambulances, to the Gatwick. Twenty-one were for overdoses; that leaves aside six episodes of fainting and four of convulsions. Ten were listed as psychiatric, and there were seven assaults or sexual assaults. The Metropolitan Fire Brigade was called 21 times during the same period, including on four occasions when fires were lit inside the Gatwick.

As to the police, between 1 January 2016 and 30 June 2016 there were 54 incidents that led to a range of charges, and I would estimate that there would have been in the vicinity of hundreds of charges. For example, one incident which is listed as drug possession also had charges of theft, assault with a weapon, making a threat to kill and trafficking a drug of dependence. There were 19 incidents of drugs, 12 of justice procedures, two of rape, one incident of sexual assault, four incidents of assault and two of arson, and there were others.

The action I am seeking is an explanation from the minister of what additional support and resources will be provided to Fitzroy Street as it rebuilds from being one of Victoria Police's official crime hotspots, as evidenced by these figures that are just in relation to the Gatwick.

Southern Migrant & Refugee Centre

Mrs PEULICH (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Multicultural Affairs, and it is in relation to the operations of the Southern Migrant & Refugee Centre (SMRC), located in Dandenong. I was contacted on several occasions last year and more recently received a couple of telephone calls about concerns at the division within the Southern Migrant & Refugee Centre. I was rather curious and went along to the annual general meeting (AGM) last year, and I have never witnessed an annual general meeting of that nature before. To put it simply, it was the biggest bunfight I had ever seen. It could easily have been a stoush between the staff, chief executive officer and the board, or it could have been a stoush between two factions of the Labor Party. I could not quite figure out what was going on.

All I know is that it is a very important service and there are concerns about its governance, performance and operations. It was headed up by a well-respected woman called Jenny Semple, who was the chief executive officer. I was present when she was given an award for meritorious service to the community as part of the Multicultural Awards for Excellence in 2016. I was horrified to read a letter that was circulated at that AGM by the chairman of the board, who was scathing in his criticism of Ms Semple. However, she had some very loyal supporters. I have now received a letter, dated 9 March, which says:

> This letter is to inform you that as of 3 March 2017, Jenny Semple has tendered her resignation as CEO of SMRC.

It then goes on to praise her 20 years of service, the significant contribution she has made and so on. It seems to me that the board has had its way. It is a

non-profit community-based agency delivering a very important service in the southern region, receiving grants from the three levels of government and doing a very important job in terms of helping migrants and refugees.

What I am asking for is some level of comfort by the minister facilitating an independent review of the governance, performance and operations of the SMRC to ensure that a well-respected chief executive officer has not been hounded out of her job for any reason other than those associated with the performance of her role. I am not convinced that that is the case. I want to be comforted by that. I did not like what I saw. The contradiction of this letter with the one that was circulated by the chairman of the board last year could not be more disparate, so I am asking the minister to instigate a review.

North Road, Ormond, level crossing

Ms CROZIER (Southern Metropolitan) — My adjournment matter this evening is for the minister responsible for the removal of level crossings, Minister Allan. I have raised on a number of occasions issues in relation to the level crossing removals at North Road in Ormond and McKinnon Road and Centre Road in Bentleigh. This matter relates to the level crossing removal in Ormond and involves the works undertaken for drainage. We have had another weather event today. I believe there are a number of areas in metropolitan Melbourne that have been flooded, and I do hope that there is no ongoing damage from the rains today.

On 29 December significant flooding occurred in Melbourne and across the state from which there was significant damage in the Ormond area and also in the neighbouring area of McKinnon, where significant amounts of water were coming out of the drains that were put in place to cope with the extensive drainage from those level crossing sites.

Nevertheless, my issue concerns, as I said, the North Road area. Many residents have written to me and expressed their concerns about what has actually happened in terms of the pipes and various construction dealing with these drainage issues, with the Level Crossing Removal Authority (LXRA), Melbourne Water and the local council. All of these residents have been told that significant work was done, that everything was okay and that the LXRA had undertaken some investigation and found that the system was operating as it was designed to. However, there are still some concerns held by various residents who have not had many of their queries answered to their satisfaction.

One of the areas of concern relates to all of the piping and the drainage that was laid during the construction phase and what other areas may be affected by this. The action I am seeking from the minister is that the investigation and the report by the LXRA on these works be made public so that the affected residents can understand fully what consultation with Melbourne Water and the Glen Eira City Council was undertaken and what works actually took place to cater for future flooding, because we will get future rain events which will be greater than the last one. If the minister could provide that to the public, that would be most helpful.

Ballarat Hospice Care

Mr MORRIS (Western Victoria) — My adjournment matter this evening is for the attention of the Minister for Health. The action I seek is that the minister commit the $5.1 million of funding required to facilitate Ballarat Hospice Care's relocation to their new premises and that that funding be made available in the upcoming budget.

Ballarat Hospice Care is seeking state government support to construct a new building in Ballarat to enable more people to access home-based palliative care. The new building would facilitate growth in meeting service demand and the increasing complexity of care and enhanced services. The proposed new building is a $6.4 million project. A total of $5.1 million should be allocated by the state government, and $1.3 million will be made available by Ballarat Hospice Care. If funded, Ballarat Hospice Care would be formally ready to open the new building in July 2018.

Ballarat Hospice Care has outgrown its current building, and service development cannot be achieved without a new building. The future viability of Ballarat Hospice Care is dependent on having this new building completed. Various other accommodation options have been considered, but for a variety of financial and operational continuity issues they have all been discounted. Ballarat Hospice Care recognises that without a new building service development will be inhibited and this will consequently place increased demand on hospital admission levels.

Ballarat Hospice Care cannot currently fund a new building themselves. However, Ballarat Hospice Care contributes in excess of 20 per cent of operational funding beyond the Department of Health and Human Services recurrent funding. Non-recurrent funding is increasing annually. The 20 per cent comes from investments and fundraising activities that supplement operational costs and is very much dependent on the generosity of the local community, but it is also very

dependent on the hardworking volunteers and staff at Ballarat Hospice Care. It is a well-respected Ballarat organisation and has been working very hard under difficult circumstances for a long period of time. This project is very deserving of funding, and I firmly believe that this should be funded in the upcoming budget.

Community safety

Mr O'DONOHUE (Eastern Victoria) — Thank you for this opportunity, Acting President. I appreciate it. The action I seek is in relation to the adjournment matter I raised earlier. Given the increase in crime and given the current challenges Victoria Police are facing, can the government explore all avenues to fast-track the deployment and recruitment of extra police that is due to begin on 1 July?

Responses

Mr JENNINGS (Special Minister of State) — What day did Mr O'Donohue get an adjournment matter up? He got it up today with his redefinition of an issue for the Minister for Police seeking for her to explore all options and avenues to fast-track police recruitment. Good work.

Ms Lovell raised a matter for the attention of the Minister for Health asking her to release documents that the member has sought under FOI legislation.

Mr Eideh raised a matter for the Minister for Major Projects that dealt with level crossings of a particular nature in his community at Furlong Road and St Albans Road in Keilor, and he sought advice for the community about not only that project but other level crossing removals being undertaken in the west.

Mr Finn raised a matter for the Minister for Police seeking the minister's advice about what criteria the police were using in relation to enforcement of certain aspects of — —

Mr Finn — The laws.

Mr JENNINGS — Yes, the laws. I was trying to work out which one it was. It is the Summary Offences Act 1966 presumably in relation to — —

Mr Finn — Offensive behaviour is one of them.

Mr JENNINGS — I imagine it is in the Summary Offences Act. I was just trying to actually think about the appropriate act, Mr Finn, to see what discretion may be available to the police in relation to enabling them to keep our streets safe.

Mr Finn — And our seats as well.

Mr JENNINGS — Indeed that may be a problem with such activities as Mr Finn was referring to. I would defer to the Minister for Police to actually provide him with that criteria.

Ms Springle raised a matter for the attention of the Minister for Families and Children seeking clarity and guidance in relation to a program that the minister is responsible for and that affects schools in relation to the implementation of child safe standards, and in particular advice that is given to school principals and to the teaching community.

Mr O'Sullivan raised a matter for the Minister for Agriculture seeking her support for additional resources to provide for bait mixing stations to reduce the impact of mice plagues that may be evident in regional Victoria.

Mr Davis asked the Minister for Local Government to rewind the decisions that have been recently recommended by the citizens jury in Geelong and reinstate his preferred policy positions and the preference of the Liberal Party in relation to local government elections in 2017, notwithstanding the advice that the minister has received.

Mr Elasmar has sought support from the Minister for Training and Skills for higher education in the Northern Metropolitan Region of Melbourne.

Ms Fitzherbert calls on the Minister for Police to explain what additional resources may be provided in keeping the community safe in the Fitzroy Street precinct in St Kilda.

Mrs Peulich raised a matter for the attention of the Minister for Multicultural Affairs relating to the recent resignation of the CEO of the Southern Migrant & Refugee Centre and seeking the minister's review of the circumstances in which that resignation occurred.

Ms Crozier raised a matter for the attention of the Minister for Public Transport seeking the public release of information from the Level Crossing Removal Authority relating to a project it undertook in conjunction with Melbourne Water and others in North Road, Ormond.

Mr Morris has sought the assistance of the Minister for Health in providing resources for Ballarat Hospice Care to relocate to new premises.

Beyond those matters tonight, the government has furnished written responses to adjournment debate

matters raised by Ms Lovell on 9 and 22 November 2016 and 8, 9 and 21 February; Mr Davis on 7, 8 and 9 February; Mr Finn on 7, 8, 9, 21 and 22 February; Mr Ramsay on 7, 9 and 22 February; Ms Fitzherbert on 7 February; Mr Morris on 7 February; Mr O'Sullivan on 7 February; Ms Crozier on 8 February; Mr Eideh on 8 February; Mr Elasmar on 8 February; Mr Leane on 8 February; Ms Patten on 8 February; Mr Barber on 9 February; and Mr Mulino on 9 February.

The ACTING PRESIDENT (**Mr Melhem**) — Order! The house stands adjourned.

House adjourned 7.21 p.m.