PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Tuesday, 22 August 2017

(Extract from book 14)

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By authority of the Victorian Government Printer

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The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

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(from 10 November 2016)

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Legislative Council committees

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

Legislative Council standing committees

Standing Committee on the Economy and Infrastructure — #Mr Barber, Mr Bourman, #Ms Dunn, Mr Eideh, Mr Finn, Mr Gepp, Ms Hartland, Mr Leane, #Mr Melhem, Mr Ondarchie, Mr O'Sullivan and #Mr Rich-Phillips.

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

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

participating members

Legislative Council select committees

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

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

Joint committees

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

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

Economic, Education, Jobs and Skills Committee — (*Council*): Mr Bourman, Mr Elasmar and Mr Melhem. (*Assembly*): Mr Crisp, Mrs Fyffe, Ms Garrett and Ms Ryall.

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

Environment, Natural Resources and Regional Development Committee — (*Council*): Mr O'Sullivan, Mr Ramsay and Mr Young. (*Assembly*): Mr J. Bull, Ms Halfpenny, Mr Richardson and Mr Riordan.

Family and Community Development Committee — (*Council*): Dr Carling-Jenkins and 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 Gepp 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 — Acting Clerk of the Legislative Assembly: Ms Bridget Noonan

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

Parliamentary Services — Secretary: Mr P. Lochert

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FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

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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 [1]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	O'Brien, Mr Daniel David [6]	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel [2]	Western Metropolitan	AC	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 [7]	Northern Victoria	Nats
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Davis, Mr David McLean	Southern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin [3]	Northern Victoria	Nats	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Pulford, Ms Jaala Lee	Western Victoria	ALP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Purcell, Mr James	Western Victoria	V1LJ
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Shing, Ms Harriet	Eastern Victoria	ALP
Gepp, Mr Mark [4]	Northern Victoria	ALP	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Springle, Ms Nina	South Eastern Metropolitan	Greens
Herbert, Mr Steven Ralph [5]	Northern Victoria	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Young, Mr Daniel	Northern Victoria	SFFP
Melhem, Mr Cesar	Western Metropolitan	ALP			

[1] Appointed 16 April 2015
[2] DLP until 26 June 2017
[3] Resigned 27 May 2016
[4] Appointed 7 June 2017
[5] Resigned 6 April 2017
[6] Resigned 25 February 2015
[7] Appointed 13 October 2016

PARTY ABBREVIATIONS

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

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Tuesday, 22 August 2017

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 12.05 p.m. and read the prayer.

ACKNOWLEDGEMENT OF COUNTRY

The PRESIDENT — May I on behalf of the Victorian state Parliament 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 to:

15 August

Corrections Legislation Miscellaneous Amendment Act 2017
Crimes Legislation Amendment (Public Order) Act 2017
Disability Amendment Act 2017
Sentencing Amendment (Sentencing Standards) Act 2017

22 August

Commercial Passenger Vehicle Industry Act 2017.

ENVIRONMENT PROTECTION BILL 2017

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

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

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

Overview

The bill will give effect to certain commitments announced in the Andrews Labor government response to the independent inquiry into the Environment Protection Authority (government response). Specifically, the bill will provide a new governance structure for the Environment Protection Authority (the authority) including the establishment of a governing board, specify a new objective of the authority to protect human health and the environment by reducing the harmful effects of pollution and waste, and make consequential amendments to the Environment Protection Act 1970 and the Public Administration Act 2004.

Human rights issues

Section 13 — Privacy and reputation

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

The right to privacy is relevant to various provisions in the bill which either require or permit the disclosure of personal information which may otherwise be considered private.

Under the bill, the governing body of the authority will be the Environment Protection Authority governing board (governing board), consisting of between five and nine members with qualifications, experience, skills or knowledge in relevant specified areas who are recommended by the minister. The bill also sets out the procedures by which the governing board will make its decisions and what disclosures must be made by its members. In particular, clause 18 requires an appointed member who has a pecuniary interest in a matter being, or to be, considered by the board to declare the nature of that pecuniary interest at a meeting of the board (or if the disclosure is in respect of the chairperson, the disclosure is made to the minister). Failure to do so will be an offence with a penalty of 60 penalty units, and will enliven a ministerial discretion to remove the member from office under clause 13(5).

The requirement for board members to declare pecuniary interests may operate to require the disclosure of personal information, including financial information. As such, it may engage the right in section 13(a) of the charter. However, the requirement in clause 18 is an important and appropriate means of avoiding potential conflicts of interest that could undermine the integrity and internal transparency of the board's decision-making functions. The obligation is clear and confined, serves a legitimate purpose and does not arbitrarily limit the right to privacy. I therefore consider clause 18 to be compatible with the right to privacy.

The right to privacy and reputation in section 13 of the charter may also be relevant to clause 12 that provides for terms and conditions of appointment to be applied to members of the governing board. This could involve members being required to share information about their private lives as the conditions could relate to the members' other positions or associations. Similarly, clause 13 provides for the minister to recommend to the Governor in Council to remove a member of the board from office, and this removal to result from circumstances in their private lives. This clause engages the right to reputation

and privacy as the member's private life is brought to bear on their office, and removal on that basis can affect their reputation. However, these provisions serve the legitimate purpose of ensuring that it is comprised of appropriately skilled members, and operates in line with best practice principles of corporate governance.

Accordingly, I consider that any such interference to the right to privacy and reputation in the bill is neither arbitrary nor unlawful. The restrictions, who they apply to and in what circumstances, are clearly set out in the bill. They apply in the context of corporate governance that requires high levels of accountability, skill and integrity and therefore expectations of privacy in regards to such matters are necessarily reduced. These restrictions are necessary to ensure that the authority's functions can be performed free from any perception of bias or conflict of interest and to ensure good governance led by a board of appropriate expertise.

For these reasons, I am satisfied that the bill does not limit the right to privacy.

Section 15 — Freedom of expression

Section 15 of the charter provides that every person has the right to freedom of expression, which includes the freedom to impart information and ideas of all kinds. The right has also been held to include the right not to impart information.

The right in section 15 of the charter is relevant to clause 19 of the bill which prohibits a person who is, or has been, a member of the governing board, the chief executive officer, an authorised officer or an employee of the authority from making improper use of any information acquired in the course of the person's duties to obtain, directly or indirectly, any pecuniary or other advantage. Clause 19 makes it an offence to do so with a penalty of 60 penalty units.

Clause 19 is directed at ensuring the maintenance of confidentiality of information obtained during the course of a person's duties and ensuring that those with authority do not use information gained from their position to advance their or another's personal interests.

As such, to the extent that clause 19 may impose a restriction on a person's right to freedom of expression, I am satisfied that such a restriction is both lawful and reasonably necessary to respect the rights and reputations of other persons and for the purpose of public order within the exceptions in section 15(3) of the charter.

Section 18 — Taking part in public life

Section 18(2)(b) of the charter provides that every eligible person has the right, and is to have the opportunity, without discrimination, to have access to the Victorian public service and public office. The right requires access to positions in the public service and in public office to be based on general terms of equality.

This right in section 18 is engaged through several clauses of the bill. In particular, the bill sets criteria for persons fulfilling roles on the governing board under clause 9 and 14, and attaches terms and conditions of employment to governing board members under clause 12. Clause 18(4) also engages the right to take part in public life because it excludes members of the governing board from deliberations upon declaration of a pecuniary interest in a matter to be considered by the board. Clause 16(3) also has the effect of excluding members who are not present at board meetings from board decision-making because decisions can be made with a quorum of only a majority of members present. These clauses may be perceived as effecting a person's access to the public service; however, these clauses continue to facilitate equal opportunity to the public service, based on general principles of merit, and facilitate effective governance practices. The criteria and processes for appointment and involvement in decision-making are objective, reasonable and non-discriminatory.

The bill also provides grounds for removing governing board members under clause 13, and abolishes the existing Environment Protection Board and the offices of the chairman and deputy chairman on the bill's commencement day under clause 25. These clauses engage and limit the right in section 18 because it affects access to the public service for existing position holders. However, the provision for removal of board members under clause 13 is justified to facilitate good corporate governance and to hold members to account for their responsibilities as members of the board. Similarly, the abolition of the existing board and offices of chairman and deputy chairman under clause 25 is necessary machinery to establish the new governance framework and transition the authority to an independent public entity with the objective of protecting human health and the environment. Clause 25 is necessary to give effect to certain government commitments following the 2016 independent inquiry into the Environment Protection Authority. Therefore, I consider that to the extent that these clauses are seen to impose a restriction on a person's right take part in public life, they are reasonable limitations that can be demonstrably justified in a democratic society.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because to the extent that some provisions may limit human rights, those limitations are reasonable and demonstrably justified in a free and democratic society.

Hon. Gavin Jennings, MLC
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr JENNINGS (Special Minister of State).

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

That the bill be now read a second time.

Incorporated speech as follows:

Background to the bill

Victoria's Environment Protection Act 1970 was one of the first acts in the world to establish a comprehensive legislative framework for protecting the environment. The cornerstone of the legislation was the creation of the Environment Protection Authority.

Since it commenced operating in 1971, the EPA has played a leading role in protecting Victoria's environment, working

with business, local government and the community to reduce pollution and manage waste.

It is approaching half a century since the EPA was established. In that time, Victoria's population and economy have grown significantly, and the environment protection challenges facing Victoria have changed as well. The Environment Protection Act has been amended many times to respond to these challenges as they have evolved.

At the last election, we committed to conducting an inquiry into the Environment Protection Authority. This was in recognition of the fact that EPA had not been reviewed comprehensively since it was established in 1971, and that it was time to look in a detailed and integrated manner at the challenges it faces and its ability to meet those challenges.

The inquiry was conducted by an independent ministerial advisory committee, chaired by Penny Armytage with members Jane Brockington and Janice van Reyk. The inquiry featured extensive public consultation with the community, business and local government. The committee's report was released publicly on 16 May 2016. The Andrews Labor government response to the independent inquiry into the EPA was released publicly on 17 January 2017.

The inquiry confirmed that Victorians want a strong EPA to protect them and their environment. In particular, the inquiry confirmed that both the community and business want an independent EPA with the expertise, credibility and capability to make timely and consistent decisions based on sound science.

In its response to the inquiry report, the Andrews Labor government committed to a wide range of reforms to the Environment Protection Act to equip EPA to meet the challenges of not just today but of the next half a century. Those challenges are well documented in the inquiry report, and arise from the pressure being placed on Victoria's land, water, air and other natural capital from such factors as an increasing population, a growing and diversifying economy, rapid technological change and intensive urban development.

To meet these challenges Victoria must modernise its EPA and the legislative framework for environment protection.

Sequence of legislative reform

This bill will be the first stage of this modernisation and the first of two bills to repeal the existing Environment Protection Act 1970 and replace it with the Environment Protection Act 2017. This Environment Protection Bill 2017 focuses on modernising the EPA itself, so it is equipped to implement the further reforms to come.

Objective for the EPA

The Environment Protection Act does not currently outline an objective for the EPA. The inquiry found that the scope and nature of EPA's responsibilities are not clear to the community, regulated entities and other parts of government. This causes confusion for stakeholders and results in expectations that the EPA will deal with issues that are beyond its legislated functions and powers to address.

The bill will introduce a statutory objective for the EPA, which is 'to protect human health and the environment by reducing the harmful effects of pollution and waste'.

The focus on pollution and waste is important as these issues are critical to defining EPA's area of responsibility and for guiding what statutory and other instruments it needs and what expertise and capability it requires to operate effectively. EPA is not responsible for managing natural resources, biodiversity, ecosystems and other aspects of the environment, but it is concerned with the impact of pollution and waste on the environment and human health.

Including a reference to human health in the objective is important because it clarifies that protecting human health from pollution and waste is a key objective in its own right for the EPA, not just as a consequence of protecting the environment.

EPA's status under the Public Administration Act 2004

EPA's status under the Public Administration Act 2004 is changing from an administrative office to a public entity. This change is being made to reinforce EPA's status as independent from government decision-making.

EPA staff will maintain their status as public servants under the Public Administration Act in the transition from the administrative office to the public entity. This will require consequential amendments to the Public Administration Act to establish the chairperson of the EPA's governing board as a person with the functions of a public service body head.

To avoid any doubt, the bill states clearly that staff employed by the EPA administrative office are to be taken as employees of the EPA public entity.

Governing board

A key finding of the inquiry was that the EPA's current legislated structure of an authority body corporate comprised by one member, the chairman, is inconsistent with modern principles of good governance and places responsibility for a wide variety of complex issues on one person. The Environment Protection Act currently provides for an advisory board but this board has no statutory powers or decision-making ability.

The bill will replace the single-member authority structure and the advisory board with a governing board of five to nine members with a range of skills, knowledge and experience. This will enhance the EPA's ability to meet its objective and carry out its functions and powers, and will build community and business confidence in the regulator.

The inquiry found that EPA's reputation as a science-based regulator will be supported by requiring that the board contain members with qualifications and experience in science or engineering, and health. The bill specifies mandatory requirements for two board members. One of the members of the board must have qualifications or experience in science or engineering, and one of the members must have qualifications or experience in health and be a nominee of the minister responsible for the Public Health and Wellbeing Act 2008, to enhance the EPA's ability to understand human health issues.

The other skills, knowledge and experience that the board needs to hold collectively are framed broadly enough to accommodate any relevant fields of knowledge or industry sector understanding.

The board will be appointed by the Governor in Council on the recommendation of the minister. Members may be

appointed for a term of up to five years, and may be reappointed once only to ensure there is renewal.

The powers and functions of the EPA will be vested in the board to ensure there is a clear line of accountability for the exercise of the authority's powers and functions to the minister responsible for the Environment Protection Act. The board will appoint the chief executive officer and have the ability to delegate powers and functions associated with the day-to-day administration of the EPA to the CEO and other staff, and will be expected to do this in accordance with modern governance practice for Victorian public entities. This expectation will be explained to prospective members of the board in information provided to applicants for positions on the board, and in letters of appointment to members of the board.

The board will be able to establish advisory committees to provide it with advice and information to assist it in the performance of its functions. Advisory committees could address such matters as science, engineering and health, as recommended in the inquiry. The type of advisory committees established will be a matter for the board to determine.

An interim advisory board was established to guide the EPA's reform agenda until the new statutory board is established. The transition from the interim advisory board to the EPA governing board will occur once the appointment of members to the EPA governing board has been undertaken.

Chief executive officer

Currently, the EPA has a chief executive officer but this position has no statutory basis in the Environment Protection Act. The bill will create a statutory position of chief executive officer, and establish that the chief executive officer is appointed by and responsible to the board.

The bill sets out the respective roles and responsibilities of the board and CEO, which will clarify their relationship to one another. The board is responsible for the governance, strategic planning and risk management of the authority. The CEO is responsible for the administration of the day-to-day management of the affairs of the authority. In accordance with modern governance principles, it is expected that the board will delegate all day-to-day functions and powers to the CEO, including the powers of employment vested in the chairperson of the board under the Public Administration Act.

Chief environmental scientist

The Environment Protection Act does not currently provide for a statutory office-holder whose role is to be Victoria's authority on environmental science in the same way that, for example, the Public Health and Wellbeing Act 2008 provides for the chief health officer.

A statutory position of chief environmental scientist will support the EPA's important role as a science-based regulator and means that government has access to high-level technical advice on environment protection matters.

The chief environmental scientist will have an advisory role only and no statutory decision-making role on regulatory matters. The chief environmental scientist will report to, and be subject to the direction and oversight of, the CEO to ensure the line of accountability is clear.

The appointment of a chief environmental scientist with credibility and standing will enhance the EPA's ability to contribute to decision-making on environmental matters of state significance, both strategic and operational.

In recognition of the importance of the role, the government provided EPA with immediate funding to fill the position and EPA has appointed Dr Andrea Hinwood as its inaugural chief environmental scientist.

Works approval referral to Department of Health and Human Services

Works approvals are a key instrument under the Environment Protection Act for the EPA to assess scheduled industrial and waste management developments that pose a risk of harm from pollution. The risk posed is of sufficient gravity to warrant a more detailed examination of the proposal to ensure it is designed in a way that manages the risk acceptably.

Currently, the Environment Protection Act requires that all applications for works approval be referred to the Department of Health and Human Services for assessment of the public health risk arising from the proposed works. The secretary of the department may object to a works approval on the grounds that public health is likely to be endangered. The EPA is obliged to refuse a works approval on the basis of this advice.

The government has consolidated and enhanced Victoria's environmental public health capability in the EPA. Some environmental public health staff from the Department of Health and Human Services were transferred to the EPA, effective 12 December 2016 and more are being recruited. As a result, it will no longer be necessary or appropriate for all works approval applications to be referred to the Department of Health and Human Services for assessment.

Nevertheless, as the agency responsible for human health and employing the state's foremost authority on human health issues, the chief health officer, the Department of Health and Human Services can and should continue to provide additional assurance to the community that significant risks to public health are fully understood. The bill removes the requirement for all works approvals to be referred to the Department of Health and Human Services for review but still requires that works approval applications that pose a significant risk to public health be referred for review.

Given that the EPA will from now on have the capability to assess the public health implications of most works approval applications, it is expected that in practice this will constitute a small number of referrals but will maintain important community confidence on more complex, wideranging environmental public health issues. The Secretary of the Department of Health and Human Services will still have the power to object to works approvals referred to the Department of Health and Human Services where public health is likely to be endangered, which obliges EPA to refuse to issue the works approval, for similar reasons of assurance.

The bill will enable the minister responsible for the Environment Protection Act, by publication of a ministerial determination in the *Government Gazette*, to specify criteria to guide what types of proposals are significant and still to be referred by the EPA to the Department of Health and Human Services for assessment. The criteria for identifying the types of applications that are to be referred could include that the scale or complexity of the proposal poses risks to public

health of state or major regional significance, or the potential for public health impacts requires specialised assessment because it has not been encountered previously.

This bill is a crucial step in creating modern legislation for a modern EPA, ensuring it remains a world-leading environmental regulator into the future, focused on protecting both Victorians and Victoria's environment from the harmful effects of pollution and waste.

I commend the bill to the house.

Debate adjourned for Mr DAVIS (Southern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Tuesday, 29 August.

HEALTH LEGISLATION AMENDMENT (QUALITY AND SAFETY) BILL 2017

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

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

In my opinion, the Health Legislation Amendment (Quality and Safety) Bill 2017, as introduced to the Legislative Council, is compatible with the human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill amends the Health Services Act 1988 (Health Services Act), Ambulance Services Act 1986 (Ambulance Services Act), Mental Health Act 2014 (Mental Health Act) and the Public Health and Wellbeing Act 2008 (public health act) to strengthen the roles and responsibilities for service providers and public entities, and improve governance arrangements, under each act. The bill also amends the health complaints commissioner's power to delegate under the Health Complaints Act 2016.

Human rights issues

The human rights protected by the charter that are relevant to the bill are:

the right to privacy, as protected under section 13 of the charter;

property rights, as protected under section 20 of the charter;

the presumption of innocence, as protected under section 25(1) of the charter; and

the right not to be compelled to testify against oneself or to confess guilt, as protected under section 25(2)(k) of the charter.

For the reasons outlined below, in my opinion, the bill is compatible with each of these rights.

Privacy (section 13)

Information-gathering powers

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

Several clauses of the bill provide the secretary with powers to access the private information of individuals in order to carry out its licensing and regulatory functions under the Health Services Act.

Clause 21 inserts a new section 42(1)(ic) into the Health Services Act, which provides that, for the purpose of carrying out functions and powers under the act, the secretary may require a hospital to provide specified information to the secretary.

Clause 41 inserts a new section 105(3) into the Health Services Act, which provides that the secretary may direct the proprietor of a health service establishment to provide specified information to ensure that the objectives of the act are being met.

Clause 42 establishes an application process for approval of alterations to a health service establishment's clinical area under new section 108 of the Health Services Act, and provides that an applicant must give to the secretary any further information relating to the application that the secretary requests.

Clause 44 inserts new sections 110C and 110D, which require the proprietor of a health service establishment to provide the secretary with prescribed information, and to inform the secretary that there is a serious risk to patient health at the establishment as soon as practicable.

Clause 54 amends section 115M of the Health Services Act to empower the secretary to give written directions to a multipurpose service on the accounts and records which it must keep, and on the inspection of its facilities and accounts and records by the secretary.
Section 115M, as amended by the bill, also permits the secretary to direct a multipurpose service to provide specified information to the secretary for the purpose of ensuring that the objectives of the act are being met.

Further, two other provisions of the bill amend the Health Services Act in a way that may expand the scope of current information-gathering powers under Part 4 of the act, which regulates the establishment and operation of 'health service establishments' as defined under that act:

Clause 3 of the bill amends the definition of 'health service establishment' in section 3 of the Health

Services Act to include 'a premises at which, or from which, a prescribed health service is provided'. To the extent that clause 3 broadens this definition, certain provisions that apply to health service establishments may engage the right to privacy. Section 83 of the Health Services Act provides that, in making a decision on whether to register premises as a health service establishment, the secretary must consider certain specified matters. These matters include whether the applicant is a fit and proper person to carry on the establishment, and if the applicant is or was previously a proprietor or director of a health service establishment, whether the number of complaints brought by residents of the health service establishment, and whether the applicant has been convicted or found guilty of an offence under the Health Services Act. Similar mandatory considerations apply to the secretary's power to renew the registration of a health service establishment under section 89 of the act.

Clause 33 of the bill amends section 70(1) of the Health Services Act, which concerns the process for approval in principle of the use of premises as a health service establishment, alterations to such an establishment, or a variation of the registration of an establishment. The effect of the amendment is to make the approval in principle process mandatory, and in the case of the initial application to register a health service establishment under division 3 of part 4 of the act, a precondition to registration. To the extent that section 70(1) of the Health Services Act requires an applicant for approval in principle to provide the secretary with any further information relating to the application as the secretary request, the amendment may engage the right to privacy.

Clause 71 of the bill amends the general powers of the secretary in section 10(4) of the Ambulance Services Act to enable the secretary to direct an ambulance service to provide specified information for the purpose of ensuring the objectives of the service are being complied with. Clause 79 of the bill may also engage the right of privacy by expanding the grounds on which the secretary may commission an audit of an ambulance service under section 37 of the Ambulance Services Act. It provides that the secretary may commission an audit to determine whether an ambulance service is providing safe, patient-centred and appropriate services, or is fostering continuous improvement in the quality and safety of care and services it provides.

Clause 94 of the bill inserts a new section 48A into the public health act, which provides that the Consultative Council on Obstetric and Paediatric Mortality and Morbidity (CCOPMM) must provide a report to the secretary on a maternal death, stillbirth, death of a child or instance of severe obstetric or paediatric morbidity, if the CCOPMM determines that the incident was preventable. Clause 90 of the bill amends section 41(1) of the public health act, which sets out the disclosure powers of a prescribed consultative council established or continued under the act. The amendments provide that a consultative council may provide information obtained in the course of performing its functions under the public health act or another act to the chief health officer or the chief psychiatrist appointed under section 119 of the Mental Health Act, if it considers it in the public interest to do so. Pursuant to section 56 of the public health act, the secretary may only disclose such information to a specified body if it is for the purpose of promoting or protecting public health. In my view, neither clause 90 nor 94 limits the right to privacy. Both provisions are narrowly confined to achieve the proper purpose of protecting and promoting public health. Furthermore, both provisions are subject to appropriate safeguards that limit disclosure. In particular, clause 94 of the bill inserts provisions into the public health act that exclude reports provided under new section 48A from the application of the Freedom of Information Act 1982 and part 5 and health privacy principle 6 of the Health Records Act 2001.

Insofar as the provisions discussed above relate to private information about a health service establishment or its operator, I note that participants in a regulated industry have a reduced expectation of privacy. Though not all information required to be disclosed or provided under these provisions will be private, in some instances, the information will be of a sensitive or personal nature concerning an ambulance or health service provider, and/or its patients. That said, to the extent that the requirements under the bill may result in an interference with a person's privacy, any such interference will be lawful and not arbitrary. The provisions that require or permit the collection of information are clearly set out in the bill and the acts that it amends, and are directly related to each act's regulatory and enforcement functions. For instance, in exercising a power to disclose, or to direct or request the provision of sensitive information or documents under the amendments to the Health Services Act, Ambulance Services Act or public health act, the secretary is, pursuant to section 38(1) of the charter, required to act compatibly with charter rights. Moreover, with respect to the information-gathering provisions under the Health Services Act, I note that clause 44 of the bill inserts a new section 110A granting the minister a discretion to exempt a health service establishment from any or all provisions of the act if the minister reasonably believes that the exemption would not adversely affect the health or safety of patients. Similarly, the Governor in Council may exclude a specified health service establishment from the application of a provision of the Health Services Act under section 11 of that act.

Investigation powers

Some of the bill's provisions establish or expand the powers of the secretary or authorised officers to conduct investigations in order to ensure compliance with the Health Services Act's regulatory regime. For instance, clause 44 of the bill inserts a new section 110B into the Health Services Act, which imposes an obligation on the proprietor of a health service establishment to ensure that 'safe, patient-centred and appropriate health services are provided at, or from' the establishment. I note that new section 110B may have the effect of expanding the powers of authorised officers under section 147. Section 147 permits authorised officers to enter and inspect the premises of a health service establishment, and to require a proprietor or staff member to answer questions or produce documents, for the purpose of ascertaining whether the act and the regulations thereunder are being complied with. In this way, the powers of authorised officers under section 147 of the Health Services Act, as expanded by clause 44 of the bill, may engage the right to privacy, as well as the right not to impart information, which forms part of the right to freedom of expression under s 15 of the charter.

I note, however, that the powers of authorised officers are clearly set out in section 147 of the Health Services Act and are strictly confined by reference to their purpose. They are also subject to appropriate legislative safeguards. In particular, an authorised officer must produce their identity card before undertaking an inspection, and an authorised

officer who directs a proprietor or employee of a health service establishment to answer a question is required to inform the person that they may lawfully refuse to answer the question if it would tend to incriminate the person.

Accordingly, to the extent that clause 44 may interfere with the right to privacy by expanding the investigation powers of authorised officers under the Health Services Act, any interference would not constitute an unlawful or arbitrary interference.

Property rights (section 20)

Powers to suspend or revoke registrations

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. This right is not limited where there is a law which authorises a deprivation of property, and that law is adequately accessible, clear and certain, and sufficiently precise to enable a person to regulate their conduct.

Certain provisions of the bill provide for the variation or revocations of relevant registrations or authorities granted under the Health Services Act. Clause 39 inserts new sections 100 and 101 into the Health Services Act, which, respectively, empower the secretary to suspend the registration of a health service establishment generally (new section 101), or specifically in relation to a specified prescribed health service (new section 100). Clause 40 inserts new sections 102(1)(ab) and (ac) into the Health Services Act, which will empower the secretary to revoke the registration of a health service establishment if it has failed to comply with the requirements of an approved accreditation scheme, or if it has operated or is operating in a manner that poses a serious risk to patient health. The grounds on which the secretary can suspend or revoke registrations under these new sections indicates that the purpose of the suspension powers is to ensure the proper regulation of health service establishments and to minimise the risk of harm to patients of such establishments. Similarly, new section 108B makes it an offence for a proprietor of a health service establishment to use a clinical area of the establishment if the secretary has not granted approval of that use under new section 108A. Furthermore, as discussed above, clause 3 of the bill expands the definition of 'health service establishment' under the Health Services Act, and may therefore extend the secretary's power to revoke or suspend a registration or authority granted under the act. This includes the secretary's power, under section 75, to revoke an approval in principle certificate issued under part 4 if a person to whom the approval in principle relates has ceased to be a fit and proper person to carry on, or to have the financial capacity to carry on, an establishment of the kind to which the approval relates.

Where the use of property to conduct a business is subject to a licensing regime, it may be argued that a revocation or refusal of a licence engages section 20 of the charter. I note, however, that licensing regimes created by statute are inherently subject to change and, for this reason, a modification of the regime is less likely to constitute a deprivation of property. In these circumstances, I am of the opinion that the provision of powers to suspend or revoke a registration or approval under the bill will not amount to a deprivation of property. Even if it did, it is clear that such a deprivation would be in accordance with law. Accordingly, I am satisfied that any deprivation of property pursuant to these powers will be in accordance with law and, consequently, will not limit the right in section 20 of the charter.

Search and seizure powers

The right in section 20 of the charter is also relevant to the powers of authorised officers under the Health Services Act to enter certain premises, and to seize or take items. As discussed above in the context of the right to privacy, clause 44 of the bill may expand grounds on which authorised officers may exercise their investigation powers pursuant to section 147 of the Health Services Act. This includes the power to inspect, take possession of, and make copies of any document, and to examine or seize anything relevant to the purpose of ensuring the wellbeing of patients or compliance with the act and regulations.

I consider that the right in section 20 will not be limited by these powers, because any deprivation of property will occur in accordance with law. The circumstances in which authorised officers are permitted to seize or take items or documents are provided for by clear legislative provisions, and the powers are strictly confined. The items that may be taken or seized are relevant to and connected with enforcing compliance with the Health Services Act, and appropriate safeguards apply. For instance, authorised officers must give notice of anything seized, and must return the thing or document within 48 hours.

For the above reasons, in my opinion the provisions of the bill are compatible with the right to property in section 20 of the charter.

Presumption of innocence (section 25(1))

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

Several clauses of the bill create offences under the Health Services Act with a reverse evidential onus that places an evidential burden on the defendant by providing a defence of 'reasonable excuse'.

Clause 41 of the bill amends the Health Services Act to make it an offence for a proprietor to fail to comply with a direction of the secretary under new section 105(3) without reasonable excuse.

Similarly, clause 42 establishes offences under new sections 107A, 107B(1) and 108(1) for failure to comply with an approved accreditation scheme, failure to give notice to the secretary of a refused application for accreditation, and failure to apply for permission to use an altered, renovated or extended clinical area. Each of these offences includes a defence of 'reasonable excuse'. New section 108B makes it an offence for the proprietor of a health service to, without reasonable excuse, use a clinical area that is substantially altered, renovated or extended if the secretary has not granted approval under new section 108A.

Clause 44 also establishes offences with a defence of reasonable excuse under new sections 110B(1) (failure to ensure the provision of safe, patient-centred and appropriate health services at a health service establishment), 110C (failure to provide the secretary with prescribed information), and 110D (failure to inform the secretary of a serious risk to health or safety in relation to health services provided at a health service establishment).

In my view, defences of 'reasonable excuse' do not transfer the legal burden of proof and therefore do not limit the presumption of innocence. Once the defendant has adduced or pointed to some evidence that would establish the excuse on balance, the burden then shifts back to the prosecution to prove beyond reasonable doubt the absence of the excuse raised, as well as each element of the offence. The matters that may form the basis of the defence of reasonable excuse will be peculiarly within the defendant's knowledge. Furthermore, the burden does not relate to essential elements of the offence and is only imposed on the defendant to raise facts that support the existence of an exception, defence or excuse.

For these reasons, I am satisfied that clauses 41, 42 and 44 are compatible with the right in section 25(1) of the charter.

Jenny Mikakos, MP
Minister for Families and Children
Minister for Youth Affairs

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr JENNINGS (Special Minister of State).

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

That the bill be now read a second time.

Incorporated speech as follows:

On 14 October 2016, on behalf of the government, I released the final report of the independent review of hospital safety and quality assurance in Victoria led by Dr Stephen Duckett. The review was commissioned by the Department of Health and Human Services at my request following the discovery of a cluster of tragically avoidable perinatal deaths at Djerriwarrh Health Services.

The report — *Targeting Zero: Supporting the Victorian Hospital System to Eliminate Avoidable Harm and Strengthen Quality Of Care* — made it very clear that the Department of Health and Human Services had not played an active role in supporting the good work of our hospitals and health staff, and that the department was not fulfilling its role as system leader and system manager.

Targeting Zero sets out a blueprint for change. The government has committed to significant reforms so that the department can perform its role, by setting a goal of zero avoidable harm, developing strong leadership in hospital governance, sharing excellence across the system, and improving the flow of data and information to deliver better outcomes.

In the government's response to *Targeting Zero — Better, Safer Care* — I announced that we support, in principle, all the recommendations of *Targeting Zero*. Indeed, implementation of many recommendations is already underway. *Better, Safer Care* outlined a raft of reforms that will overhaul quality and safety across the Victorian health system.

Targeting Zero stated that many of the recommendations can be implemented quickly (within 12 months) but others will require up to three years. Many of the report's 179 recommendations will be implemented administratively, while some require legislative change.

The Health Legislation Amendment (Quality and Safety) Bill addresses those recommendations identified as requiring early, urgent implementation through legislation, and represents the first stage of statutory reform to deliver improved safety in health services and better care for patients. Some *Targeting Zero* recommendations that suggest legislative change have not been included in this bill. Those that require further consultation or complex analysis of the legislative framework will be included in the second stage of statutory reform. This second stage will build on the changes arising from this first bill with a particular focus on further enhancing the flow of information in the health system.

The bill represents foundational work to improve the governance, oversight and regulation of agencies providing health services to the Victorian community. The bill amends a number of health portfolio acts to prioritise the importance of quality and safety and establish strong and consistent statutory responsibilities for quality and safety. It does this in relation to public health and ambulance services through improved governance arrangements and an expanded suite of powers available for departmental oversight and appropriate interventions.

In addition to the ongoing work to improve quality and safety across the public health system, *Targeting Zero* highlighted the need for stronger regulation of the private sector to better protect patients and ensure that patients are afforded the same level of quality and safety whether in the public or private sector. The bill will also enable the collection and analysis of data from the private health sector for quality and safety purposes, require compliance with accreditation schemes and guidelines, and create clear obligations for private sector services to deliver services that are safe. It will also increase the scope of the legislation to include some currently unregulated services that may pose a risk to patient safety.

The reforms in this bill will support objectives that were identified in *Targeting Zero*, namely:

committing to stronger leadership of quality and safety of the health system;

engaging clinicians in system improvement and oversight;

elevating quality and safety in health service governance;

making better use of information to improve quality and identify and act on risk;

strengthening departmental oversight and regulation for safer care and quality improvement.

Committing to stronger leadership of quality and safety of the health system

An important theme of *Targeting Zero* was system leadership. The bill will elevate and strengthen the focus on quality and safety in key legislation. Quality, safety and continuous improvement will be placed prominently in the objectives and core roles and responsibilities in the Health Services Act 1988, the Mental Health Act 2014 and the Ambulance Services Act 1986.

This will reflect the commitment made by the government, and by the Secretary of the Department of Health and Human Services, to pursue excellence in safety and quality so that safe patient care is a clear obligation of all health services, and to reassure the community that patient safety is a priority.

The bill amends the objectives in section 9 of the Health Services Act, for example, to include '[ensuring that] health care agencies: (i) provide safe, patient-centred and appropriate health services; and (ii) foster continuous improvement in the quality of the care and health services they provide …'.

Patient-centred care is health care that is respectful of, and responsive to, the preferences, needs and values of patients and consumers. This amendment will mean that safe patient care is a clear focus of the legislation. Part 3 of the bill includes amendments to the Ambulance Services Act 1986 to align it with the quality and safety amendments proposed to the Health Services Act. When the government took office, we committed to a full review of the Ambulance Services Act and this has now been completed.

However, we do not wish to await the full realisation of the outcomes of this review in order to implement important quality and safety recommendations of *Targeting Zero*. Accordingly, this Part includes amendments to elevate quality and safety in the functions of the secretary as outlined above, and to the objectives of ambulance services under the act.

As far as practical, there will be consistency in the similar provisions of the Mental Health Act. Accordingly, the amendments in part 4 strengthen the quality and safety elements in the objectives of the act and the functions of the secretary.

Targeting Zero found that: 'Even in some cases where there has been a clear need for the department to take a more active role in supporting a health service, the principle of local autonomy has sometimes been invoked as justification for not doing so … Such an interpretation defies the department's statutory responsibilities, which are legislatively prior to the model of devolved governance'.

Part 2 of the Health Services Act includes a capacity for the minister — after wide consultation — to prepare guidelines in relation to a range of matters. This capacity is broadened by the bill to allow the minister to issue guidelines relating to 'the improvement of the safety and quality of health care and health facilities'.

Engaging clinicians in system improvement and oversight

Another important theme of *Targeting Zero* was clinical engagement. On 1 January this year, Safer Care Victoria — headed by eminent clinician Professor Euan Wallace — commenced working with health services to monitor and improve the quality and safety of care delivered across our health system. Within Safer Care Victoria, the Victorian Clinical Council — headed by Associate Professor Jill Sewell and comprising broad representation across specialities and clinical professions — will provide clinical expertise to the government and the Department of Health and Human Services on how to make the system safer still.

The bill includes provisions that will support Safer Care Victoria, including improvements to the provisions that govern the role of consultative councils, such as the Consultative Council on Obstetric and Perinatal Morbidity and Mortality (CCOPMM), and amendments to formalise the governance of Better Care Victoria, which has been set up to assist the health sector effectively identify and embed innovation.

Consultative Council on Obstetric and Paediatric Mortality and Morbidity

To quote *Targeting Zero* — 'At Djerriwarrh, the deaths were picked up by an external consultative council two years after the cluster of avoidable deaths began. The council's review processes were not designed to detect the cluster … This system is obviously inadequate'.

The discovery of the cluster of avoidable perinatal deaths at Djerriwarrh was made by CCOPMM. Its role is to review all cases of maternal, perinatal and paediatric mortality and morbidity and advise the minister and the department on strategies to improve clinical performance and avoid preventable deaths.

However, CCOPMM caught the cluster at a very late stage and *Targeting Zero* found that CCOPMM's role in discovering the problems at Djerriwarrh exemplified the shortcomings of the role of specialist case review committees as they are currently designed — that is, to classify deaths — not to monitor adverse outcomes in real time. By design, its role in quality improvement was reactive, rather than proactive.

Targeting Zero recommends increasing the powers and enhancing the role of CCOPMM in the Public Health and Wellbeing Act 2008. Part 5 of the bill includes amendments that will allow the council to issue practice guidelines relevant to its findings and work; monitor compliance against those guidelines; and advise the Department of Health and Human Services where it has found non-compliance.

The bill will also introduce a section that requires CCOPPM to immediately provide the Department of Health and Human Services with information about incidents where CCOPPM finds that preventable harm involving mortality or severe morbidity has occurred. The bill also makes other operational improvements to the governance of CCOPMM and other consultative councils.

These arrangements constitute a change to how CCOPMM operates. Following *Targeting Zero* and the events that prompted the review, it is clear that CCOPMM has valuable information and expertise that can be used to identify and respond to risk, to improve quality and safety of services. There is an understandable public expectation that the department will have access to that information and will use it to proactively perform its oversight and regulatory functions. Currently, information received by the council is subject to strict statutory protections. The council and its personnel are subject to confidentiality obligations to ensure that services and clinicians engage with the council in a frank and candid manner. To avoid undermining this willingness of the sector

to engage with the council, the bill extends statutory protections to cover CCOPMM reports made to the secretary on reportable harm. These protections are intended to facilitate full and frank disclosure to the council so it can effectively perform its functions. To ensure that the protections do not prevent the secretary from taking prompt action when necessary to avoid or address a significant risk, the bill also allows for the secretary to override the protections in relation to a preventable harm report where the secretary considers that to be in the public interest. The bill strikes an appropriate balance in this regard.

Better Care Victoria board

The Better Care Victoria board was a major recommendation of the Travis review. That review (*Increasing the Capacity of the Victorian Public Hospital System for Better Patient Outcomes*) led by Dr Douglas Travis, surgeon and former president of the Australian Medical Association, Victoria, was commissioned to provide recommendations about how to increase the capacity of Victorian hospitals.

The Better Care Victoria board has assumed the existing responsibilities of the Health Innovation and Reform Council refocused in line with the recommendations of the *Travis Review*, and will adopt a more active approach.

As part of this focus, the Better Care Victoria Board will be more active in its engagement with the public health sector to encourage and facilitate the dissemination of innovation and improvement in the Victorian health system.

To reflect this, the bill amends the name from 'Health Innovation and Reform Council' to 'Better Care Victoria board' and includes governance and membership reforms. It also defines the functions of the board which are to advise and report to the minister and the secretary on the effective and efficient delivery of quality health services, and strategies to support innovation and improvement in the health sector.

Enhancing quality and safety in health sector governance

Targeting Zero reviewers agreed the failings at Djerriwarrh Health Services were the responsibility of (the now dissolved) board and agreed that this is where primary responsibility resided. They said, however;

> … we question the extent to which effective ministerial appointment processes and department oversight existed in the first place to ensure that the board had and was exercising the skills, information and expertise necessary to uphold its governance responsibilities.

Currently the Health Services Act includes a number of varied provisions that deal with governance of public sector health services. These services are known in the legislation as public hospitals, public health services and multipurpose services. The bill includes a range of amendments to the governance provisions, to establish a strengthened and consistent set of governance requirements for all public sector health services.

As recommended in *Targeting Zero*, part 2 of the bill will extend the current quality and safety obligations of public health service boards and chief executive officers to two other types of public sector service established by the act — public hospitals and multipurpose services.

These obligations include: ensuring that the service 'continuously strives to improve the quality and safety of the health services it provides and to foster innovation'; and having regard to 'the needs and views of patients and other users of the health services provided' … and 'the community serviced'.

People who serve on boards of public sector services truly understand the term 'service'. They contribute greatly to their community and the government and the people of Victoria are indebted to the dedicated individuals who give so much to their communities. Victoria's system of devolved governance has allowed our public health sector to draw on the unique knowledge of generous individuals who know their community well. When it operates well, this devolved model also offers opportunity for renewal, growth of ideas and innovation which in turn promote accountability and strong independent oversight of health services' management.

Recognising the significance of this oversight role and the importance of nomenclature, the bill updates and makes consistent some of the older language used in the Health Services Act. Some of the current provisions refer to board 'members'. The bill replaces this with the term 'directors'. Boards are responsible for all aspects of running a health service. They have the responsibilities of a board of directors. The language of the statute will now reflect this.

Targeting Zero recommends limiting directors' terms to nine years, consistently across all public sector services.

Accordingly, part 2 of the bill includes amendments so that the current term-limit requirements for public health service board members will also apply to directors of public hospitals and multipurpose services. These changes will help promote the independence of the board from the executive of the service and ensure there is opportunity for innovation and renewal in governance.

Currently, there are many experienced people sitting on boards who have served in excess of nine years, especially on rural public hospital boards. As recommended by *Targeting Zero*, the Department of Health and Human Services is not awaiting the legislation before putting the policy intent into practice. Alongside achieving the right skill mix, increasing board capabilities and enhancing diversity, time served is already being considered as a criterion in relation to board appointments as they arise.

However, immediate implementation of the recommendation for all services will prove challenging due to the difficulty of finding such a high number of suitably skilled new individuals to fill board positions, particularly in regional and rural areas.

Accordingly, the bill includes transitional arrangements. It will limit consecutive terms to nine years and current members will be required to step down after nine years on a board. However, this will not fully come into effect for three years.

In addition, the tenure provisions for public sector health services will be subject to an ongoing ministerial discretion to exempt in special circumstances. As well as providing consistency, this will replace a formal Governor in Council exemption process currently used in relation to public health service board appointments. For instance, the minister might recommend the appointment of someone beyond the nine-year maximum term, if necessary to address a current critical skill deficit that — despite reasonable efforts —

cannot otherwise be filled. Another example would be an appointment to allow development of an appropriate succession plan.

The bill will also provide for the making of regulations to inform the composition of boards of public sector health services. For example, the regulations might require the inclusion of directors with clinical experience or clinical governance experience.

The bill will also include a power for the minister to issue guidelines in relation to the ways in which boards perform their roles and functions, and the ways in which boards conduct their processes and procedures.

The department currently has a range of non-legislative instruments in which it sets expectations and requirements in relation to boards. The power to issue guidelines under legislation will provide a transparent statement of the minister's expectations of boards and directors. This will be a reference document to support boards, chief executive officers and prospective board members, and will also act as a public information resource and accountability mechanism, by setting out the minister's expectations in the public domain. Furthermore, while no penalty will attach to non-compliance with the guidelines, this could be a trigger for interventions by the minister and/or the department to address risks in relation to governance of quality and safety.

To further support the implementation of the significant governance reforms suggested by *Targeting Zero*, in addition to these legislative changes, the government is establishing a board ministerial advisory committee to ensure our hospital and health service boards have the right mix of skills, knowledge and experience to strengthen local governance and decision-making.

Additionally, the Department of Health and Human Services will continue to support boards by giving them the quality and safety information they need to provide strong leadership of their health service — and the training to ensure that the care provided by their services are safe, high quality and continuously improving.

The bill will apply a consistent approach to governance of ambulance services under the Ambulance Services Act and the Victorian Institute of Forensic Mental Health under the Mental Health Act.

The amendments recommended by *Targeting Zero* to board and chief executive officer responsibilities, and to board tenure limits, will also apply to the boards and chief executive officers of ambulance services, and the minister will be able to publish guidelines relating to the role, function and procedure of an ambulance service.

The provision relating to the functions of the chief executive officer has similarly been amended to require that effective and accountable systems are in place to monitor that the ambulance service provides safe, patient-centred and appropriate services.

As far as practical, there will be consistency in the governance arrangements in the Mental Health Act. This act is only three years old and does not require such significant amendment in relation to governance in order to the elevate quality and safety requirements as envisaged in *Targeting Zero*. However, amendments in part 4 of the bill align the quality and safety governance requirements in relation to Victorian Institute of Forensic Mental Health by making amendments to the statutory functions of the board and chief executive officer of the institute. A board tenure limit of nine years already applies to directors of the institute.

Making better use of data and information to improve quality and identify and act on risk

Targeting Zero said: 'Information is the lifeblood of a continuously improving hospital system, and it is not flowing in Victoria'.

The review found that essential data was not collected, not used, or not made available in a convenient form, thereby limiting hospitals' and clinicians' ability to use information to identify opportunities for improvement and strengthen care.

The government is addressing the multiple recommendations about data and information with the establishment of the Victorian Agency for Health Information at the beginning of 2017. The agency is working to overhaul the way in which data and information is shared across the health system. It is responsible for analysing the health data collections held by the Department of Health and Human Services, developing clinical performance indicators and improving access to clinical data by clinicians, boards, departmental staff and academic researchers.

The bill will enable the collection of relevant data for use by the information agency (and the Department of Health and Human Services and Safer Care Victoria), by enhancing the department's capacity to obtain data from health services. This will strengthen oversight and regulation across the system, as well as supporting analysis, research and continuous improvement.

While the bill establishes different mechanisms for collecting data from public sector and private sector services, the purpose of the amendments is to align reporting and data collection arrangements across both sectors, as recommended in *Targeting Zero*.

Patients should share in the quality and safety benefits of improved data flow, whether they are accessing services in the public or private sector.

Targeting Zero said: 'The department has immature systems both for routine monitoring and more occasional investigation of serious harm. Despite the immense volume and diversity of types of harm in the system, monitoring is focused on a small number of safety indicators, often with limited clinical usefulness'.

The bill includes provisions to allow the Secretary to the Department of Health and Human Services to issue a direction to a public sector service under the Health Services Act, or an ambulance service under the Ambulance Services Act, requiring that the service provide the secretary with information specified in the direction. This will complement new reporting requirements for private sector services.

The proposed provisions will allow establishment of consistent (or equivalent) reporting and monitoring requirements for public sector and private sector entities.

Targeting Zero recommended that the Department of Health and Human Services collect broader data about the performance of private hospitals to align with public hospitals. It recommended the department track performance

on this data and use it to inform its assessment of private hospitals during the registration and review processes and to engage private hospitals in regular discussion about their improvement priorities.

Accordingly, the bill will include a requirement for private sector services to report to the secretary to the Department of Health and Human Services, with the data requirements being prescribed in regulations. While it is intended for public and private hospitals to submit similar data, full details of what should be reported by the private sector will be considered when the regulations are being prepared. For example, it is intended that sentinel events must be reported. A sentinel event is an event that results in harm or injury to a patient that is caused by something other than their medical condition, for example, unintended retention of a swab during surgery.

Accordingly, the bill includes a new requirement that the proprietor of a private sector service must notify the secretary to the Department of Health and Human Services of any serious risk to patient health or safety. The bill also includes a power for the secretary to issue a direction to a private sector service that requires the service to provide information as specified in the direction, to ensure the requirements of the act are being met.

Strengthening departmental oversight and regulation for safer care and quality improvement

Targeting Zero highlighted the need for stronger regulation of the public sector and private sector to better protect patients.

Strengthening departmental oversight in the public sector

The bill strengthens the suite of mechanisms available to the minister and the Department of Health and Human Services to oversee quality and safety, and the interventions available to respond when matters of concern are identified.

The bill extends the existing powers of the secretary to issue directions to public hospitals, public health services and ambulance services, to include the issuing of directions about actions to be taken to ensure that the health services provided are safe, patient-centred and appropriate. For consistency across the sector, this direction power is also extended to allow the secretary to issue directions to multipurpose services.

The bill will strengthen the provisions that allow for amalgamation of public sector services. Currently the provisions allow the secretary to the Department of Health and Human Services to recommend to the minister that two or more public sector services be amalgamated to be 'more effective'. The minister is also able to approve a voluntary amalgamation on the grounds of effectiveness and public interest.

Targeting Zero recommended that the criteria for amalgamations be broadened to include whether the amalgamation would lead to more effective governance of safety and quality. The bill therefore adds an additional criterion for amalgamation if 'governance of the safety and quality of health services provided by two or more registered funded agencies may be more effective if the agencies were amalgamated'. (This will not apply to denominational hospitals.)

This requirement is intended as a last resort and the intention is that health services are proactively supported to elevate quality and safety standards, so amalgamations are not required.

Currently the Health Services Act allows the minister to appoint up to two 'delegates' to the board of a public health service or public hospital, if satisfied the appointment would 'improve' performance.

However, in relation to a new facility or a newly amalgamated facility, it is unlikely the minister could be satisfied the appointment would 'improve' the service as there is no prior performance to measure.

The bill amends this so the minister can appoint a delegate or delegates if the minister considers such an appointment will assist the board to improve the performance of a public hospital or public health service.

Amendments to the Mental Health Act will also be made to introduce a capacity for the minister to appoint a delegate to the Victorian Institute of Forensic Mental Health board if the minister considers that such an appointment will assist the board to improve the performance of the institute.

Adding to the suite of interventions refined by the bill, the grounds for commissioning an audit into a service or agency are also broadened. The Secretary to the Department of Health and Human Services already has a power to commission an audit but quality and safety is not specified as a ground on which that power can be exercised. The provision will now allow an audit to be commissioned to ascertain: whether the agency is 'providing safe, patient-centred and appropriate health services' or 'fostering continuous improvement in the quality of the care and health services it provides'.

The power in the Ambulance Services Act for the secretary to commission an audit will also be aligned to add quality and safety as a basis for the exercise of the powers. The Health Services Act currently provides for the minister to censure, suspend admissions or close a public hospital, denominational hospital or public health service, under certain circumstances. The bill will amend those provisions to ensure such action can be taken where the service is failing to provide safe, patient-centred care. The provisions that allow closure and suspension of admissions at a multipurpose service will be likewise enhanced.

Failure by an ambulance service to ensure provision of safe, patient-centred services will also be a ground for appointment of an administrator as will failure to ensure the service fosters continuous improvement in the quality of care and service provided.

Strengthening departmental oversight and regulation in the private sector

There has been significant growth in the private sector in recent decades and major change in the broader regulatory framework for private facilities, notably in the nature and coverage of federal private health insurance regulation and in the structure of health practitioner regulation.

Targeting Zero recommended sweeping changes to the way all hospitals are monitored and regulated and a central theme presented in the report was that quality and safety expectations of all hospitals should align: 'All hospitals should be held to account for improving safety and quality of care, regardless of their size or sector'.

Alignment may require the use of different mechanisms across the public and private sector. While some requirements

for the private sector require legislation to mandate them, other mechanisms (such as funding agreements) may be used for the public sector.

Part 4 of the Health Services Act deals with private sector services — referred to in the legislation as 'health service establishments'. These are defined as private hospitals and day procedure centres, and in the future, following amendments made by this bill, a premises at which or from which, a prescribed health service is provided, and they must be registered under the act.

One of the many significant reforms of this bill is to extend the scope of registration requirements to include currently unregulated activities in day procedure centres. To date, some day procedure facilities have been lawfully able to undertake some activities, for example, surgery such as breast augmentation, without being registered or regulated.

Targeting Zero recommended broadening the definition of 'day procedure centre' so that facilities where surgery occurs are required to be registered including where surgery is 'not a major activity' of the service (the current regulatory limitation under the act).

The bill makes this amendment, changing the focus of regulation so that the type of health service provided will determine whether it must be registered, rather than the quantity of that service that is provided. This will close a loophole, which has left some high-risk activity such as cosmetic surgery unregulated as a result of where they were performed and created a potential safety risk for some patients.

Targeting Zero found that the department lacked powers to oversee use of treatments in some locations that may pose a risk to patient safety, such as offsite services or mobile services.

The bill will enable registration requirements to be made broader and more flexible, allowing for a wider range of health service delivery options and innovative models of care, such as post-birth maternity beds off campus, hospital in the home services and mobile anaesthetic services.

Further, the bill will allow for independent mobile services to be registered in anticipation of future service delivery models. For example, there may be mobile dialysis or oncology services developed as an alternative to day hospital services. The changes will allow the Department of Health and Human Services to accommodate and regulate future health service innovation by removing current barriers to these types of services being registered.

The bill will make amendments to ensure that quality and safety are considered at all points in the registration process, and the Department of Health and Human Services is able to investigate and act on quality and safety concerns at any time.

Currently, patient safety and quality issues can only be considered in the context of an application for registration or renewal of registration. Following the amendments in the bill, the Secretary to the Department of Health and Human Services will be able to consider patient safety and quality in private hospitals and day procedure centres at all times and authorised officers will be able to carry out inspections and investigations in response to safety and quality concerns, whenever a private hospital or day procedure centre is operating. This will ensure the law reflects and supports the current proactive practice of the department.

The bill makes a number of amendments to ensure action in relation to registration can be taken where quality and safety concerns are identified.

Division 4 of part 4, of the act currently includes a power to the Secretary to the Department of Health and Human Services to revoke registration of a health service establishment in certain circumstances such as breach of the regulations or a condition of licence. The bill will broaden these criteria to include where the registered proprietor has failed to comply with the requirements of an approved accreditation scheme; or has operated or is operating the health service establishment in a manner that poses serious risk to patient health or safety.

Revocation of registration has very serious and potentially permanent outcomes with many ramifications on a number of individuals (including staff and patients). This may be appropriate in some circumstances, but the bill will add to the suite of interventions available to the secretary with the addition of a capacity for suspension or partial suspension.

It is intended that regulatory tools such as conditions on registration and partial and complete suspension of services should be employed as the first level of intervention to try to alleviate or minimise identified problems.

Amendments will allow partial suspension (suspension of one or more prescribed services) to be used as a targeted intervention tool in certain circumstances, that allows the rest of the facility to continue trading while the identified risks are rectified and patients are protected from harm. This targeted approach also provides an incentive to the proprietor to rectify the problems and recommence services, without the costs involved in the matter proceeding to court or through complete suspension or revocation of registration. Finally, the bill includes an obligation for the proprietor of a private sector service to ensure that safe, patient-centred services are provided at the service, and that there is continuous improvement in the quality and safety of services provided. Failure to comply with this obligation without reasonable excuse will be an offence, attracting a penalty.

The bill also improves the quality and safety framework that supports the registration regime.

The bill will strengthen the requirements for proprietors to obtain approval to operate a private sector service at a particular premises. There will be a new requirement that if there are any substantial alterations, renovations or extensions of a clinical area after registration, these must be approved by the Secretary to the Department of Health and Human Services. In giving such approval the secretary will consider all the matters considered at registration, including quality and safety. Operating the amended, renovated or extended clinical area without approval will be an offence.

The bill strengthens requirements for services to adhere to appropriate guidelines in delivering services. The bill will include a power for the minister to declare guidelines to apply to all hospitals and day procedure centres where evidence-based guidelines are developed. The guidelines are likely to be used to address specific clinical issues and to improve clinical standards and patient outcomes across the system.

An example is the Australasian Health Facilities Guidelines which specify the construction and fit-out requirements for all hospitals and day procedure centres to ensure patient safety. These guidelines are currently mandatory for public hospitals,

so this measure will also ensure alignment of the public and private sector when hospitals are built or renovated.

In future, where evidence-based guidelines are developed, either nationally or for Victorian services, this power will allow them to be applied to all Victorian hospitals, in the private and public sectors. These are likely to be used to address specific clinical issues and to improve clinical standards and patient outcomes across the system.

The bill strengthens the requirements for private sector services to maintain adequate safety and quality accreditation. Amendments will enable the secretary to publish in the *Government Gazette* an approved and mandated accreditation scheme and require private hospitals and day procedure centres to be accredited by such a scheme. Further, they will be required to report outcomes of their accreditation surveys to the Department of Health and Human Services, so it has the necessary information to inform intervention and enforcement as necessary.

One example of such an accreditation scheme is the Australian Health Service Safety and Quality Accreditation Scheme, requiring accreditation against a new set of National Safety and Quality Health Service Standards. This has been developed by the Australian Commission on Safety and Quality in Health Care reflecting the overlap in the risks sought to be controlled by the NSQHSS and state-based regulation of the sector.

Penalties will apply for non-compliance with an approved accreditation scheme, and for failing to notify the secretary of failure to obtain accreditation or of revocation of accreditation. However, it is expected that most services will already comply with the new accreditation requirements as, under the Private Health Insurance Act 2007 (cth), they are currently required to be accredited in order to access private health insurance rebates.

The bill will allow the minister to exempt any private hospital or day procedure centre from some or all of the requirements of the Health Services Act, where there is no detriment to patient safety. This will remove duplication and thus regulatory burden where a private hospital is subject to both a health service funding agreement and regulation. A current example is Mildura Base Hospital which provides public hospital services on behalf of the Victorian government and, without this discretion being exercised could be subject to two regulatory regimes. The amendment will allow the minister to make a decision as to the most appropriate regulatory requirements to apply.

Oversight of electroconvulsive treatment in the private sector

Targeting Zero recommended that the Mental Health Act be amended to ensure oversight of electroconvulsive treatment in the private sector is equivalent to oversight in the public sector. The government is committed to ensuring people with mental illness, their families and carers receive access to high-quality, integrated services that can provide coordinated treatment and support.

Although a major review of the Mental Health Act is required in 2019 to assess its operation since commencement, the recommendation concerning increased oversight of electroconvulsive therapy in the private sector is addressed by this bill.

The jurisdiction of the independent Mental Health Tribunal is being expanded by the Medical Treatment Planning and Decisions Act 2016 to include approving electroconvulsive treatment for any person who does not have capacity to give informed consent to the treatment (whether in the public or private sectors). This means the level of tribunal oversight of electroconvulsive treatment for individuals lacking capacity to give informed consent in the private sector will be equivalent to that provided in the public sector.

As part of the expansion of scope and strengthening of functions under the bill, the department will have expanded powers to obtain private hospital and day procedure centre data, require compliance with standards and guidelines, give directions and conduct investigations. Where relevant, information can be shared with the chief psychiatrist, whose specialist analysis will enable the identification of any quality or safety concerns.

These reforms therefore enable the chief psychiatrist to oversight the use of electroconvulsive treatment in the private sector and, where quality or safety issues are identified, investigate as required in partnership with the department's private hospitals unit.

Amendment to the Health Complaints Act 2016

Among the *Targeting Zero* recommendations are a number that envisage a new and more significant role for the health complaints commissioner in contributing to quality and safety across the health sector. This includes an active role in monitoring the effectiveness of complaints handling by hospitals and reporting poor handling of complaints to the Department of Health and Human Services. It is also intended that the commissioner will compile and analyse data — for the purpose of identifying practitioners who are likely to be subject to future complaints or notifications — with a view to preventing escalation of issues and risks.

The bill facilitates the health complaints commissioner taking on these new roles through the inclusion of an amendment to the Health Complaints Act to broaden the delegation powers of the commissioner. The amendment will allow the commissioner greater flexibility to issue delegations so as to manage the resources of the office as necessary to proactively and effectively perform functions under the Health Complaints Act and the new functions arising from the *Targeting Zero* recommendations.

Minor technical and consequential amendments

Finally, the bill includes some minor technical and consequential amendments to legislation administered by the Department of Health and Human Services, for example, to the Public Health and Wellbeing Act immunisation provisions, to update the reference to the relevant commonwealth legislation.

The bill before the house is one in a suite of proposed legislative reforms aimed at reinstating Victoria as a leader in health care oversight and regulation to assist the government in achieving its objective of delivering high-quality, safe, efficient and effective health care to all Victorians.

These reforming acts make up the government's visions for the modernisation of healthcare legislation. This began with the Health Complaints Act 2016 which replaced the Health Services (Conciliation and Review) Act 1987 and will be followed by new legislation to replace the Ambulance Services Act 1986 and the Health Services Act 1988 — all of which were developed during that same era which predates a

consumer rights/person-centred care framework and modern technological developments.

The reforms in this bill contribute to the most significant overhaul of Victoria's health system in decades — building on work already undertaken by the Victorian government to strengthen quality and safety.

This bill is the result of the hard work of many people. I would particularly like to acknowledge the efforts of the review panel who produced *Targeting Zero* whose recommendations have informed the bill before the house: Dr Stephen Duckett, director, health program, Grattan Institute (chair), Ms Maree Cuddihy, chief executive officer, Kyneton District Health Service, and Associate Professor Harvey Newnham, clinical program director of emergency and acute medicine and director of general medicine, Alfred Health.

Every Victorian has a fundamental right to access to safe, high-quality care.

I want all Victorian patients and their families to know their safety is our highest priority, and we are doing everything we can to reduce avoidable harm in our hospitals.

I want to assure those families who suffered a tragic loss at Djerriwarrh Health Service that we are doing everything we can to ensure that what happened there never happens at any other health service.

We know that a goal of zero avoidable harm for the Victorian hospital system is an ambitious target. But, along with creating a more responsive and resilient health system, we must aim for this.

The bill before the house makes an important contribution to ensuring that the world-class care Victorians receive is backed by world-class quality and safety across the health system.

I commend the bill to the house.

Debate adjourned for Ms WOOLDRIDGE (Eastern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Tuesday, 29 August.

YARRA RIVER PROTECTION (WILIP-GIN BIRRARUNG MURRON) BILL 2017

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006, (the 'charter'), I make this statement of compatibility with respect to the Yarra River Protection (Wilip-gin Birrarung murron) Bill 2017.

In my opinion, the Yarra River Protection (Wilip-gin Birrarung murron) Bill 2017, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill will be a new principal act that will establish a new body to be called the Birrarung Council, require the development of a Yarra strategic plan to provide an overarching framework for future land use, development and protection of the Yarra River and related land and create the Greater Yarra Urban Parklands. As a public authority, the charter will apply to acts and decisions of the Birrarung Council.

Human rights issues

Equality before the law (section 8) and equality of access to public office (section 18(2)(b))

Section 8(3) of the charter provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination. Discrimination in relation to a person means discrimination within the meaning of the Equal Opportunity Act 2010 on the basis of an attribute protected by that act. This includes discrimination on the basis of race. Section 8 of that act provides that direct discrimination occurs if a person treats, or proposes to treat, a person with an attribute unfavourably because of that attribute.

Section 18(2)(b) of the charter provides that a person has the right, and is to have the opportunity, without discrimination, to have access, on general terms of equality, to the Victorian public service and public office.

Clause 49 of the bill prescribes the membership of the Birrarung Council, which will consist of 12 members appointed by the minister. The main function of the council is to provide advice to the minister on various matters including the development and implementation of the Yarra strategic plan.

Clause 49(1)(a) of the bill requires that at least two members of the council must be nominees of the Wurundjeri Tribe Land and Compensation Cultural Heritage Council. In my view, the charter rights under sections 8(3) and 18(2)(b) of the charter are not limited by clause 49(1)(a) of the bill as the Wurundjeri Tribe Land and Compensation Cultural Heritage Council is not restricted as to who they may nominate and, accordingly, the bill does not discriminate on the basis of race. While persons nominated are likely to be of Aboriginal heritage, there is no requirement for this to be the case. Further, under section 8(4) of the charter, this a measure taken for the purpose of assisting Aboriginal Victorians to participate in decisions about the use, development and protection of Yarra River land including the recognition, protection and promotion of Aboriginal tangible and intangible cultural values and as such does not constitute discrimination. Alternatively, to the extent that clause 49(1)(a) limits rights under sections 8(3) and 18(2)(b) of the charter, those limits are reasonable and justified in accordance with section 7(2) of the charter given the importance of having Aboriginal Victorians with knowledge of relevant tangible and intangible cultural values informing the management of the Yarra River.

Right to privacy and reputation (section 13)

Section 13(a) of the charter provides that a person has the right not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with. Privacy is a broad concept and includes privacy of information about a person. Section 13(b) provides that a person also has the right not to have his or her reputation unlawfully attacked.

Clause 24(2) of the bill requires the lead agency to make a copy of all public submissions on a draft Yarra strategic plan made to it available for public inspection. To the extent to which any such submission may contain personal information about individuals, that clause engages the rights under section 13 of the charter.

In my view, the rights under section 13 of the charter are not limited by clause 24(2) of the bill, as the lead agency will collect and manage any personal information in accordance with the Privacy and Data Protection Act 2014 and individuals making submissions will be given the opportunity either to consent to the publishing of any personal information in the submission or to request that the personal information be redacted.

Clause 43(1) of the bill requires each responsible public entity to prepare a report on the implementation of a Yarra strategic plan by the entity over the reporting period. From the information provided in each such report, the lead agency must, under clause 44 of the bill, give a report to the Birrarung Council to assist it with its reporting obligation to the minister under clause 57(1) of the bill. To the extent to which any such report may contain personal information about individuals, those clauses limit the rights under section 13 of the charter.

In my opinion, any interference with privacy or reputation caused by these provisions is neither unlawful nor arbitrary and accordingly compatible with the rights in section 13 of the charter. The interference is authorised by law, the circumstances in which it occurs is clearly circumscribed and it is reasonable or proportionate in all the circumstances. The information is necessary to enable the implementation of a Yarra strategic plan to be monitored with a view to considering whether it is effectively achieving its purpose.

Freedom of expression (section 15) and freedom of movement (s 12)

Section 15(2) of the charter provides that every person has the right to freedom of expression, which includes the freedom to seek, receive and impart information and ideas of all kinds. However, section 15(3) provides that special duties and responsibilities are attached to the right to freedom of expression and the right may be lawfully restricted in a range of circumstances, including where it is reasonably necessary to do so to respect the rights and reputation of other persons or for the protection of public order.

Clause 33 of the bill makes it an offence for a person to obstruct a member of a panel while the member is performing their functions or exercising their powers or obstruct a person attending a hearing before a panel. It is also an offence to repeatedly interrupt a hearing before a panel or, without lawful excuse, disobey a direction of a panel. A maximum penalty of 10 penalty units is provided for any breach of these provisions.

The provisions in clause 33 are reasonably necessary for the protection of public order under section 15(3) of the charter. They are lawful and reasonably necessary to achieve the objective of ensuring that public hearings before a panel operate in an orderly and fair manner without panel members or others in attendance being obstructed or a hearing being repeatedly interrupted or other disruptive conduct being engaged in. It is essential for the proper consideration of submissions referred to a panel that hearings are conducted in an environment that is free from interference or disruptive behaviour. To achieve that outcome it is reasonably necessary to empower the panel to control the conduct of its proceedings and regulate the conduct of persons attending a hearing. I therefore consider the provision is compatible with the right to freedom of expression under the charter.

Similarly, clause 33 of the bill might limit the right to freedom of movement under section 12 of the charter as a panel, in exercising its power to give directions, might direct a person to leave a hearing, noting that it is an offence to disobey a direction of a panel without lawful excuse. Under section 7(2) of the charter this limitation is reasonable and justified having regard to the need to ensure the protection of public order at a panel hearing and the effective and fair operation of a panel.

Right to participate in public life (section 18)

Section 18(1) of the charter provides that every person in Victoria has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs. Under section 18(2)(b) of the charter every eligible person has the right, and is to have the opportunity, without discrimination, to have access, on general terms of equality, to the Victorian public service and public office.

These rights are engaged by the establishment of the Birrarung Council as a new public authority to advise the minister in relation to a Yarra strategic plan and on which there must be at least one representative of a local community group. Clause 52(2) of the bill provides that the minister may remove a member of the Birrarung Council from office at any time on specified grounds. This might be considered to be a limitation on the right under section 18(2)(b) of the charter but, in my opinion, such a limitation is reasonable and justified in accordance with section 7(2) of the charter.

The purpose of the limitation is to protect the integrity of the Birrarung Council and public confidence in its operations. The purpose of removing a member from office is to ensure that only persons fit to hold office remain as members. The grounds specified in clause 52(2) for removal ensure that removal can only occur if a member is unfit to hold office including because of misconduct, neglect of duty or inability to perform the duties of the office. There are no less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

For these reasons, I am of the opinion that any limitation imposed by clause 52(2) of the bill on the right to participate in the conduct of public affairs is reasonable and justified in accordance with section 7(2) of the charter.

Clause 33 of the bill makes it an offence for a person to engage in certain conduct related to the functions and hearings of a panel. This potentially engages the right to participate in the conduct of public affairs as it may impose restrictions on their communications at panel hearings or

indeed their presence at a hearing. However, I am of the opinion that any limitation imposed by clause 33 of the bill on that right is reasonable and justified in accordance with section 7(2) of the charter. The intention of the limitation is to ensure that public hearings before a panel operate in an orderly and fair manner conducive to the proper consideration of submissions referred to the panel.

Cultural rights (section 19(2))

Section 19(2) of the charter confirms the distinct cultural rights of Aboriginal persons including their right to maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

The bill relates to the protection of Aboriginal cultural heritage by requiring the Yarra strategic plan to recognise and protect Aboriginal tangible and intangible cultural values (clause 21(b)) and by requiring the Birrarung Council to advise on the contribution of the Yarra strategic plan to the protection and improvement of the cultural and heritage values of the Yarra River land (clause 48(1)(a)(v)).

The bill promotes the cultural rights of Aboriginal persons by requiring that a Yarra strategic plan recognise and protect Aboriginal values and heritage and empowering the Birrarung Council to advise on the contribution of the plan to that protection.

Property rights (section 20)

Section 20 of the charter provides that a person must not be deprived of their property other than in accordance with law. This right is not limited where there is a law which authorises a deprivation of property, and that law is adequately accessible, clear and certain, and sufficiently precise to enable a person to regulate their conduct.

To the extent that 'deprivation of property' might extend beyond situations of forced transfer of title or ownership to any substantial restriction on a person's control, use or enjoyment of their property, section 20 of the charter might be relevant to part 4 of the bill which provides for the making of a Yarra strategic plan. A Yarra strategic plan will include a land use framework plan that will be incorporated into planning schemes and may impact on how a person may use or develop their land. A Yarra strategic plan may apply to privately owned land that is located within 1 kilometre of a bank of the Yarra River or is the subject of a ministerial notice under clause 15 of the bill.

However, the circumstances and procedures by which a person's control, use or enjoyment of their property may be restricted are clearly set out in the provisions of the bill. I am satisfied that, to the extent that this could be said to amount to an effective deprivation of property under the charter, such deprivation will occur both in accordance with law and for a legitimate purpose, namely the protection of the Yarra River and land related to it from use or development detrimental to its environmental, landscape, cultural, heritage and amenity values. As such, these provisions will not amount to a limit of the property right in section 20 of the charter.

Rights in criminal proceedings

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

Clause 33(1)(d) of the bill makes it an offence for a person to disobey a direction of a panel without lawful excuse. In providing the defence of lawful excuse, this provision places an evidential burden on the accused, requiring them to show that there is sufficient evidence to raise an issue as to fact of the existence of a lawful excuse. As such, the presumption of innocence under section 25(1) of the charter is relevant.

However, I do not consider that an evidential onus limits the right to be presumed innocent. Once a person has presented or pointed to evidence as to the existence of a lawful excuse, the burden shifts to the prosecution to prove the elements of the offence. The question of the existence of a lawful excuse is a matter that is likely to be uniquely within the knowledge of the accused person and it is therefore reasonable for them to provide evidence on that issue. The prosecution will retain the legal burden of disproving the issue beyond reasonable doubt.

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

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr JENNINGS (Special Minister of State).

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

That the bill be now read a second time.

Incorporated speech as follows:

The Yarra River Protection (Wilip-gin Birrarung murron) Bill 2017 is a landmark in the history of our state.

It is a landmark because it is the first bill in Victoria to recognise the traditional owners of country by using their language for the title of the bill, and one of the first bills in Australia to include traditional owner language in the body of the bill.

It gives the traditional owners a say in the way we plan for and manage the Yarra River and its land. This is being enshrined in the law as well as in policy.

It is a landmark because it is the first time in Australia that a river, and the many hundreds of parcels of public land in which it is situated, is being recognised as the one living and integrated entity for protection and improvement.

This holistic approach blends the wisdom of traditional owners and 'caring of country' with contemporary Victorian values of the importance of nature to community health and wellbeing.

It is a landmark bill because it establishes a holistic approach to the management of this iconic river, and its land, that is centred on local community values and preferences. This will provide an overarching framework for the activities of the more than 14 responsible public entities.

It is a landmark because it establishes unprecedented standards for public transparency and accountability with multiple checks and balances to ensure the river and its land are protected for future generations.

It is a landmark because it will keep the Yarra and its country alive as the city responds to the impacts of climate change and, of course, continues to grow.

The Yarra is finally getting the protection it deserves.

I want to explain the meaning of the Woi-wurrung words in the legislation, and outline the size and scope of the reforms contained in the legislation.

Let me start with a Woi-wurrung translation.

The traditional owners' name for the Yarra is the Birrarung.

The translation of the title of the bill 'Wilip-gin Birrarung murron' is: keep the Birrarung alive.

That is precisely what this legislation is designed to do — keep the Birrarung, or the Yarra, alive.

To achieve that end, the bill will declare the Yarra — and any parcels of public lands that come within 500 metres of the riverbank — the one living and integrated entity for protection and improvement.

The importance of the public parklands and open spaces along the Yarra River within metropolitan Melbourne will be recognised by collectively being called the Greater Yarra Urban Parklands.

The bill requires the development of a strategic river corridor plan for the Yarra River and its land. That plan will align and coordinate the efforts of the 14 responsible public entities with a common purpose.

The Yarra strategic plan will be prepared in partnership with the traditional owners, the eight responsible local councils along the river, and other government agencies.

It will give effect to a long-term community vision for the future use, protection and improvement of the river and its land that looks ahead at least 50 years.

That vision will be co-designed with the community.

And those activities will be closely monitored.

Under this legislation, all public entities must report at least every six months on the actions being taken to implement the community vision of the Yarra strategic plan.

The bill amends the Commissioner for Environmental Sustainability Act 2003, requiring the commissioner to report on the environmental state of the river and its lands as part of the periodical report on the State of the Environment in Victoria.

And the bill also establishes an independent body — the Birrarung Council — to act as a voice for the Yarra and its land in planning and decision-making. It will also advise the responsible minister on any relevant matters.

The Birrarung Council is the centrepiece of this bill.

For the first time in Australia — and one of the first times in the world — a river, as represented by the Birrarung Council, will be given a voice at the table where decisions are made that decide its future.

And that voice will be informed, that voice will be resourced and that voice will be independent.

The Birrarung Council will be independent of the responsible public entities that manage the river and its land — and it will scrutinise the ways in which those public entities meet their responsibilities.

That council will have a maximum of 12 members, including representation from traditional owners, environmental advocacy, agricultural industry and community groups.

And, under the bill, the Birrarung Council will be required to annually audit the implementation of the Yarra strategic plan and the health of the river — and those annual reports will be tabled in Parliament.

In short, the bill ensures the management of the Yarra will be handled with unprecedented transparency and public accountability.

I would like to draw your attention to three aspects of the reforms laid out in the bill.

One: we are treating our premier river and all of its land as the one living and integrated entity — this is a first in Australia.

Two: we are creating a framework, through the Birrarung Council, for the community to not only have a real say on the future use, protection and improvement of their river but also to scrutinise the actions of the responsible public entities — this is a first in Australia.

Three: we are holding this, and future governments, publicly accountable for the health of the river. We will monitor the implementation of the Yarra strategic plan in combination with regular audits of the environmental condition of the Yarra River and its land to ensure the desired river protection and improvement outcomes — this is a first in Australia.

As I said, this bill is a landmark in the history of our state. It is also an urgently needed reform. Let me explain why.

The Yarra is an inseparable part of our identity and crucial to Melbourne's economy, sustainability and livability.

But it is about more than just water. Much more.

The Yarra is about the parklands and green spaces that line its banks.

The Yarra is about the traditional owners who have lived with and known the Birrarung since its beginning.

The Yarra is about the communities that live along its path.

The Yarra is about the sporting and recreational clubs that use its waters and lands.

The Yarra is about the flora and fauna to which it gives life.

The Yarra is about the port that drives our state's economy.

The Yarra is about all of us: who we are, where we come from, where we are going.

> That is why the government is enacting the reforms laid out in the bill — because we believe that Melbourne needs a living river to remain a livable city.
>
> I commend the bill to the house.

Debate adjourned for Mr DAVIS (Southern Metropolitan) on motion of Mr Ondarchie.

Debate adjourned until Tuesday, 29 August.

Mr Rich-Phillips — On a point of order, President, I raise for your attention a matter outstanding from question time on Wednesday, 9 August. I put two questions to the Leader of the Government with respect to travel undertaken by Mr Eideh. On that occasion you ordered in respect of those two questions that one of them receive a written response within one day and that the second receive a written response within two days. The first response was therefore due on Thursday of the last sitting week, and it was not received. The second response was due at 11.45 a.m. today and has not been received, so I ask that those matters be followed up.

Mr Jennings — On the point of order, President, I have signed answers to both of those questions. I believe that they should have been processed in a timely way by 11.45 a.m. today. In relation to the prescription going back to whether the President had determined one day or two days I can actually say that neither of these questions was directly my responsibility so I relied on answers provided by another minister and provided them in accordance with what I thought was the time frame. If Mr Rich-Phillips is not in possession of these answers by question time, I will privately convey them to him because in fact they have already been signed off by me and should have been processed by now.

The PRESIDENT — I think Mr Rich-Phillips would probably have accepted the one-day answer coming in two days had they both come together. At this stage, Mr Jennings, I am advised that the table office has not received either of those responses. Mr Jennings will follow those up. Thank you for the point of order.

RULINGS BY THE CHAIR

Sub judice convention

The PRESIDENT — I indicated last week, as a result of some of the discussion in question time on sub judice issues, that I would make a further written ruling to clarify the matters surrounding sub judice as the house sees it. I indicated at the time that the ruling was likely to be consistent with what I said last week, and I am happy to say it is. But I will provide this ruling now and indicate that if members would like to have a copy of it in a short time they should see the papers office, because it is available now for them if they wish to have it. The ruling is in regard to sub judice.

Last sitting Thursday during question time I made a ruling in response to points of order concerning the sub judice convention and made a commitment to come back to the house with a further ruling which, while consistent with the ruling I gave at the time, will provide members with further clarification.

I note that while the sub judice convention is a restriction the house places upon itself, standing order 8.02 does state that questions should not contain 'reflections on court decisions and sub judice matters'.

Existing rulings by me and other presidents outline the principle of the sub judice rule:

> The sub judice rule's purpose is to protect individuals appearing before courts and certain classes of tribunals from having their cases prejudged through publicity.[1]
>
> The sub judice convention is a restriction on debate which the house imposes on itself where there is a danger of prejudicing proceedings before a court. It does not necessarily follow that just because a matter is before a court every aspect of it must be sub judice. Four criteria need to be considered when applying the sub judice convention:
>
> 1. whether there is a danger of prejudicing the case if the matter were debated in the house;
>
> 2. the danger of prejudice occurring versus the public interest in the matter;
>
> 3. whether the danger of prejudice will occur if the case was being heard by a judge(s) or jury;
>
> 4. whether an individual's rights would be unduly transgressed or injured if the matter was discussed prior to judgement.
>
> When there is considerable public interest in a matter, the matter is being heard by a judge rather than a jury, and no single individual's rights will be unduly prejudiced or injured, debate may proceed.[2]

In addition, I note a ruling I made in 2013 about the balance the Chair and this house seeks to achieve between not unduly influencing judicial proceedings and not shutting down debate on certain matters:

> The sub judice convention, especially in relation to civil matters, is a restriction that the house imposes upon itself, and it does so to prevent its deliberations from prejudicing the courts of justice. Just because a matter is before the court it does not necessarily follow that every aspect of it must be sub judice.
>
> The application of the sub judice convention is always subject to the discretion of the Chair, and the Chair should always have regard to the basic rights and interests of members in

> being able to raise matters of concern in the house. It would unnecessarily affect the proceedings of the house if the sub judice issue was used by members to shut down debate on certain matters.[3]

For the further clarification of members, I will address some of the issues that members raised last sitting week.

(1) Matters before a judge versus matters before a jury

I reiterate what I said last sitting week, and just now, about the difference between matters before a judge versus matters before a jury. It is most unlikely that a judge at the sentencing stage would be influenced by the types of answers sought during question time last sitting week, whereas if a jury were still involved the house might more appropriately restrict its debate through the sub judice convention. This reflects the house's existing and continuing practice that the sub judice convention is applied more strictly to matters before juries than matters before judges because of increased likelihood of inappropriate influence. Even then the threshold should be that there is a substantial danger of prejudice.

(2) Coroners Court proceedings

An inquest by a coroner is not a judicial proceeding, and does not face the same danger of being influenced by parliamentary debate as does, for instance, a jury trial in a criminal proceeding. Nor does a coronial inquiry end in a conviction or a sentence. Furthermore, many coronial inquiries are subject to public reporting and commentary, and it would make no sense for the house to restrict itself more than the general public debate. For these reasons the house need not impose the same level of restriction on its debate concerning coronial inquiries as it does judicial proceedings. I also note that with coronial inquiries being so numerous, imposing any restriction would unduly limit the house's ability to debate what may be issues of public interest.

(3) Federal ministers' comments about Court of Appeal

Last sitting week Mr Dalidakis raised the matter of federal ministers who made comments outside of the federal Parliament in relation to the Court of Appeal. This matter differs from discussions of the sub judice convention in this house, as when making comments outside of their Parliament the ministers in question were not protected by parliamentary privilege. Furthermore, I note that the actions of those ministers could be categorised as bringing into question the motives or character of certain judges, not simply to comment on matters of public policy attaching to the particular case, and were designed to achieve maximum publicity. Even in the house itself, the Chair should be careful to restrict these types of comments even though absolute privilege applies. As such I reiterate what I said last sitting week, that as the comments made by the federal ministers were made outside of Parliament they are not relevant to our consideration of the sub judice convention in this place.

(4) Civil versus criminal proceedings

As I mentioned last week, the way this house applies the sub judice convention in relation to civil matters differs from the way it applies in relation to criminal matters. The key difference in terms of those matters is that sub judice restrictions on debate may apply in a criminal matter from the time charges are laid. Sub judice restrictions on debate may apply in a civil matter from the time of the commencement of proceedings.

The house should also note that the above principles apply to committee inquiries. That is, committee inquiries are proceedings of Parliament where the public interest is usually best served by the public examination of matters. Committees may limit their evidence gathering based on the sub judice convention or might choose to take certain evidence in camera so as not to offend sub judice.

Should members want a copy of this ruling before it appears in tomorrow's *Hansard*, I invite them to obtain a copy from the table office.

A significant point between last week and this week is that I think I noted in one of my comments that sub judice applies from the time of arrest when in fact it is from the time charges are laid. That is what I had actually intended on that occasion, but I think I made the wrong comment at that time. I thank members for their forbearance in what was a lengthy ruling but a fairly important one.

[1] 10 June 1992, *Hansard* vol. 408, pp. 1467–8 (President: A. J. Hunt).

[2] 30 May 2006, *Hansard* vol. 470, pp. 1779–80 (President: M. M. Gould); 12 October 2011, *Hansard* vol. 499, p. 3457 (President: B. N. Atkinson); 26 June 2013, *Hansard* vol. 511, pp. 2192–3 (President: B. N. Atkinson).

[3] 3 September 2013, *Hansard* vol. 512, p. 2571 (President: B. N. Atkinson).

Party affiliation

The PRESIDENT — I just want to make another shorter statement to the house to clarify another matter — that is, a member changing party or affiliation and casual vacancies. As the house has been advised, Dr Carling-Jenkins has changed parties. She was elected as a member of the DLP and has now joined the Australian Conservatives. The DLP sought advice from

me, and indeed from the Governor, as to whether or not Dr Carling-Jenkins was entitled to continue as a member of this place or whether they were able to seek to nominate a new member of Parliament, given that she had been elected as a member of the party on the occasion of the last state election. So I make the following statement.

As this house will be aware, one of its members has recently changed their party affiliation. The house has also experienced on a number of occasions the resignation of a Council member leading to a casual vacancy. It is important that I take this opportunity to remind the house of the distinction between these two actions and certain requirements under the Constitution Act 1975 when a Council member's seat becomes vacant.

Firstly, the action of a member resigning from one political party and joining another party does not cause their seat to become vacant. The member may have changed their political party but importantly they have not resigned as a member of the Council, and as such no vacancy would exist. This is consistent with various changes in elected members' party affiliations throughout Australian Parliaments in the past, including this one. Further, individual candidates, not political parties, are elected to seats in the Council and sworn in as members.

The Constitution Act outlines various circumstances in which a Council member's seat becomes vacant, such as a resignation. Section 30 of the Constitution Act 1975 states:

> A member may resign his or her seat by a letter addressed to the Governor and on its receipt by the Governor the seat of such member shall become vacant.

It is upon receipt of such advice from the Governor that this house proceeds to fill a casual vacancy through a joint sitting.

However, section 27A of the Constitution Act states that if a casual vacancy occurs, it is filled in a joint sitting by nomination of the registered political party that endorsed the member as a candidate at the previous election. In other words, if a member changes party affiliations mid-term and subsequently resigns, the political party that originally endorsed the candidate at the state election will be required to nominate a replacement. I think that is an understood position. It might not just be a resignation, of course; they might go to God.

PETITIONS

Following petitions presented to house:

Voluntary assisted dying

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council our objection to the moves by the Victorian government to legalise the practice of euthanasia and/or assisted suicide, and thereby:

I. changing the fundamental doctor-patient relationship and causing doctors to kill instead of save lives;

II. framing ending one's life as a dignified solution or cure for pain and suffering, which it is not;

III. putting vulnerable members of society at risk as no safeguards will allow this legislation to be completely safe or immune from abuse.

The petitioners therefore call upon the Legislative Council of Victoria to oppose the legislation proposed by the Victorian government and uphold value for life in Victoria.

By Dr CARLING-JENKINS (Western Metropolitan) (203 signatures).

Laid on table.

Ordered to be considered next day on motion of Dr CARLING-JENKINS (Western Metropolitan).

Crime prevention

To the Legislative Council of Victoria:

The petition of residents in Victoria calls on the Legislative Council to note that there is a crime tsunami engulfing Victorians. Small businesses are regularly being targeted, residents feel unsafe in their own homes and going to work, and Victorians are losing faith in our justice system.

The petitioners therefore respectfully request that the Legislative Council calls on the Andrews Labor government to match the coalition policy and introduce mandatory sentencing, toughen up the justice system and hold criminals to account.

By Ms CROZIER (Southern Metropolitan) (56 signatures).

Laid on table.

Police resources

To the Honourable the President and members of the Legislative Council assembled in Parliament:

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

the most recent data released by the Crime Statistics Agency Victoria on 15 June 2017 that shows crimes across Victoria are up 18.17 per cent;

crime in the Stonnington City Council area has risen 22.4 per cent since the Andrews Labor government came to office; and

only one vehicle is available to police at Prahran police station and one at Malvern police station.

We therefore call on the Minister for Police to review and reverse the government's policy of centralising police resources, which removes local resources with local knowledge. The government needs to put police resources where they can respond to and protect local communities.

By Mr DAVIS (Southern Metropolitan) (34 signatures).

Laid on table.

Police vehicle ramming

Legislative Council electronic petition:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the out-of-control police vehicle rammings occurring in Victoria. In 2015 there were 44 police cars rammed and in 2016 this increased to a staggering 190 incidents. With already 78 incidents recorded in the first six months of this year, there is not a day to waste. Tell Daniel Andrews we need action now.

The petitioners therefore request that the Legislative Council call on the Andrews Labor government to adopt the Liberal-Nationals private members bill, 'Crimes Amendment (Ramming of Police Vehicles) Bill 2017', and create an offence for ramming police vehicles with a minimum two years in jail.

By Mr O'DONOHUE (Eastern Victoria) (80 signatures).

Laid on table.

Greyhound muzzling

Legislative Council electronic petition:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council:

The petition of the Greyhound Equality Society (GES) and residents of Victoria draws to the attention of the house the 2015 Economy and Infrastructure Committee inquiry into the legislative and regulatory framework relating to restricted breed dogs recommendation to end the requirement for non-racing greyhounds to be muzzled in Victoria. Despite this all-party recommendation, the government ordered an additional investigation by the Department of Economic Development, Jobs, Transport and Resources, which we believe is superfluous to the extensive and comprehensive inquiry already undertaken in 2015.

We would also like to draw to the attention of the house that the following organisations and government offices also fully support ending the requirement for non-racing greyhounds to be muzzled in Victoria: Australian Veterinary Association, RSPCA, NSW Greyhound Industry Reform Panel, the ACT government and Greyhound Racing Victoria.

The petitioners therefore respectfully request that the Legislative Council call on the Victorian government and the Department of Economic Development, Jobs, Transport and Resources to observe the clear recommendations of the inquiry into legislative and regulatory framework relating to restricted breed dogs to remove the requirement for non-racing greyhounds to be muzzled in Victoria and not wait until 2018 for the outcome of the superfluous Department of Economic Development, Jobs, Transport and Resources investigation to remove section 27 of the Domestic Animals Act.

By Ms PENNICUIK (Southern Metropolitan) (1908 signatures).

Laid on table.

Ordered to be considered next day on motion of Ms PENNICUIK (Southern Metropolitan).

CLERK OF THE PARLIAMENTS

The PRESIDENT — Members, I take the opportunity to advise the house that this morning Andrew Young was sworn in by the Governor as the Acting Clerk of the Parliaments.

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

RSPCA Victoria

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

Laid on table.

Ordered that report be published.

Mr FINN (Western Metropolitan) — I move:

That the Council take note of the report.

In moving to take note of this particular report from the Economy and Infrastructure Committee, I would like to thank my fellow committee members for their very enthusiastic contributions to this committee report. I would like to thank Mr Gepp, who is a new member to

the committee. It is his first report, and I congratulate him on that. I also thank Mr Bourman, who was an enthusiastic and wise contributor to the committee proceedings; Mr Eideh; Mr Nazih Elasmar, who — well, he was there a minute ago but he is not anymore; Ms Hartland; Mr Shaun Leane, whose inimitable style contributed to the report no end; and Mr Luke O'Sullivan and Mr Craig Ondarchie for their very important contributions.

I should also, perhaps more importantly, thank the committee staff. Lilian Topic, who I have spoken of in the past in relation to other reports, is a very keen taskmaster. She ensures that things are done properly at all times, and God help anybody who does not. Matt Newington, the inquiry officer, has done a marvellous job in putting the wording of much of this together. Also, Caitlin Grover, who is the research officer of the committee, I thank very much for the work that she has done before.

Animal cruelty is something that I am sure every member of the house finds abhorrent. It was of particular importance that this inquiry go ahead because there had been some concerns, there had been some complaints, that the RSPCA had perhaps been involving itself in activities that it should not have. Basically what we found as a committee was that yes, in the past that may well have been the case, but since the Comrie report some time ago the RSPCA has very largely got its act together and cleaned its act up. That is a very good thing indeed, because the RSPCA is a much-loved organisation in our state and in our nation. When we think of the RSPCA we think of our own domestic animals —

Ms Shing — Bobby Dog!

Mr FINN — We do think of Bobby Dog, Ms Shing. We think of a whole range of pets that we have had in years gone by. We are appalled by those who commit acts of cruelty against them. I think of some of the acts of cruelty that have happened in recent times, and I have to say: you really have to wonder what direction the world is going in when this sort of thing can be perpetrated against innocent animals. I am almost speechless when I think of some of the more appalling acts of cruelty that have been perpetrated against these little creatures — and perhaps not so little ones as well.

This committee report should be a timely reminder to the RSPCA of the importance of the role that it has in the community and the importance of the RSPCA not abusing that role. As such, in recommendation 2 we have urged that:

> … RSPCA Victoria ensure that it investigates cruelty to commercial animals in emergency situations only …

That is something that I think a lot of people were very concerned about — that the RSPCA was going beyond its scope. It was a bit like the Yarra or the Darebin councils, in their own particular area, going well beyond their scope. That is something that we have found as a committee — that it largely does not happen anymore. We have urged the RSPCA to ensure that that does not occur, because as I say, the role of this particular organisation is an extremely important one and anything that brings the RSPCA into ill repute is something we certainly would not support, particularly if it was coming from the RSPCA itself. I commend the report to the Council.

Mr LEANE (Eastern Metropolitan) — I also wish to rise to speak on this report. I think it was an eye-opening report. The RSPCA is very much a well-respected and loved institution in Victoria and across Australia. In saying that, they have actually agreed with the committee that they are not above any form of criticism. They commissioned their own review; Mr Neil Comrie did a review into the RSPCA and came out with a number of recommendations. The RSPCA agreed to implement every one of those recommendations and are working towards that.

I think it is also important to note that the RSPCA receives funding from the Victorian government. In saying that, being an external body they do have the right to criticise government policy outside the areas of funding that they receive. It is important they have that right and have the right to highlight any disagreement they have with existing policy in the democracy of which we are all lucky enough to be a part. I want to thank the chair, Mr Finn — a very efficient chair, the most efficient chair that I have had in deliberations ever, and I appreciate that. I want to congratulate Mr Gepp on his elevation to deputy chair and thank the other committee members. I also thank Lilian Topic and Matt Newington for their fantastic, never-ending work.

This is a committee that is looking into everything, and this is a committee that is speaking to everyone. I mentioned to the chair the other day that at a party I met a person and I said to them, 'You must be from out of town'. They said to me, 'Yes. How do you know?', and I said, 'Because you haven't appeared before our committee'. I look forward to meeting everyone in the future again soon.

Ms HARTLAND (Western Metropolitan) — I also wish to thank the staff for the amazing job they did on this report, especially as they were balancing a number of other pieces of work at the same time. What was very interesting with this inquiry was the very

compelling evidence that we heard from the RSPCA about their role, what they do and how it works, and with that evidence they were able to dispel a number of, I think, misconceptions about what they do. Clearly they are a very important organisation. The rights of animals and animal welfare is something that should be highly considered in our community, and I think the inquiry has come to good conclusions.

It was a very civil inquiry conducted by all the members on the committee, and Mr Finn was a very efficient chair — we do not agree on much, but yes, he was a very efficient chair. Thank you, Mr Finn.

An honourable member interjected.

Ms HARTLAND — No, actually efficient; I would not say officious, in fact. I think it was good to do this report. It cleared up a great many myths, and clearly we can now go on and look at the RSPCA as an organisation that has the welfare of animals at the base of what it does.

Mr BOURMAN (Eastern Victoria) — It gives me great pleasure to rise and speak on the report. First of all I want to thank the staff — Lilian Topic, Matthew Newington and Caitlin Grover. As previously mentioned they really did spend a lot of time juggling other bits of work, and yet they still bring out absolutely top quality reports. It is a credit to the Parliament. I want to thank the committee members. It was very civil. Obviously in some cases there were some differences of opinion, but with our very efficient chair we got through that in fairly short order.

The theme of the inquiry was appropriate as taking public money does invite scrutiny from a public source, being the Parliament in this case. We heard lots of evidence — some of it good, some of it not so good — but the main thing I took from it was that the RSPCA had made some significant progress, mainly due to the Comrie report, which was done just before we started our own inquiry. It was good to see that they realised the previous situation was untenable. They really do need to be careful of their activities in light of their enforcement powers so that they ensure there is no conflict or perceived conflict. It is very difficult for them at times. That is up to them.

Another thing I did find quite surprising was that the funding from government was actually less than what the RSPCA spends on enforcement. If they are to continue to do that, I think at some point, if we want to get a better outcome, we may need to look at their funding.

Mr O'SULLIVAN (Northern Victoria) — I wish to speak to the inquiry into the RSPCA. Like the other committee members, I would like to thank Lilian Topic and also Matt Newington for the work they have done in pulling this together. They do a terrific job every time they get involved in a report.

The RSPCA is no doubt a very important organisation in this state and right around Australia with the work that it does in protecting animals. That is something that everyone in this chamber and everyone outside this chamber would absolutely agree on. But what has happened at times in the past is that the RSPCA have got their advocacy and their activism roles a bit confused, and at times I think they have not quite understood where their role is and what sorts of activities they really should be concentrating on. They have probably got into the activism a bit too much — I think particularly in other states, not so much in Victoria.

There is no doubt that under the review undertaken by former police commissioner Neil Comrie the RSPCA probably worked through some of the issues that it had previously, and under the chairmanship of Bernie Delaney now I think the RSPCA has taken steps forward in terms of understanding its role. Really its role needs to be around companion animals and making sure that people who have companion animals look after them. We heard that by and large when this is not happening it can be as a result of people having a mental illness. It is a very important role for the RSPCA to undertake there.

In terms of production animals, that is the domain of Agriculture Victoria, which is appropriate. I think we have that sorted out. One of the recommendations is also that the RSPCA has better consultation with animal stakeholder organisations to ensure that it gets its operations better organised and communicates better with those groups.

Mr ONDARCHIE (Northern Metropolitan) — I too wish to commend the secretariat of the Economy and Infrastructure Committee, particularly Lilian Topic and Matt Newington and the staff assisting, Caitlin Grover, for the amount of work that they have to do in juggling so many inquiries that this committee undertakes. I would not hesitate to say that, under the stewardship of Mr Finn, this committee is probably the busiest upper house committee going at the moment. Every time there is something to be decided, something to be sorted out, something that needs rectification, it goes straight to the Economy and Infrastructure Committee, and Lilian and her team have to do the

work to get things sorted out. Many others in this chamber could take a leaf out of our book on this one.

The inquiry into RSPCA Victoria certainly highlighted some things that needed addressing. I am cognisant of the Comrie inquiry that was commenced in May 2016, but there have been some incidents, such as the Framlingham incident in 2003 where RSPCA inspectors wrongly euthanased 131 cattle in the Framlingham forest, and there was an accusation around some horses in the Bulla area in 2016, which I know Mr Finn is aware of. The RSPCA's job is about the prevention of cruelty to animals. That is their role, and I think more and more we are starting to expect these sorts of organisations to focus on their core business — just like we expect the government of Victoria to focus on its core business.

By way of example of potential cruelty to animals, the Chandler Highway bridge project in Alphington has recently been commenced. As digging was underway the CFMEU discovered that there is a great deal of asbestos there. Some of that asbestos dust has blown across the local neighbourhood, including into Guide Dogs Victoria, of which I am an ambassador. I would urge this government in focusing on its core business to make sure that the residents, particularly the residents of Guide Dogs Victoria and the puppies, are safe from the job they are undertaking. We expect our organisations to focus on core business.

Motion agreed to.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 11

Ms BATH (Eastern Victoria) presented *Alert Digest* No. 11 of 2017, including appendices.

Laid on table.

Ordered to be published.

FIRE SERVICES BILL SELECT COMMITTEE

Final report

The Clerk, pursuant to order of Council on 10 August 2017, presented report, including appendices, extract of proceedings and minority report.

Laid on table.

OMBUDSMAN

Victorian government school expulsions

The Clerk, pursuant to section 25 (AA)(4)(c) of the Ombudsman Act 1973, presented report.

Laid on table.

PAPERS

Laid on table by Clerk:

Crown Land (Reserves) Act 1978 — Ministerial Orders for the following approvals —

A lease in relation to Sandringham Beach Park, dated 23 July 2017.

Licences in relation to Alexandra Gardens and the Mordialloc-Mentone Foreshore Reserve, dated 16 July 2017.

Interpretation of Legislation Act 1984 — Notices pursuant to section 32 in relation to Statutory Rules Nos. 57 and 68.

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

Ballarat Planning Scheme — Amendment C203.

Boroondara Planning Scheme — Amendment C183.

Cardinia Planning Scheme — Amendment C215.

Darebin Planning Scheme — Amendment C160.

Greater Dandenong Planning Scheme — Amendment C143.

Greater Geelong Planning Scheme — Amendment C354.

Kingston Planning Scheme — Amendment C154.

Knox Planning Scheme — Amendment C162.

Latrobe Planning Scheme — Amendments C87 (Part 1) and C87 (Part 3).

Monash Planning Scheme — Amendment C130.

Moonee Valley Planning Scheme — Amendment C164.

South Gippsland Planning Scheme — Amendment C110.

Stonnington Planning Scheme — Amendment C172.

Wangaratta Planning Scheme — Amendment C66 (Part 2).

Statutory Rules under the following Acts of Parliament —

Parliamentary Salaries and Superannuation Act 1968 — No. 84.

Radiation Act 2005 — No. 83.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rule Nos. 75, 83, 84.

Legislative Instruments and related documents under section 16B in respect of — Port Management Act 1995 — Approval of Wharfage Fees Determined by a Designated State Port Entity, dated 8 August 2017.

Surveyor-General — Report on the Administration of the Survey Co-ordination Act 1958, 2016–17.

Water Act 1989 — Abolition of the Murrayville Groundwater Supply Protection Area and Revocation of the Murrayville Groundwater Supply Protection Area Management Plan, dated 6 July 2017.

NOTICES OF MOTION

Notices of motion given.

Mr O'DONOHUE having given notice of motion:

The PRESIDENT — I am really not very happy about this particular notice of motion. Apart from anything else, it is vague in the sense of a future debate because it says 'this morning' rather than locking it into a particular date at any rate. It is also taking a cheap shot at a minister rather than proposing a substantive debate, and I am really not that happy about it. Anyway, I will let it stand at this point. I will have a think about it and maybe discuss it with the member.

LAW REFORM, ROAD AND COMMUNITY SAFETY COMMITTEE

Membership

The PRESIDENT — I advise the house that I have received a letter from Mr Eideh, dated 22 August 2017, resigning from the Law Reform, Road and Community Safety Committee.

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Membership

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — By leave, I move:

That Dr Carling-Jenkins be appointed to the Family and Community Development Committee.

Motion agreed to.

LAW REFORM, ROAD AND COMMUNITY SAFETY COMMITTEE

Membership

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — By leave, I move:

That Mr Gepp be appointed to the Law Reform, Road and Community Safety Committee.

Motion agreed to.

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Reporting date

Ms CROZIER (Southern Metropolitan) — By leave, I move:

That the resolution of the Council of 9 November 2016 and the further resolution of 9 May 2017 requiring the Legal and Social Issues Committee to inquire into youth justice centres and report by 6 September 2017 be amended so as to now require the committee to present its report by 27 February 2018.

Motion agreed to.

BUSINESS OF THE HOUSE

General business

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

That precedence be given to the following general business on Wednesday, 23 August 2017:

(1) notice of motion given this day by Ms Wooldridge in relation to the production of certain documents relating to the Victorian Heart Hospital;

(2) notice of motion 448 standing in the name of Mrs Peulich in relation to the disallowance of certain clauses of the Education and Training Reform Regulations 2017;

(3) notice of motion 450 standing in the name of Mr Purcell in relation to dairy and agriculture initiatives by the Victorian government;

(4) notice of motion 438, in an amended form, standing in the name of Ms Fitzherbert in relation to the production of the Muir reports into the youth justice riots;

(5) order of the day 33 in relation to crime in the City of Stonnington;

(6) order of the day 35 in relation to a minister's answers to a question without notice and a supplementary question; and

(7) notice of motion given this day by Mr Davis in relation to the production of certain documents relating to the Pride Centre.

Motion agreed to.

The PRESIDENT — I have had a look at the motion that has been moved by Ms Wooldridge in respect of the order of general business tomorrow, and I note that one of those matters is order of the day 33 in relation to crime in the City of Stonnington. I was not given prior notice of the notice of motion that Mr O'Donohue gave today. Regarding the content of that, which I indicated I was not happy with, I would suggest that I will rule out Mr O'Donohue's notice of motion that was given today and that that commentary might well be pursued in respect of the debate on the Stonnington motion tomorrow. It is a relevant matter to the consideration of a crime matter because it involves that minister, and it would also be quite timely in terms of the notice of motion that you have given.

I am not happy about motions that take cheap shots, and it is fairly clear to me that this is one — unless Mr O'Donohue can persuade me that in fact this motion is to be debated and to be debated fairly quickly. I am not happy about having motions on the notice paper that are just there as a shot at another member.

Mr O'Donohue — President, thank you for your guidance or ruling. By way of response may I say that this house has considered previously the requirement of the Minister for Corrections to provide personal explanations. In fact you provided a ruling around that issue in the last sitting week and, without reflecting on the minister, around her capacity to manage the important portfolios she has. This morning on radio, I would submit, there was further evidence which calls into question her capacity to manage these important portfolios — issues that go to the management of the corrections system, separate from and different to the motion that Mr Davis moved regarding actual crime in the discrete area of the Stonnington council area.

Every motion I give notice of I wish and hope I will have the opportunity to debate within the 20 sitting days that that motion sits on the notice paper. Of course being the team that we are in the opposition we share the opportunity to debate motions amongst colleagues. But as I say, I am always keen to put the issues related to the portfolios I have responsibility for from the opposition's perspective on the notice paper, in the public domain, and debate them in the Parliament, because that is my job.

Mr Melhem — On the point of order, President, if Mr O'Donohue wants to move a motion in relation to a minister, or any matter, it is a cheap shot as far as I am concerned. I have listened to the interview. If Mr O'Donohue wants to discuss this matter about the competence of the minister, or any action by the minister, it should be by a substantive motion and it should be seeking an outcome instead of referring to a few words, 'I'm not an expert, I'm a politician'. We do not know what he is seeking. Your ruling was absolutely spot-on. There is a motion on the books to be debated tomorrow, and I am sure Mr O'Donohue and various members of his party will be raising this same issue, or they will have the opportunity to do so, and you have already ruled that you will not rule it out of order. I think your ruling in relation to not accepting the notice of motion and your advice to the house in relation to how this should be handled are correct.

The PRESIDENT — I hear Mr O'Donohue's explanation and I do understand the rotation of matters and the need for various members to have the opportunity to participate in debates and support motions that they have put to the house, but I am not persuaded that this is a motion that warrants being on the notice paper. I think it is more a debating point. I am concerned about picking a very short phrase out of a radio interview on a particular occasion. As I said, this motion does not even tie it to a date, and if we were debating this motion in December, then the motion's relevance would be compromised to some extent. But I think this is a debating point rather than a substantive motion that should be on the notice paper, so as I said, I rule it out. I suggest to Mr O'Donohue that the speakers list tomorrow on Stonnington is probably the appropriate place to explain.

MINISTERS STATEMENTS

Family violence

Ms MIKAKOS (Minister for Families and Children) — I rise to update the house on how the Andrews Labor government is working to end family violence in our community by ensuring that perpetrators are held accountable for their behaviour and that women and children can access the support that they need when they have fled family violence. Yesterday I was pleased to announce $12.4 million for family violence perpetrator services and referral services, which seek to ensure that men acknowledge the impact of their violence and make behaviour changes through group intervention. The funding will support 32 agencies statewide which deliver these programs to men across the state. The funding will also provide further support to No To Violence and the Men's Referral Service so that they can continue to

provide expert advice and guidance across the state to perpetrators, families and frontline staff.

Last week I was also pleased to visit inTouch, which is a statewide family violence service that helps women from culturally diverse communities, who often face additional barriers to leaving family violence. Whilst there I was pleased to announce $17.3 million funding across 19 Victorian family violence agencies for flexible support packages for women and children leaving violence in order for them to set up safe homes. More than 5000 additional survivors of family violence will be able to access packages of up to $10 000, up from $7000, which can be used to cover costs like rent, home alarms, CCTV, clothing, books and education and training. Flexible support packages can also help case managers work with survivors through early intervention, crisis and recovery, to assist with ongoing safety, stability and rehabilitation.

Both of these funding measures deliver on a number of Royal Commission into Family Violence recommendations, and the Andrews Labor government is committed to implementing all 227 recommendations of the family violence royal commission — something that I note that the Liberal-Nationals coalition are yet to do.

MEMBERS STATEMENTS

Palliative care

Ms WOOLDRIDGE (Eastern Metropolitan) — I am very pleased to inform the house that a Liberal-Nationals government will provide an additional $140 million to deliver world-class palliative care in Victoria. This will be the largest ever investment of its kind in Australia. Unfortunately we have seen an absence of focus on the issue of palliative care and the need for it in our community, whether it is in rural and regional Victoria or metropolitan Melbourne. Too many people are not able to have the choice to die at home because they cannot get support — because there is not funding for palliative care services to be able to provide that care in the home to the person who is terminally ill and their family.

This is a very critical need, and I am very proud that a Matthew Guy government will make this investment, which is so desperately needed for our community. It includes a commitment to include specialist palliative care services — the doctors and nurses that are needed to direct and manage that care — and to community palliative care services so that they can be substantially expanded to deliver that care in the home, particularly after-hours care and overnight respite, which are the things that carers are desperately calling out for.

We also, though, need to educate the community in relation to what is palliative care, why it needs to be welcomed and how it can make a real difference for people who are terminally ill and their families and carers, and we need to engage in those areas of palliative care for people such as Indigenous Victorians, people from culturally and linguistically diverse backgrounds, young people and people with non-cancer-related illness. This is a very significant announcement and a commitment we look forward to delivering on in 2019.

Voluntary assisted dying

Mr ELASMAR (Northern Metropolitan) — I attended a briefing session in Parliament House on Thursday, 10 August, on the subject of the upcoming Victorian assisted dying legislation, an important but divisive issue soon to be debated in this house. I think it is very important to hear all sides of the argument — both for and against — prior to any legislation being passed. I thank the facilitators, Sam Connor and Kelly Cox, for their passionate and knowledgeable presentation.

Royal Victorian Association of Honorary Justices

Mr ELASMAR — On Friday, 11 August, I was delighted to attend with my wife, Heam, a 25-year service award ceremony organised by the Royal Victorian Association of Honorary Justices. I was invited in my capacity of justice of the peace (JP) in the state of Victoria. It was amazing how quickly 25 years had flown. I remember my first years of service as a JP helping members of the community, and indeed I am still called upon from time to time to carry out this important community service. There were many recipients of the award present on the night, and though initially I thought the room would be full of strangers I was very happy to meet up with other JPs who had also served their local community for a quarter of a century. I congratulate all the recipients who received their well-earned certificates.

International Day for the Remembrance of the Slave Trade and its Abolition

Ms SPRINGLE (South Eastern Metropolitan) — Tomorrow marks the International Day for the Remembrance of the Slave Trade and its Abolition. It is a day to remember victims of the transatlantic slave trade and the bleak and horrific experience they

endured. Sadly, slavery and forced labour cannot yet be consigned to the dustbin of history. It was not so long ago that Victorian children experienced forced labour while in the care of the state and religious institutions.

One forgotten Australian shared this experience:

> We worked seven days a week arising at 5.45 a.m. … lights out at 7.30 p.m … every moment of the day accounted for … jobs … ranged from working in the kitchen, laundry … polishing floors (at eight years I was using industrial polisher), washing windows, lighting the furnace for hot water … cleaning bathrooms … working in the isolation ward … I felt like I was serving time in prison.

Australia's planned national redress scheme will focus on child sexual abuse in institutions. It will not assist many Australians who experienced other hideous forms of abuse and neglect in institutional contexts. So as we remember the victims of the transatlantic slave trade this week I ask that we also focus our attention and efforts on the survivors of forced child labour in Victoria.

Give Me 5 for Kids

Ms LOVELL — On 7 June I rose to speak on the annual Give Me 5 for Kids appeal to benefit the children's ward at Goulburn Valley Health and the tremendous fundraising efforts of Paul Archer, of Natrad in Shepparton, who travels across Victoria and southern New South Wales collecting car batteries. He then sells them for recycling and donates all money to the appeal. I would like to update the house on the fact that in 2017 Mr Archer raised a total of $99 915.30 for the kids ward, bringing the total money raised by him over the last six years to $329 000. Congratulations, Paul, on a wonderful effort.

Gian Renato

Ms LOVELL — It is my pleasure to congratulate 13-year-old BMX racer Gian Renato from Shepparton who recently represented Australia at the BMX World Championships in Rock Hill, South Carolina, and returned home a world champion. Gian has overcome a spate of injuries over the last four years, but his perseverance paid off when he led from the start in a dramatic final to become the 13-year-old boys world BMX champion. I send my congratulations to Gian and his proud family and friends.

Koondrook Preschool

Ms LOVELL — I wish to congratulate the wonderful staff, parents and children of Koondrook Preschool on the results of a recent assessment of its early childhood program. The preschool received an overall rating of 'Exceeding' in five of seven national quality standards. Koondrook Preschool is an example of a small regional kindergarten in my electorate punching well above its weight, and I congratulate the staff and the whole kindergarten community on the results of this assessment.

Autism spectrum disorder

Mr EIDEH (Western Metropolitan) — I rise to praise the constant hard work of families and carers of children diagnosed with autism spectrum disorder (ASD). It is extremely hard watching people you love struggle through day-to-day life with autism. I commend the tireless work of parents, family, carers, volunteers, teachers and healthcare workers for their hard work in providing care, support and guidance to those who have been diagnosed with ASD. They play a critical role in making the day-to-day lives of people with ASD easier and more enjoyable, and I thank them for that.

Although there are many support networks and programs for the thousands of people with ASD, there is still much to be done. We need to be more autism aware as a society. Therefore I was delighted to hear that a steering committee for autism awareness in the western suburbs is currently underway, looking for parents, professionals and members of the community to participate in their future initiatives. They will be working towards raising awareness of ASD and funds by hosting local events around Autism Week 2018 and into the future. I am indeed impressed by this group's hard work and commitment in organising the coming events. I look forward to seeing their plans come to fruition, and I wish them all the best.

Jumps racing

Mr PURCELL (Western Victoria) — Jumps racing is back — bigger, better and safer than ever. At Ballarat on Sunday last we saw the first all-jumps race program in living memory. The six-race all-jumps program was well supported and capped off the safest and best ever season we have had.

There were two feature races. The J. J. Houlahan championship race was won by Warrnambool-trained Two Hats, which is owned by Dr and Mrs Berry and Dr and Mrs Lucas. They got a huge thrill out of this win, while the owners of the Grand National winner, Wells, include my local federal member, Dan Tehan, Martin Kavanah and Warrnambool Racing Club president Nick Rule. Wells is trained by Craig and Kathleen Durden, who are two of the nicest people in the business. I now look forward to attending the jumps

racing awards night, the Mosstrooper evening, on 16 September and helping to celebrate jumps racing. It has had its best season ever and its popularity is growing at an outstanding rate. May it prosper and continue to thrill my local community.

Victoria Police Legacy

Mr O'DONOHUE (Eastern Victoria) — I wish to acknowledge the outstanding work of Victoria Police Legacy and highlight the recent dedication naming ceremony in the Victoria Police Legacy building and the launch of the new Victoria Police Legacy strategy 2017–21. Victoria Police Legacy plays an important role in providing assistance and support to members of the police family who have lost a partner or loved one who was a serving or retired sworn member, protective services officer or recruit in training with Victoria Police.

Together with the Chief Commissioner of Police and the Parliamentary Secretary for Justice, Ben Carroll, I was pleased to join former and current members of Victoria Police in celebrating the dedication of the Carlton-located Victoria Police Legacy building in the name of the highly respected former chief commissioner, Mr S. I. — or, as he is known, Mick — Miller, AO, LVO, QPM. Mr Miller was instrumental, along with founding members and former presidents Mr Brian Kelly and Mr Peter Ryan, in the establishment of Victoria Police Legacy back in February 1980.

In launching the new strategy the current chief commissioner, Graham Ashton, highlighted two key words which sum up the work undertaken by Victoria Police Legacy, they being 'personalised' and 'meaningful' support to police legatees. The strategy itself provides direction as to how police families that have lost a loved one will continue to engage and connect via the Victoria Police legacy.

Women in policing

Mr O'DONOHUE — Finally, along with Ms Crozier, the Minister for Police, the Chief Commissioner of Police and others, I was pleased to celebrate at Government House 100 years of women in the Victorian police force.

Sir John Monash

Mr MELHEM (Western Metropolitan) — On Friday a week ago I represented the Premier and the Minister for Veterans at the annual Sir John Monash commemorative service, which was held at Parliament House. The President was also at the function. The service was conducted by the Spirit of Australia Foundation, which was established in 2005 to remember and commemorate Australia's heritage.

It was an honour to lay a wreath during the service to celebrate and pay respect to the legacy and achievements of a man who, through expert battle tactics, skilful planning and attention to detail, played a decisive role in breaking the stalemate on the Western Front during World War I.

From 8 August to 11 November 1918 Sir John Monash's soldiers in the Australian army corps helped to defeat 39 German divisions. Sir John led the Australian Imperial Force's 4th Brigade at Gallipoli and is remembered as the architect of the Allied victory in the Battle of Hamel in 1918 — a battle which he said would be over in 90 minutes but in fact took 93 minutes.

Monash's contribution to the Allied war effort was such that King George V visited France in August and knighted Monash in the field. Therefore World War I, besides having been an extremely violent and damaging war, allowed Australians to demonstrate to the world their courage in battle and love for their country and people. Sir John Monash was, by all accounts, a hero. He lives on as a proud figure in Australian and Victorian history.

On behalf of the Victorian government it was a pleasure to celebrate the life of Sir John Monash and to recognise his commitment and contribution to Victoria and our nation.

Australian marriage law postal survey

Ms DUNN (Eastern Metropolitan) — I rise today to talk about an issue close to my heart. The federal government's postal vote on marriage equality is playing out exactly as the Greens feared. Over the last week we have seen a sharp increase in homophobic rhetoric and divisive language directed at the LGBTIQA+ community. In turn I have seen a steady but predictable rise in reported anxiety, depression and stress in LGBTIQA+ members of my community, especially amongst youth.

For some this is the first time they have truly feared being themselves in public and the first time they have been afraid of holding a lover's hand or sharing a kiss. I will not stand by and let those opposed to equal rights make others feel they are worth less. I will not stay silent while the federal member for Menzies derides the real love shared between many LGBTIQA+ couples in

Eastern Metropolitan Region. The vast majority of Australians support marriage equality. I will not let anyone be made to feel less just for being who they are and loving who they do.

To the LGBTIQA+ community in Eastern Metropolitan Region, as your representative and as your ally, I stand with you in this challenging time. Love will win, and we will be choosing love and voting yes.

Energy prices

Ms BATH (Eastern Victoria) — Energy has become unaffordable under Daniel Andrews. Families and businesses are paying too much for their electricity. In Gippsland businesses are suffering under the strain of increased costs. One Traralgon milk bar has experienced a 55 per cent increase in electricity prices over the past six months, surging from $900 a month to $1400 a month. Another Latrobe Valley business has had its peak price rate increase from 58 cents to 77 cents over the last six months. Yet another power-intensive business has had an increase of 30 per cent. One Gippsland farmer with nine employees has been offered a renewal of his current contract at a staggering 475 per cent increase. He rightly identifies that as unsustainable.

The Andrews Labor government's own independent review into the electricity and gas markets has found that regional consumers in areas with only one gas or electricity provider face significantly inflated prices. Strong intervention is required to make sure consumers are getting the best deal possible. Labor commissioned this report, so they have no excuse not to act on it. When the Hazelwood power station shut in March this year 750 people lost their jobs and the state was left with no alternative to make up baseload power.

If Daniel Andrews was serious about energy affordability for households and businesses, he would not have failed to stop the closure of the Hazelwood power station without a plan B. Daniel Andrews needs to act immediately on power prices instead of pointing the finger and hoping that the federal government will fix the energy affordability mess. Gippsland families and businesses cannot sustain this burden.

Rebecca Paton

Mr MORRIS (Western Victoria) — I rise to congratulate Ms Rebecca Paton, who is a resident of Ballarat, on recently receiving an award at the Victorian Disability Awards. She was highly commended for excellence in creating inclusive communities. Ms Paton has been a ferocious advocate for the inclusive playground which is at Victoria Park in Ballarat. I was very pleased that the former Liberal government provided $500 000 in funding for this particular playground, which is extensively utilised by not just those with disabilities but all children in our community — indeed my children have been to the playground a couple of times and have had a wow of a time.

Ms Paton has been a prodigious fundraiser, and she has brought together both private and corporate donations to see what is one of the very best playgrounds I have ever seen come to fruition in Ballarat. I congratulate Ms Paton on all her work and, beyond receiving this award, a great result for someone who has given so much to our community.

Women in policing

Ms CROZIER (Southern Metropolitan) — I was very pleased to be able to attend a reception at Government House last week along with my colleague in this place the Honourable Edward O'Donohue and the Minister for Police, the Honourable Lisa Neville, to recognise 100 years of women in policing.

In August 1917 two women, Madge Connor and Elizabeth Beers, took the step to commence duty with Victoria Police. They paved the way for thousands of other women, who have since contributed so much to the force, and they have been a tremendous example to the thousands who serve in all areas of the force today. All of those women were deservedly recognised on Thursday evening.

I would also like to acknowledge the work of Colleen Woolley, a former police officer who has written a book *Arresting Women: Celebrating 100 Years of Women in the Victoria Police* and who was also in attendance.

Australia Day

Ms CROZIER — One of the most enjoyable things we do as MPs is attend citizenship ceremonies within our local communities. I am fortunate that in Southern Metropolitan Region a range of ceremonies take place, especially on Australia Day, which is particularly symbolic for so many who become Australian citizens on that day.

On Australia Day I attend several citizenship ceremonies, usually starting with a good old-fashioned Aussie breakfast at Kingston. I then attend a ceremony at the City of Stonnington, where the fabulous Stonnington City Brass band and vocalist Richard Thomas perform the most stirring and wonderful

renditions of the Australian national anthem, *I Still Call Australia Home* and *Waltzing Matilda*, or at the City of Glen Eira, where the town hall is a sea of Australian flags, or at the City of Port Phillip, which embraces the spirit of Australia by starting with a smoking ceremony to recognise Indigenous Australians and concluding with everyone enjoying a sausage sizzle. This is the spirit of Australia, and I for one do not want to lose that accepting way of life that brings people together rather than those actions that will divide us. The decisions of the cities of Darebin and Yarra are certainly divisive, unnecessary and un-Australian.

Shepparton's Biggest Ever Blokes Lunch

Mr O'SULLIVAN (Northern Victoria) — Last Friday I attended Shepparton's Biggest Ever Blokes Lunch, where there were over 700 people in attendance in support of the Prostate Cancer Foundation of Australia and Bowel Cancer Australia. In particular, the fundraising from this event went to funding two specialist nurses at Goulburn Valley Health in Shepparton, those two nurses being Sonia Strachan and Katie Emanuelli. Both Sonia and Katie spoke at the event and gave us some background in terms of the work that they undertake in these two very important areas. I would particularly like to thank the organising committee for the work that they did in bringing together over 700 people in Shepparton last Friday, who all gave generously of their money to support this very worthwhile organisation. It is very important that people can get this sort of treatment in their local area, rather than having to go to Melbourne where they are away from their family and friends. Two good friends of mine from Shepparton have needed this particular treatment in the last couple of months, and I wish them well in their ongoing recovery.

I call on all men to ensure that they go and get themselves tested through a simple blood test. I have done it myself just to make sure that I am okay, and I encourage everyone over the age of 45 to get themselves checked, particularly for prostate cancer and any other illnesses that might occur at this time of their lives.

Claude Ullin

Ms FITZHERBERT (Southern Metropolitan) — I wish to pay tribute to Claude Ullin, who died earlier this week. Claude was well known for his passion for the arts and for his great contribution to local government, as well as to many other local organisations. He established his art gallery in Armadale in 1994 and steadily promoted the works of emerging Indigenous artists over many years. He was an integral part of Stonington City Council and before that the Malvern City Council. He spent 25 years as a councillor, and served as mayor on five occasions. His most recent term ended only last year.

Despite spending many years in local government, Claude never seemed to lose his enthusiasm and energy, or his capacity for new ideas and campaigns. He was a mentor to many. In Claude's last term he campaigned against the Andrews government's decision to exclude South Yarra station from the Melbourne Metro rail project and worked to provide new sport and recreation facilities, particularly new netball courts. He also advocated for Cato Square, a plan to turn a Prahran carpark into a plaza and garden with two levels of underground parking, doubling the existing number of spaces. He was also worried about rate capping, because it had the potential to limit councils' provision of community services. It was only in June that Claude was appointed a Member of the Order of Australia for his service to local government, as well as for his work in the areas of multiculturalism and the arts. I am very glad he had this recognition before he died. I admired how Claude lived a rich and joyful life while contending with a very serious illness. I acknowledge his great contribution to his community and the lives of those around him, and offer my condolences to his family and all those who loved him.

Claude Ullin

Mr FINN (Western Metropolitan) — I join with Ms Fitzherbert in paying tribute to Claude Ullin, and there would be many people associated with the Richmond Football Club in particular who will be very saddened by his passing.

Australian Labor Party

Mr FINN — Einstein is credited with giving the definition of insanity as doing the same thing the same way over and over again and expecting a different result. If that is so, members of the ALP in Melbourne's west should be locked up for their own protection. For most of this year Labor has been under attack in the west for its failure to represent electorates in the western suburbs with members who live in their electorates. This, of course, has been topped off by the rorting members for Tarneit and Melton in the Assembly, who lived many kilometres from their electorates and rorted to the taxpayer by doing so.

I noted with interest on the weekend a candidate has put her hand up to challenge Telmo Languiller in the Assembly for preselection in Tarneit. I was particularly interested because, despite representing some or all of

Melbourne's west for over two decades, this candidate's name was not one I was familiar with. I asked around. Nobody knew who she was. I even asked some of my friends in the ALP. They did not know either. After the turmoil created by absent MPs this year, it seems the ALP may be preparing to replace Mr Languiller with someone who does not only not live in Tarneit but, until very recently, did not even live in Victoria. These characters truly are insane. What are they thinking? The ALP has abused Melbourne's west for far too long.

PUBLIC ADMINISTRATION AMENDMENT (PUBLIC SECTOR COMMUNICATION STANDARDS) BILL 2016

Second reading

Debate resumed from 13 September 2016; motion of Ms PULFORD (Minister for Agriculture).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this afternoon to make some remarks on the Public Administration Amendment (Public Sector Communication Standards) Bill 2016. This is a piece of legislation which is largely window-dressing. It is a bill which was first brought to the Parliament in April last year. It arrived in the Council I think in May last year, and it has been on the notice paper for a bit over a year now. It is heading into its second year on the government's list of bills — the 21 bills that we have to work through over the course of the rest of this Parliament — and that list is growing.

It is interesting that the government has chosen to bring this bill forward this week, a week in which it has flagged its intention to probably sit on Friday to get through some of its backlog of legislation. The fact that this bill is now coming forward as a priority after sitting on the notice paper for about 14 months is of interest.

The coalition does not oppose this legislation. We very much regard it, as I said, as window-dressing. The bill is a brief bill. It is all of seven pages and seven clauses, including the repeal clause. The bill seeks to insert into the Public Administration Act 2000 a new part 5A in relation to communication and advertising by public sector bodies. The bill sets out as part of proposed part 5A new objects, which are:

> The objects of this Part are —
>
> (a) to establish standards to ensure that public sector communication is in the public interest; and
>
> (b) to ensure that public sector communication is not party political; and
>
> (c) to provide for specific standards for public sector communication advertised on television.

The bill sets out the purpose for publication of public sector communication to be in the public interest and the intent with respect to public sector communications. It goes on to talk about public sector communication standards and specifically refers to public sector entities. The bill relates to public sector bodies, which is the broadest classification of entities under the Public Administration Act, so the intent is that it applies to the broadest definition of public sector entities. It requires at new section 97C that a public sector body undertaking public sector communications must ensure that the public sector communication:

> (a) is not designed or intended to directly or indirectly influence public sentiment for or against —
>
> (i) a political party; or
>
> (ii) a candidate for election; or
>
> (iii) a member of Parliament; and
>
> (b) is otherwise in accordance with prescribed public sector communication standards (if any).

The bill goes on to create the capacity for prescribed standards by way of regulations after section 112(1) of the principal act. In effect the framework for the bill does not change the way in which the public sector undertakes its communications today.

Our concern is that the bill does not introduce any real reform with respect to what are acceptable standards for advertising undertaken by government. The language in the bill has been chosen very carefully, and I think on reflection that if members of Parliament consider the scope of what is paid political advertising — the things we see on billboards, the things we see on television, radio advertisements et cetera — there would be very few instances of paid communications, paid advertising by government, which engage political parties, which engage the names of candidates for elections or which engage the names of members of Parliament. Most government paid advertising is inevitably about promoting the government. It does not seek to promote the government party. It does not seek to promote government candidates for election. It does not seek to promote government members of Parliament. It seeks to promote the government. The language is typically framed, and we see it in many publications that come out which say, 'The Andrews Labor government', and talk about activities that the government is undertaking.

A current example is the Melbourne Metro advertising campaign. An interesting example of that is the billboard which until recently was running on the rail

bridge crossing CityLink at the Melbourne High School overpass, where the railway line crosses from Melbourne High School across the Yarra and across CityLink. For the last month or so there has been a large billboard displayed to traffic on CityLink heading into Melbourne basically just promoting Melbourne Metro. There is Melbourne Metro with a picture of the spaghetti train lines all coming into the loop. There is no message about expecting disruptions or anything like that; it is simply Melbourne Metro and the picture.

It is not a public communications message in the sense of changes to trains, and obviously that is not going to be something that will have an effect for many years. It is not a message about expecting disruption or traffic congestion where the works are taking place in St Kilda Road. It is simply a billboard promoting Melbourne Metro, with the standard graphic that is being used in relation to the project. That raises an interesting question as to what is the purpose of the communication. What is the government trying to do with the communication besides promote the fact that the government is doing the project? Where is the public interest value in putting up a billboard that shows Melbourne Metro but does not link to any information about expecting traffic disruption? It obviously does not link to any information about expecting timetable changes because there are not going to be any. What is the purpose of it? Why is it there, besides the obvious conclusion that it is promoting the government? The construct of the bill does not go to the issue of promoting the government. It goes to the issue of promoting a party, a candidate or a member of Parliament.

The coalition will be proposing two amendments to this bill when it reaches the committee stage, and I ask that they be circulated now.

Opposition amendments circulated by Mr RICH-PHILLIPS (South Eastern Metropolitan) pursuant to standing orders.

Mr RICH-PHILLIPS — The intention of the coalition's amendments is to amend proposed section 97C of the bill, which refers to communications that should not be designed or intended to directly or indirectly influence public sentiment for a political party, a candidate for election or a member of Parliament, to add a reference to the current government of the state and a reference to the current government of the commonwealth to make it clear that it is not appropriate to use public sector communications to promote the government. This gets to the issue of what the purpose is of that billboard that we see on the rail bridge over CityLink and what the purpose is, frankly, of so much other communication — paid advertising — that we see the government put forward which does not have a public information purpose and which on the face of it is often related simply to promoting the government and pushing the message that the government is doing something. We believe that if the government is genuine in its intent of reforming public sector communications, it will be accepting of the amendment, which seeks to put it out of scope for public sector communications to influence sentiment for or against the government, be it the state government or the commonwealth government. We believe that it will be a test of the government's commitment and the government's genuine intent with this legislation as to whether it accepts that amendment or not.

The other amendment that we will seek to insert in the bill relates to clause 6, which is the provision for regulations. Clause 6 provides that regulations may be made with respect to prescribing standards for public sector communication and provides in new section 112(1B) that the regulations 'may be disallowed in whole or in part by the Parliament'. This is unusual language — the reference to 'by the Parliament' — because most statutes in Victoria where there is an explicit capacity to disallow regulations say that regulations may be disallowed by a house of the Parliament, so either the other place or this place acting by itself can disallow a regulation or part of a regulation. This bill actually refers to disallowance 'by the Parliament', which raises the question of whether the intent is that both houses must pass a disallowance motion for the disallowance to take effect. The intent of the coalition's second amendment is to change that provision back to the conventional form of disallowance by a house of Parliament to make it very clear that either house acting alone may disallow the regulations.

The other comment I would make is in relation to the regulations themselves. The advice that was obtained from the government some 14 months ago, with the initial briefing, was that the regulations were intended to reflect or endorse the 2014 Victorian government communication guidelines. That remains the coalition's advice. We have not seen any regulations to vary that or vary from that intention to pick up the 2014 guidelines. I see a perhaps quizzical look from the Special Minister of State, who may well provide some elaboration on that when we get into the committee stage.

Mr Jennings interjected.

Mr RICH-PHILLIPS — Have you provided it?

Mr Jennings interjected.

Mr RICH-PHILLIPS — I look forward to exploring that matter when we get to the committee. The most recent advice the coalition has is that regulations will be formulated to endorse these 2014 communication guidelines, and I look forward to seeking clarification on that when the house goes into committee.

On the face of it the coalition does not oppose this bill. We see it largely as window-dressing the way it is drafted. The government's genuine intent with this legislation will be tested by the coalition's amendment to expand it to include communication intended to change sentiment in relation to a government as well as communication drafted with political parties and candidates et cetera. We believe the bill does no harm, but it does not advance in its current form the framework on accountability around advertising and communications, and we look forward to exploring those matters in committee in due course.

Mr ELASMAR (Northern Metropolitan) — I wish to make a brief contribution to the bill before the house, the Public Administration Amendment (Public Sector Communication Standards) Bill 2016. This bill is about clarity and accountability. It prescribes very clearly the responsibilities of government agencies in regard to advertising. Too often governments of all persuasions are accused of wasting taxpayers money on extolling the virtues, in a political way, of a particular project or program. We all recognise the importance of communication. It can be a very wise and proper investment in the economy of our state. It can inform the public of their rights and responsibilities, and it can be extremely useful in protecting consumers and members of our community. However, it is essential to good governance that taxpayer moneys are spent purely for the good of the people. All governments need to be vigilant and scrupulous in their financial duty of care to the people of Victoria.

The Public Administration Amendment (Public Sector Communication Standards) Bill 2016 carries out our obligation to put meaningful and comprehensive new standards for government advertising and communication into legislation. In particular clause 5 of the bill inserts a new part into the Public Administration Act 2004 with the objectives of establishing standards to ensure that public sector communication is in the public interest; ensuring that public sector communication is not party political; and providing for specific standards for public sector communication advertised on television and advertised generally.

Already we in the Labor government have put in place new standards for advertising by public sector bodies, and this has clearly demonstrated significant savings on our advertising expenditure. By enacting legislative standards for communication and advertising we are ensuring that no Victorian government, either now or in the future, will be able to rifle the public purse for political advertising purposes. The bill provides ongoing protection for the public funds entrusted to us by tax-paying Victorians.

The bill protects all public interest aspects of communication and advertising while at the same time providing for the promotion of public safety, personal security, social cohesion, civic pride and community spirit. There is a range of permissible essential activities outlined in the bill. Each and every one is prescribed and self-explanatory. They are necessary for the smooth day-to-day running of good government and, importantly, protect our state's revenue. I commend the bill to the house.

Mr BARBER (Northern Metropolitan) — The opposition described this bill as window-dressing. I think that may have been going a little bit too far, but I would like to suggest that perhaps the benefits of the bill have been slightly oversold by the government and government speakers. Certainly the bill does not stop publicly funded political advertising, the bill does not enshrine communication standards in law and even the advertising elements, which have been tightened up a lot, need to be fleshed out by other instruments such as regulation.

The bill ensures that any standards set by regulation will be applied more consistently across government agencies because of the improved definitions and such. A lot of the proposed reform relies on new powers for the Governor in Council to prescribe or to regulate standards for public communication, advertising standards and public interest purposes, but from my reading there is no clarity on how online communications and advertising are to be handled.

Acting President, why are we here? Because over many, many years now a bunch of governments, Labor and Liberal, have found themselves generally derided by the public at large. Unable to perform some of the most key things that state governments are supposed to deliver, in their death throes they decide that it is too late to actually lift their performance and so instead they lift their advertising spend to tell the public what a

great job they are doing. That trick has been around a few times, and that trick has now run out of puff.

All that broader malaise in the way we have been governed by Labor and Liberal parties for the last few decades has led to approximately a third of the electorate now in the arms of smaller parties, micro parties, my party — the Greens party. Unfortunately governments are still trying to convince the public, using taxpayer funds, of what a great job they are doing even before they have set about sticking a stake in the ground. As I am about to point out, and I think we will learn a bit more about this in the committee stage, this bill does not really change that. As I have said, and as others have noted, it is largely the regulations that set the standard. The bill itself does not set the totality of those standards.

This bill has been floating around in the Parliament for quite some time. Last night at 5.55 p.m. I received a copy of the standards that the government intends to promulgate if this particular bill passes the house. I think the document I received was titled Public Sector Communications Standards Regulations 2016, Draft — Version 16 , June 2017. This document has certainly been in the government's hands for a little while, and I appreciate that it is now in our hands as well because it would be hard to talk about this bill without having a copy of the proposed standards in your hand.

Unfortunately I have not had the time to compare these proposed regulated standards to the code of conduct that has been in place for some time. It is true to say that there has been a code of conduct that has been in place and operating since before this bill arrived. So in some ways this bill is seeking to create a legal basis to regulate that standard, although it will be as simple as a minister wandering off for a cup of tea with the governor, the so-called Governor in Council mechanism, and saying, 'Dear Governor, please sign this document so that it can become a regulation'.

I believe that the proposed new standards are basically the same as the old ones with the addition of a proposed new clause about funding to create a threshold for how much funding must be in the budget before the project may be promoted. That is quite an interesting question actually, because at various times the government has proposed various multibillion-dollar projects. If you include all the private-public partnership payments — the stream of those payments that might go off into decades to run a railway station or a railway or a road or whatever — we are talking about projects that have a combined value of tens of billions of dollars. Should a government that has commissioned a study for a few hundred thousand dollars be able to say, 'We've put money behind this project, so now let's start talking to the voters about this project as if it is a real project' — the final insult being that we are using taxpayers own money to actually throw this propaganda at them? There is of course an annual report about expenditure, but do not hold your breath: it is a pretty weak report. It really does not give you the kind of detail you would want to know; it lists the major areas.

What I find interesting about this bill is that it is actually not really about government advertising per se. Although it is often talked about that way, it is actually a bill to regulate government communications. If you look in the definition section, there is a thing called a 'public sector communication', which means:

> … any information, material or message published by or on behalf of a public sector body …

It is not just advertising, not just paid advertising, not just TV ads, but any information, material or message published by or on behalf of a public sector body. Unless I am missing something, that is actually a very interesting kind of definition that has been put forward. As I said, I have not had the chance to fully scrutinise the new regulations, but the old standards — the standards that have been in place the whole time we have been waiting for this bill to come to a vote — contain things like:

> Communication should be for a legitimate purpose.

Then there is a table that says on one side 'Appropriate communication' and on the other side 'Inappropriate communication'. Appropriate communication is:

> To inform the public of new, existing or proposed government policies, projects or legislation.

Inappropriate communication:

> Is not clearly distinguishable from party-political messages or uses party-political slogans or images.

Going down the list, appropriate communication is:

> To ensure public safety, personal security or encourage responsible behaviour.
>
> To promote awareness of rights, responsibilities, duties or entitlements.
>
> To encourage understanding or use of government products and services.
>
> To report on performance in relation to government undertakings.

You can see how that one might perhaps be stretched. The list continues:

> To encourage behavioural change, social cohesion, civic pride, community spirit.

> To encourage public involvement in government decision-making.

That is quite important. There is a bit of debate this week about how to best encourage public involvement in government decision-making.

> To recruit staff or promote business opportunities within the Victorian government.

Those are all seen as appropriate communications, and I think the public would probably agree. This of course picks up many of the major forms of government communication expenditure — Transport Accident Commission ads, ads to recruit people to various government-led professions and WorkCover ads. A lot of money goes into those; there is no doubt about that. They are good campaigns. Everybody seems to support those campaigns. No-one is suggesting those campaigns have been politicised. At other times of course the government is just spending money on recruitment ads, putting ads in the paper to hire people for all sorts of jobs. That is also understood.

However, once you bring in a definition of public communication, as I just read into the record a moment ago, things do start to get interesting. For example, the government press release that actually announced this bill could be considered to be a public sector communication. That press release came out on Tuesday, 12 April 2016, and the headline was 'Laws to end taxpayer-funded political advertising'. We will have our debate about whether we think the bill actually does do that, but what is interesting is that if you consider this press release to be a public sector communication, or a communication produced by a public body, then the press release itself actually breaches the code. The press release announcing the crackdown on the misuse of government communications breaches the same guidelines because the first thing it says is:

> The Andrews Labor government —

it promotes both an individual MP and a party —

> is delivering on its election commitment to tighten rules —

yes, probably tighten, not end —

> around government advertising …

It then goes on and talks about how the bill will be supported by new regulations.

Paragraph 5 says:

> The Labor government is working to reduce expenditure …

Three paragraphs on it says:

> The Labor government has also lowered the previous … oversight …

It then provides quotes attributable to the Special Minister of State, Gavin Jennings:

> The Andrews Labor government is delivering on our election commitment to tighten rules around government advertising and reduce the cost to taxpayers —

and —

> Unlike the Liberals, we won't waste public money on political advertising for shonky or imaginary projects.

I can see we are getting close to question time, President, so I think I will just let that lie for a moment and pick it up in some more detail after question time.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

500 Startups Melbourne

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Minister, on 18 March, amid much hugging and photo ops, you said:

> 500 Startups is one of the best accelerator programs in the world and that's why we're bringing it to Melbourne.

On 30 June your mate and co-founder of 500 Startups, Dave McClure, was accused of sexual harassment. LaunchVic said on 1 July that it:

> … has zero tolerance for sexual harassment and is committed to promoting diversity and inclusion.

Why then did it take you until 10 August, 42 days later, to finally withdraw the largest ever grant under LaunchVic of almost $3 million?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank the member for the question. The fact remains that indeed the differential in time is an issue for LaunchVic. As I said in this place last question time in response to a question in relation to LaunchVic, in fact the board of LaunchVic makes recommendations to me about programs to support, which I can either accept or reject, and in this case of course I accepted it. Similarly it was the board that made a determination that whilst they were after more information as to the complicit nature of 500 executives

in relation to the behaviour of Mr McClure — or lack thereof — they then wanted to see further information come to light. They also, as I understand from the discussions that the board have had through their chair with me and also with the CEO, looked at what kind of rectification could occur should the program continue.

It is worth noting at this point in time that indeed the program was effectively postponed by LaunchVic in light of those very serious allegations — allegations of course that Mr McClure himself indeed accepted. In regard to postponing the program of 500 Melbourne, in the last question time Ms Neumann's name was egregiously attacked by Mr Ondarchie, her character was impugned and —

Honourable members interjecting.

The PRESIDENT — Order!

Mr DALIDAKIS — Thank you, President. So Mr Ondarchie may like to come into the chamber —

Honourable members interjecting.

The PRESIDENT — Minister, just ignore it.

Mr DALIDAKIS — He came into this chamber in the last question time and attacked Ms Neumann. What I wish to point out at this point is that Ms Neumann was the country head of 500 Melbourne, as the program was to be called.

Mr Ondarchie — On a point of order, President, that goes to relevance, this was a very narrow question — a question that did not even mention Ms Neumann in it. It was a very simple question of why it took the minister 42 days to withdraw the grant to 500 Startups.

Ms Shing — On the point of order, President, I note that in the 20-odd seconds before Mr Ondarchie began interjecting he noted across the chamber that this was a good answer. So on that basis I think that the minister is being entirely relevant to the points, and in any event it is not possible in fact to direct the minister in a specific way as to how the question should be answered.

Honourable members interjecting.

The PRESIDENT — Limited though they are, I do have some expungement powers. Ms Shing, I really do not believe that was a point of order. You obviously picked up on some comments that had been made — no doubt that were not actually captured by Hansard, by the way — but at any rate they were more the subject of a debating point than a point of order as such. I am satisfied with the minister's answer to this point. Whilst he has moved on to comment on another person in regard to the grants process, given that that was part of the questions raised in our last sitting week I think it is relevant that he touches on that as well, as part of his answer, if he chooses to do so. In terms of time frame, I think that he has already dispatched that by saying that it was a matter for the agency involved rather than a ministerial decision. So I think he has actually given an answer, and I am not going to direct him on what further he might say.

Mr DALIDAKIS — Thank you, President; I appreciate your ruling. The point that I was beginning to make was that Ms Neumann, as the country CEO of 500 Melbourne, was in fact overseas at the time as well. Indeed the rectification that LaunchVic required of 500 Startups included Ms Neumann being the head of the organisation, amongst a range of other attributes.

Honourable members interjecting.

Mr DALIDAKIS — I will take up the interjection. Mr Ondarchie said before that he was not attacking Ms Neumann yet he wants to attack Ms Neumann right now. Ms Wooldridge, the great leader of women, is also now attempting to attack and slur another woman.

Honourable members interjecting.

Mr DALIDAKIS — It is no surprise that Ms Wooldridge is delicate about this, having been defeated by a 16-year-old boy at preselection. But the fact remains that LaunchVic and the board were responsible for the decisions in relation to LaunchVic.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — Thank you, Minister, and I pick up your responses in terms of who is responsible. Minister, on 9 August in this chamber you said that the LaunchVic board, and I quote:

> … make recommendations, and as minister I either accept or reject those recommendations.

On Thursday, 10 August, LaunchVic announced the termination of its relationship with 500 Startups. When did the LaunchVic board meet to recommend the withdrawal of the multimillion-dollar grant to 500 Startups?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — My recollection was that indeed we were sitting on that particular day and I was in the chamber at the time that I believe the board met, and on that Thursday two weeks ago, on leaving the

chamber, Dr Cornick advised me that the board had met that morning and determined that, having received advice from Ms Neumann that she was resigning as the head of 500 Melbourne, they then would terminate the agreement forthwith.

500 Startups Melbourne

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is also to the Minister for Small Business, Innovation and Trade. As we have just discussed, on Thursday, 10 August, LaunchVic announced the termination of its relationship with 500 Startups. As the minister responsible for LaunchVic and these grants, what is the reason the $2.9 million grant was withdrawn?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Unfortunately it appears that Ms Wooldridge was not listening to the answer that I gave to Mr Ondarchie's supplementary where I said that on resignation by Ms Neumann from her role as country lead of 500 Melbourne, which was one of the conditions that LaunchVic had put on the continuation of the program at a later point should it actually reach that stage, they then, because she was no longer the head, agreed that the program could not be implemented and thus terminated it and recommended for me to accept that termination.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister for that response and note that LaunchVic had stated as well that the termination of the partnership with 500 Startups was also linked to the resignation of Rachael Neumann, so it is good that there is consistency there. But the minister did actually say that it was a contractual requirement that Ms Neumann be in that position of CEO, so can I ask: was the appointment of Rachael Neumann a 500 Startups requirement in terms of awarding the grant, or at what point did that condition actually enter the contract?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I think Ms Wooldridge is confused. The awarding of the grant that occurred earlier this year was not contingent upon anybody leading 500 Melbourne's operation. Indeed part of the rectification of the very serious situation that is quite troubling to me and, sadly, appears not to be troubling to those opposite is that in fact the rectification, should LaunchVic have continued with the funding of the 500 Melbourne program, would have required at that point Ms Neumann to be a part of the ongoing operations.

500 Startups Melbourne

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Minister, in announcing the $2.9 million grant to 500 Startups in March this year you noted:

> 500 Melbourne is a series of programs that will help accelerate at least 40 of Australia's best start-ups over the next two years, as well as provide access to 500 Startups's expertise, its global network, and other Silicon Valley venture capitalists.

Minister, was a signed contract broken with 500 Startups, or had a contract not yet been signed?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Again, it is not for me to enter into the contract. As I believe I have discharged similar questions in this place, let me reiterate: indeed LaunchVic received an application; they assessed that application. The board then decided to recommend that 500 Startups be supported. That recommendation came through to me as the minister responsible. I accepted and agreed with that recommendation, and at that point in time it was then left to LaunchVic to enter into the contractual obligation with 500 once I had agreed with the recommendation.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — Minister, given you are not accepting responsibility for the signing of the contract — and the taxpayers will always wonder why — on what basis was the contract broken and was there a financial penalty against the Victorian government for LaunchVic breaking the contract?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I feel like I am living in the twilight zone because this question has been asked and answered several times.

Mr Ondarchie — No, it has not. Don't mislead the house.

Mr DALIDAKIS — That is a very serious allegation that you make. Move it by substantive motion.

Honourable members interjecting.

The PRESIDENT — I am asking for order.

Mr DALIDAKIS — Again, I have answered this question on multiple occasions. The contract was terminated when Rachael Neumann advised us that she had resigned as the country head of 500 Melbourne. It is that simple. As a result of Mr McClure's behaviour a new range of requirements were made by LaunchVic should the funding eventuate down the track, and as I have said already Ms Neumann's continuation as the country lead was a requirement of that contract continuing.

Young Street, Frankston

Mrs PEULICH (South Eastern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Minister, the botched Young Street, Frankston, project has seen small businesses close, thousands of dollars in trade lost, cuts to small business staff and, according to reports, even one suicide. Minister, why has the Andrews Labor government failed to offer assistance, including financial compensation, for the struggling small businesses affected by the botched Young Street project?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I am not in a position to take that question up because the project that the member is referring to is run by the Minister for Public Transport, and as I have been consistent with in this place, when a minister in another portfolio has responsibility for an infrastructure project, that question should be directed to that minister.

Supplementary question

Mrs PEULICH (South Eastern Metropolitan) — I do not accept the minister's answer, especially given the coordinating nature of the portfolio. To follow up, my supplementary is: Minister, there have now been three meetings with affected small business traders in Frankston at which you were not present, choosing overseas jaunts ahead of Victorians. Minister, the next Young Street small business traders meeting is on Monday, the 28th. Will you attend this meeting of small businesses and explain your government's decision to ignore them and to deny support, including financial compensation for your botched project, while you continue to let their businesses suffer, resulting in job cuts throughout Frankston and thousands of dollars being removed from the local economy?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I completely reject the unfortunate assertions that Mrs Peulich has made. The fact of the matter remains that I have the portfolio of small business, innovation and trade, and that requires me at times to indeed travel concerning the trade portfolio. Now, I find it somewhat amusing that the shadow minister for trade thinks that he could do his job sitting at a desk on Collins Street. I prefer to actually undertake my job with seriousness, which does require me to go overseas. In relation to the supplementary, again I refer to the substantive answer, and it is an issue for the Minister for Public Transport.

Pitcher Partners report

Ms CROZIER (Southern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Minister, the Andrews government commissioned a $140 000 report from Pitcher Partners to 'determine the loss of profits to businesses impacted by the metro rail project', which was handed to the government in July. Minister, are you aware of the total loss of small business profits identified in the report during the construction phases of the project, and if so, what are they?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank the member for her question. I note that the member has stood with traders in my local community in front of posters that have a target over my face, the Premier's face and also Minister Allan's face. I have photos, President, that the member opposite has then removed from her Facebook page —

Ms Crozier — On a point of order, President, I have to ask how relevant this is in relation to this particular question, and I ask you to bring the minister back to the specifics that I asked. It is about the Melbourne Metro project — a $140 000 report by Pitcher Partners. Does he understand what the report is and what was the cost? I asked a question, Minister; just answer it.

Honourable members interjecting.

The PRESIDENT — The minister is, as he rightly says, only 24 seconds into his response to Ms Crozier's question. The issue as to whether or not there was a target associated with a particular person is a matter that you can debate later, but it is not a point of order as such.

Mr DALIDAKIS — As I was beginning to describe, the member concerned stands up to speak about infrastructure projects and asks about the impact that infrastructure projects have on the local community. There are a range of issues that the local community are affected by with infrastructure projects. What we do not expect as members of Parliament is to

see other members of Parliament stand in front of posters with target sights on people's faces two months after an English member of Parliament was stabbed to death by one of her constituents. That is what we do not expect to see. We do not expect to see you taking money from the mob —

The PRESIDENT — Order! Minister!

Honourable members interjecting.

Mr Ondarchie — On a point of order, President, that goes to relevance, this behaviour is disgraceful by this so-called minister, and I ask you to bring him back to the question. All he has done in over a minute of his explanation is debate the topic and bully a female frontbencher on this side. Can I ask you to bring him back to the matter.

Ms Crozier — On the point of order, President, I would ask you to ask the minister to withdraw what he said about me taking money from the mob.

The PRESIDENT — Order! I actually did not hear the comment. I have heard a number of other comments that I was not happy with and I chose to ignore them. The minister has offered to withdraw, despite the fact that he indicates that it was not personally directed. Whether or not it was I cannot adjudicate because I did not hear it, and nor did the clerks. The minister has graciously suggested that he would withdraw the remark in any event.

Mr DALIDAKIS — So withdrawn.

The PRESIDENT — Going back to Mr Ondarchie's point of order, which is the more relevant one to me in terms of where we go now, Minister, I do believe that you are now a little bit further into your answer, and I would concur with Mr Ondarchie as I was also becoming a little concerned that it was tending to debate, and I am not even sure it was context in terms of the content of what you were talking about. Notwithstanding that, I have some sympathy for the security of members, their staff and their offices, which is my responsibility and one I take very seriously. I do not like the idea of rallies outside members' offices, particularly where there might be some incitement of people to express their views in a way that really would be above what we would expect in terms of a peaceful demonstration and expression of views. So, I do have sympathy with where the minister has led to today in his answer, but clearly, as Mr Ondarchie says, it is now debating rather than being apposite to the question that has been asked. I would ask the minister to address the specific question.

Mr DALIDAKIS — Thank you, President. I do appreciate your guidance and the clarification that I was not personally associating Ms Crozier with accepting funds from the mob, but the Liberal Party certainly has.

The PRESIDENT — Minister, we have moved on from there.

Mr DALIDAKIS — Can I similarly point out again that at the rally concerned with Ms Crozier, it was just not the issue in question. Ms Crozier did it in front of a store shop.

The PRESIDENT — Minister, I am not really interested in the rally anymore. The question was about a specific report that has been presented to the government in terms of costs that have been borne by small business associated with the works of some infrastructure works. I think that is a very specific question and has little to do with the rally itself in any event, but —

Ms Crozier interjected.

The PRESIDENT — I assume Ms Crozier does want to ask her supplementary question. Minister, please, to the report.

Mr DALIDAKIS — Very specifically in relation to the report, no such report has been provided to me as Minister for Small Business, Innovation and Trade. I suggest that again the member opposite should direct her question to the minister concerned — the Minister for Public Transport.

There seems to be some kind of pattern here, that either those opposite are not able to direct their questions appropriately or they just like wasting the Parliament's time. It appears that maybe they like wasting the Parliament's time. Since becoming minister in this place I have consistently not taken questions that deal with other ministers in their portfolios. So if Ms Crozier would like this question answered, she should direct it to the appropriate minister who has undertaken the report or had the report provided to an agency for which they are responsible.

Supplementary question

Ms CROZIER (Southern Metropolitan) — Minister, you often come into this chamber and take a hands-off approach to matters of the Andrews government and their impact on Victorian small businesses. We have seen it time and time again. What is your exact role as minister in addressing small business concerns about government infrastructure projects?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — President, I look for your ruling as to whether or not that was indeed apposite to the first question, which was specifically in relation to a report that I did not have ministerial responsibility for or oversight of. The supplementary now deals with issues not raised in the actual question itself.

Ms Wooldridge — On a point of order, President, Ms Crozier's question was directly related to the response that was given to the question, which is exactly what supplementary questions are meant to be. The minister said that he had nothing to do with the major infrastructure project and did not know the details of a report in relation to it and that generally in relation to these questions we should be referring them to someone other than him. So the question is directly relevant to the response he provided, and it is seeking some clarification about whether he does anything in relation to the projects and about his role as small business minister.

The PRESIDENT — Minister, you are quite right that in fact the supplementary question was not about the same subject matter that Ms Crozier raised specifically in her substantive question. However, the supplementary question stands and is relevant because it is apposite to the answer that you gave.

Mr DALIDAKIS — Thank you for the opportunity. It gives me a minute to talk about the payroll tax cuts we provided to small business in Victoria — the first time since 2002. When you were in government there was zero — donuts. You gave nothing to our small businesses in Victoria — nothing at all. We now have the lowest payroll tax in regional Australia of anywhere on the eastern seaboard. Also, we did not just do it for regional Victoria, because of course the Treasurer made that commitment in the budget of this year, but last year the Treasurer actually extended the payment threshold from $550 000 to $650 000. Do you know what the Treasurer did this year? He brought forward the last two years of that threshold — he brought that forward. What do I do? I continue to speak to my colleagues and to advocate policies that are in the best interests of the small business community, and payroll tax cuts is just one example.

Ministerial travel

Mr ONDARCHIE (Northern Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade. Minister, we often talk about your extensive travel. Indeed you often talk about your extensive travel. You spent $209 000 and 52 days on overseas travel in 2016. You spent more time abroad on the taxpayers dollar than any other minister last year, visiting seven countries with one staff member each time. According to your travel reports, the longest trip was 13 days, to the US in September, costing $56 714, followed by a 12-day, $42 860 jaunt to Israel in November. You spent $30 000 travelling to the United Arab Emirates (UAE) and $46 367 on a Mexico and Chile trip, and you made separate journeys to Singapore and Japan. You also undertook ministerial travel to Indonesia in March 2017 and to China in May 2017. Minister, where are your published travel reports for Indonesia and China?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — That was a very long run. Can I just say that Joel Garner would have loved a run-up that long. To think that the alternate trade minister, the shadow minister for trade, would rather sit at his desk in Spring Street than be able to undertake trade on behalf of exporters or seek investment attraction and facilitation to make Victoria stronger is amazing. He has listed for everybody here the top 10 travel destinations — those that have the best fun, the best sun and the best beaches, even in landlocked countries. Mr Ondarchie cannot help himself. Apparently the UAE is now one of the top fun holiday destinations in the world.

Let me read some numbers for your benefit, President, given that Mr Ondarchie in his very long run-up quoted the cost of my travel.

Mr Ondarchie — On a point of order, President, which goes to relevance, I was of the understanding that you had to actually publish a travel report, not verbalise it here in the house when you were asked about it. It was a very narrow question: we just want to know where his travel report is.

Ms Shing — On the point of order, President, Mr Ondarchie appears to have hoisted himself on his own petard with a run-up that in fact included a vast list of travel that had been undertaken by the minister. On that basis, given that the minister has 4 seconds shy of 3 minutes he is well within his rights to continue. It is entirely relevant to the question as Mr Ondarchie, perhaps against his own better judgement, asked it in the first instance.

The PRESIDENT — I was somewhat perplexed by the minister's initial response to the question and his talk about holiday destinations and so forth. I thought it was a rather long bow to take on the question to attribute a motive to Mr Ondarchie's reason for asking the question. Nevertheless, Mr Ondarchie did actually list a great number of trips that were taken on behalf of

the Victorian government by the minister. Presumably the fact that only two were mentioned in respect of the report question means that the others all had reports filed. I think that the minister was entitled to have some remarks about the preamble to the question, given the way it was framed. Nonetheless, it was also a fairly narrow question when it was posed, and I am sure that the minister is very promptly about to get to that answer.

Mr DALIDAKIS — I am about to get to that, but before I do, again referencing the costs that Mr Ondarchie himself raised in relation to the 10 trips, of which the reports are published — by the way, I notice that the opposition member has not actually taken issue with any of the outcomes in the reports but wishes to try and take a cheap shot about me undertaking my role as trade minister — let me give you a 'sweet set of numbers', to quote a former Prime Minister. In fact the trade minister in the previous government, Ms Asher in the Assembly, took one trip with one minister at a cost of $478 202. By contrast, the 10 trips that I have published have cost a total of $331 000, give or take a few hundred dollars. So if you want to talk about value for money, let us look at 10 trips for $331 000 versus one trip by Ms Asher that cost $478 000. But do you know what? That is not the only set of numbers. There was another trip of $1.2 million where Ms Asher was the only minister travelling — $1.2 million; own goal. You like football? That was an own goal.

Supplementary question

Mr ONDARCHIE (Northern Metropolitan) — I cannot thank you for your answer, Minister, because you did not answer the question. The guidelines for ministerial overseas travel issued in January 2011 and still active for ministers today determine that a report on travel should be provided to the Premier within 45 days of return and published within 60 days of return. You have form on failing to publish your travel reports, with your November Israel travel report taking 71 days to publish. It is now 97 days since your China trip and 144 days since you went to Indonesia. So, Minister, who is in breach of the guidelines here: is it you for not providing your report to the Premier on time, or is it the Premier, who has failed to authorise the publication within the guidelines?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I love the way that in question time we are devoted to the big issues — was the report provided in 60 days or was the report provided in 71 days? Oh, my God! These are the big issues. This is why you are in opposition, sir. This is why you are in opposition — because you focus on the detail, the big detail, Mr Ondarchie. Can I just say that you do your side of politics the greatest of service in keeping the Labor Party in government. Let me tell you that, Mr Ondarchie. You are a fantastic advertisement for voting for the Labor Party.

In relation to specifics I believe those reports have been signed off by me, and I will certainly take it on notice to find out where in the system those reports are and why they have yet to be published on the site. That said, bring on more questions about trade and bring on more questions about outcomes, because that is what we are focused on.

Honourable members interjecting.

The PRESIDENT — Can you imagine what people are thinking as they watch us on the internet right now? Can you really wonder what they are thinking? I am happy enough to let you all make idiots of yourselves if you really want to. I do not care; it does not affect me.

Mr Jennings — I think it would affect the children who are in the gallery.

The PRESIDENT — I think it does too.

Door-to-door sales

Mr PURCELL (Western Victoria) — My question is also for Minister Dalidakis, but this matter is in relation to his capacity representing the Minister for Consumer Affairs, Gaming and Liquor Regulation. Western Victoria is currently awash with door-to-door salesmen. These salesmen are preying particularly on the elderly, and they use high-pressure sales techniques to get their victims to hand over large sums of cash or to sign up to deals they do not want and cannot afford. I understand that there are cooling-off periods and other options under consumer protection laws, but this does not help if the salesman is from an unregistered charity or just disappears. My question is: is the government doing anything to protect the elderly by registering door-to-door salesmen?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Purcell for his serious question — a question that actually impacts upon the lives of community members. As such, I will endeavour to have a response to Mr Purcell on this matter as quickly as possible from the office of the minister in the other place.

Poker machines

Ms HARTLAND (Western Metropolitan) — My question is also for Minister Dalidakis on behalf of the Minister for Consumer Affairs, Gaming and Liquor Regulation, Ms Kairouz. The Victorian Commission for Gambling and Liquor Regulation is seeking public feedback on documents in relation to the future operation of ticket-in, ticket-out and card-based cashless gaming in Victorian clubs and hotels. My question to the minister is: have you assessed whether the cashless gaming card will make it impossible for people going to the pokies to know how much they have lost?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Ms Hartland for her question. This is an issue that, whilst I do not have portfolio responsibility for it, I feel greatly about because of the harm that pokies can cause to certain members of our community. So I will also seek a response from the minister in the other place to Ms Hartland's question in order to provide that response very directly and as quickly as possible.

Supplementary question

Ms HARTLAND (Western Metropolitan) — Has the minister also assessed what the losses of her own constituents in Brimbank, who have some of the highest losses to pokie machines in Victoria, will be as a result of the cashless card?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — Again, Ms Hartland, I thank you for your supplementary question and will refer it to the minister in the other place for a response.

Equal opportunity legislation

Ms PENNICUIK (Southern Metropolitan) — My question is to the Minister for Corrections representing the Attorney-General. I was disturbed to hear recent comments from the Catholic Archbishop of Melbourne, Denis Hart, expressing a desire to use gaps and exemptions in the law provided to religious organisations to sack gay and lesbian teachers and to refuse to report disclosures of child sexual abuse that have been received during confession. The Royal Commission into Institutional Responses to Child Sexual Abuse said it heard evidence of multiple cases where abuse was disclosed in confession by both victims and perpetrators. In its recent report on criminal justice, released earlier this month, it recommended making failure to report child sexual abuse in institutions a criminal offence and that this extend to information given in religious confession. My question to the minister is: will the government be implementing this recommendation of the royal commission report on criminal justice to protect children from abuse?

Ms TIERNEY (Minister for Corrections) — I thank Ms Pennicuik for her question. The questions that she poses today are questions that I think many in the community are wanting answers to, and the sentiment conveyed in the questions are ones that I think is shared by many in the community. I will seek a written response from the Attorney-General on this matter.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) — Thank you, Minister, for your answer. The archbishop also referred to the sacking of gay and lesbian teachers in Catholic schools. With regard to that issue I wonder whether the government is reconsidering its objection to the removal of exceptions in the Equal Opportunity Act 2010 which would allow this to occur, given the exceptions that allow religious schools to discriminate based on marital status, lawful sexual activity and other attributes.

Ms TIERNEY (Minister for Corrections) — I thank the member for her supplementary question. Again I will convey that question to the Attorney-General and expect a response promptly.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — There are 83 written responses to questions on notice: 7699–702, 10 972, 10 975–6, 11 022, 11 172, 11 174–216, 11 218–19, 11 222, 11 230, 11 237, 11 253–6, 11 260–1, 11 266, 11270, 11 274–5, 11 305, 11 312–14, 11 317, 11 356, 11 364, 11 367–70, 11 373, 11 375–6, 11 395, 11 399.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Based on today's questions I would ask for written responses to Ms Wooldridge's supplementary question to Mr Dalidakis — that is one day; Mr Ondarchie's second question, which was the third question of the day, to Mr Dalidakis, both the substantive and supplementary questions, one day; Mrs Peulich's questions to Mr Dalidakis, both the substantive and supplementary, two days; Ms Crozier's questions to Mr Dalidakis, both the substantive and supplementary, two days; Mr Ondarchie's questions,

which was the sixth question of the day, both the substantive and supplementary, one day; Mr Purcell's question to Mr Dalidakis, just the substantive question — that was all there was — that is two days; Ms Hartland's questions to Mr Dalidakis, both the substantive and supplementary, two days for a written response — again involving a minister in another place; and Ms Pennicuik's questions to Ms Tierney, both the substantive and supplementary, two days.

Ms Tierney — President, I wish to raise a point of order in relation to a matter that was raised — in fact it was part of a point of order — in the last sitting week. It was a matter raised by Mr O'Donohue. It was regarding a response I gave in question time on Thursday of the last sitting week. The matter involved my assertion that a family Mr O'Donohue referred to in a question had not made representations to me as minister. Mr O'Donohue raised a point of order stating that the family had made representations to me as minister. Indeed I have checked my records, and the family has not made representations to me, as I indicated in my initial answer.

I simply ask that, if Mr O'Donohue has a copy of the letter that he claims was sent to me, he produce the document, and of course I will respond to the family. If the document does not exist, then I ask Mr O'Donohue to make a personal explanation as to why he so blatantly misled the house.

The PRESIDENT — That is not really a point of order in the sense of the proceedings of the house as such, although there is a tenuous connection and almost a hybrid between a personal explanation and a point of order here. The minister has effectively put on record her position and reiterated what she said in the house, which had been called into question by Mr O'Donohue. To that extent it is fair enough from my perspective that she has clarified that matter. Whether or not Mr O'Donohue is in a position to advise the house further is another matter. But certainly I am concerned as Chair if statements are made suggesting ministers may or may not have met with somebody — or indeed that other members may or may not have met with somebody — and there is not substantive proof or we cannot establish that those matters actually did proceed as put to the house and are not just speculation. Sometimes they may well reflect a member of the community's understanding of the process they participated in but which was not a process that involved a minister or another member of the house. We need to be clear on these matters.

CONSTITUENCY QUESTIONS

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My question is for the Minister for Roads and Road Safety. It concerns the construction of a roundabout in Daylesford at the intersection of Raglan Street and East Street. Last week I was contacted by constituents Sonja and Joel Ridge, whose business Daylesford Mitre 10 is at this intersection. The Ridges have advised that construction on the roundabout commenced two months ago and customers have been prevented from accessing their store in this time. Access to their customer parking has been blocked several times and was only permanently removed when they threatened legal proceedings. VicRoads have now informed them that works will continue for at least another five weeks.

The Ridges estimate that their business has suffered a loss of $5000 per day throughout the construction and they simply cannot sustain such losses for another five weeks. They advise that only two men have worked at the site throughout the entire construction period. All complaints to VicRoads have fallen on deaf ears, and the Ridges believe they are entitled to compensation for lost revenue because of the project. Will the minister, as a matter of urgency, direct VicRoads to expedite work on this project to ensure an earlier completion and prevent further loss of income for the Ridges?

Mr O'Donohue — On a point of order, President, while I did not take the opportunity at the time, I would like to now take the opportunity to respond to the point of order raised by the Minister for Training and Skills.

The PRESIDENT — What is the point of order?

Mr O'Donohue — I am responding to the —

The PRESIDENT — You cannot respond. You have got to give me a point of order.

Mr O'Donohue — I am taking up your invitation to —

The PRESIDENT — No, I am not giving you an invitation.

Mr O'Donohue — That is what you did before.

The PRESIDENT — I am telling you that a point of order is a matter of incorrect proceedings — some problem with our proceedings. It is not an opportunity for a personal explanation or for a debate, and that is why in fact I counselled Ms Tierney that I did not really accept it as a point of order either; however, in the

scheme of things, given what was essentially an allegation against her, I allowed her to clarify the record. I am not interested in a debate. If it is a point of order, then it is to do with a problem with our proceedings. Is there a problem with the proceedings?

Mr O'Donohue — I am seeking to do what the minister did, and that is clarify a record — nothing more, nothing less.

The PRESIDENT — Then do it by personal explanation. Give it to me in writing, and I will see if it meets the personal explanation criteria.

Mr O'Donohue — I do not have a personal explanation to make.

The PRESIDENT — Then there is no point of order. You have got either a personal explanation or a point of order about the process. Do you have a personal explanation?

Mr O'Donohue — I have no personal explanation to make, President.

The PRESIDENT — Then there is no point of order.

Mr O'Donohue — On a separate point of order, President, I seek clarification of what the point of order was that Minister Tierney made, given that she was not making a personal explanation.

The PRESIDENT — As a minister, she simply closed that matter, which was essentially an allegation against her. I accepted it more in the context of a personal explanation to clarify the matter and to discharge what was an allegation made against her in this house. As I said, I am not interested in the use of points of order for debates about what he said or she said. She invited you to produce some documentation that might have suggested she had had a meeting or that there was a communication which she says, very clearly, did not happen. If you have got some documentation to that effect, then it is a personal explanation, and the procedure is that you write it and give it to me.

Eastern Victoria Region

Mr MULINO (Eastern Victoria) — My constituency question is to the Minister for Local Government and it relates to three local community projects, the upgrades of community and play spaces at Oak Ridge Recreational Reserve, Marshall Street Recreational Reserve and Wallaroo Reserve. I ask the minister in relation to these three projects, all of which received funding in 2016–17 under the Growing Suburbs Fund, when the current upgrades of those projects will be completed and when those projects will be available for community use.

Western Victoria Region

Mr MORRIS (Western Victoria) — My constituency question is for the Minister for Public Transport and it relates to the Bungaree loop. Unfortunately the government has unilaterally, without any consultation whatsoever —

Mr Finn interjected.

Mr MORRIS — The Bungaree loop is a loop of train track, Mr Finn. The government has unilaterally, without consultation, decided to close the Bungaree loop. Both Wallace and Bungaree present significant opportunities for population growth to the east of Ballarat, and the closure of the Bungaree loop could have a significant impact on these growing communities. The question that I ask is: will the minister halt plans to close the Bungaree loop and undertake further consultation with the community before continuing with the closure of the incredibly important Bungaree loop?

Eastern Metropolitan Region

Ms DUNN (Eastern Metropolitan) — My constituency question is for the Minister for Housing, Disability and Ageing. The permanent residents of the Wantirna Caravan Park find themselves in the position of losing their homes with the sale and imminent redevelopment of the Wantirna Caravan Park. They request that the minister meet with the residents to discuss their concerns. I ask the minister to meet with my constituents urgently to discuss housing and the dire issues they face.

Northern Metropolitan Region

Ms PATTEN (Northern Metropolitan) — My question is for the Minister for Sport. Recently I surveyed sporting organisations in the Northern Metropolitan Region. In that survey several constituents, including the Brunswick Zebras Soccer Club, expressed concern about the extent of facilities for their female members. As the minister is aware, there has been a boom in female field sport participation flowing from the very successful first season of the AFL Women's competition and now the international successes of our Maltidas, including that recent victory at the Tournament of Nations. Unfortunately these clubs are short of clubroom space,

change rooms and fields to accommodate female teams, and some older facilities have been designed for men's teams only. I note that the minister announced specific grants for this earlier this year, but they have not kept pace with this participation surge. Can the minister tell me how he will address this pressing issue?

Southern Metropolitan Region

Ms CROZIER (Southern Metropolitan) — My constituency question is for the attention of the Minister for Public Transport and it relates to the proposed 13-storey sky tower development at Ormond railway station. This is another secret development being undertaken by Daniel Andrews that the community had no knowledge of. Many residents have contacted me to voice their concerns about the sky tower and are also now asking for updated information regarding this proposed development. The government has provided little to no information regarding this project since a public hearing was held in early February of this year. Following that hearing a report undertaken by the Victorian Transport Projects Advisory Committee was submitted to the minister, as it is obliged to within 20 business days of the last hearing. Well, that was months ago. My question to the minister on behalf of the many anxious residents within the area is: can she provide an update to the house on the proposed development and the details of the report so that the residents of Ormond and the surrounding areas of Caulfield and Bentleigh understand exactly what was recommended to the Andrews government at the Ormond sky tower site?

Eastern Victoria Region

Ms BATH (Eastern Victoria) — My constituency question is for the Minister for Industry and Employment, the Honourable Wade Noonan, in the other house, and it relates to the 160 workers of the Carter Holt Harvey mill in Morwell. On 28 September retrenched Carter Holt Harvey workers are set to join the end of the unemployment line in Morwell. It is important that the Andrews Labor government provide assistance — and as much assistance as possible — to enable these good people to find work in a harshly competitive market. Recently I have had a number of soon to be ex-Carter Holt Harvey workers speak with me about their grave concerns regarding future job prospects and how they must compete in a region starved of employment opportunities. Carter Holt Harvey worker Gregg Duncan has asked me to ask the minister: will you enable Carter Holt Harvey workers to be registered as jobseekers on the state government's Jobs Victoria Employment Network as a priority target group and, in doing so, join the Hazelwood workers who are included on the list?

South Eastern Metropolitan Region

Ms SPRINGLE (South Eastern Metropolitan) — My question is for the Minister for Education. In the last 25 years two government secondary schools have been closed in Greater Dandenong, including one that was well placed to serve Keysborough infill. There is substantial and growing demand for a new secondary school to serve this area. Local residents understand that land has been purchased by the Department of Education and Training at Chapel Road, Keysborough, for a new primary school, but no formal announcement has been made, and residents remain unclear on the status of land purchase or opening date. Minister, what is the status of the purchase of the entire school provision overlay at Chapel Road, including the status of land allocated to a primary school and a secondary school?

Western Victoria Region

Mr RAMSAY (Western Victoria) — My question is to the Minister for Regional Development, the Honourable Jaala Pulford. The port of Portland has been advocating for the upgrade of the Portland–Maroona rail line to a standard of the Murray Basin Rail Project and was disappointed when the Andrews government did not include it as part of the basin plan. I have also been advised by the CEO of the port of Portland, Jim Cooper, that the high growth rate of product through the port in the last five years, particularly with logs and woodchips, has resulted in the port being at near capacity. With Hamilton being a potential road-rail hub at the railway station, it is important that the government includes this rail link that travels through Hamilton to the port. My question is: will the minister commit to the funding of this important rail link as part of the Murray Basin Rail Project?

Southern Metropolitan Region

Ms FITZHERBERT (Southern Metropolitan) — My question is to the Minister for Planning in the other place and it relates to Christ Church St Kilda in Acland Street. This is a very old church, one of Melbourne's oldest, and it is heritage listed; it was built in the 1850s. Its activities include Christ Church Mission**,** which is an active outreach program to the homeless and hungry in the church's local community. Its building is in great need of extensive repairs to its roof and its drains, and to damaged internal and external walls. This will cost many millions of dollars. My question to the minister

is: what financial assistance will the Andrews government provide to Christ Church St Kilda and what steps will he take personally to save this historic and fragile building?

PUBLIC ADMINISTRATION AMENDMENT (PUBLIC SECTOR COMMUNICATION STANDARDS) BILL 2016

Second reading

Debate resumed.

Mr BARBER (Northern Metropolitan) — As I was saying, by my reading of the legislation this government press release that announced the legislation could in fact be construed as being a public sector communication as defined under the act. In examining the text of the press release it appears that it uses party-political language. It names a political party, and it names an MP. The quotes attributable —

Mr Jennings interjected.

Mr BARBER — The minister has the principal act in his hand now. We are aware that this is a bill that actually tells public servants what they can and cannot do — even, we might suggest, in spite of their own ministers. It is not a bill to regulate ministers; it is a bill to regulate public servants. Clearly the press release seeks to influence public support for a political party or a member of Parliament. It is not clearly distinguishable from party-political messages. In fact under the previous guidelines and under the proposed new guidelines, which I had a chance to read during question time, there is just one form of inappropriate communication that the communication does not do — that is, it does not link to a party-political website. But it certainly ticks enough squares to win breach of guidelines bingo so far as I am concerned. It also wins the irony award for breaching at least five elements of the government communications standards in a government communication about the government communications standards.

The minister might jump up and say that this form of communication, this press release on this website that might have been retweeted from an account that may or may not be under the control of public servants or taxpayer-funded employees, does not qualify or is not part of these. The standards that he is going to promulgate do not cover that press release or a range of other media that we could get into when we come to discuss this bill. If that is the case, then I think the jig is up. This government has worked out that old-style government political advertising is a bit old-school. Who really buys TV ads on free-to-air TV these days? I do not watch free-to-air TV anymore, except for National Indigenous Television — but that is publicly funded of course, so there are a whole other set of standards there. But yes, they have worked it out.

This current government is quite happy to ban itself from doing those old-school TV ads, because they have come up with a whole new set of techniques that would make Noam Chomsky stand up on his hind legs and applaud. It is the new media. They think it is all about the new media; it is about social media. Rather than belabour the point here in the second-reading debate, I think we will wait until we move to the committee stage and tease out a few aspects about this bill and how it is meant to work in practice.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 agreed to.

Clause 2

Mr JENNINGS (Special Minister of State) — This amendment affects the operative date of this piece of legislation for reasons that we may end up discussing in the committee. I move:

1. Clause 2, page 2, line 2, omit "11 April" and insert "30 November".

This is going to be an unusual committee for me because under normal circumstances I would spend a lot of time on clause 1, but not today — so thank you, everyone.

The amendment omits the operative date of 11 April and inserts 30 November of this calendar year. I know that both Mr Rich-Phillips and Mr Barber referred to the fact that this bill has been on the notice paper for a long period of time. Yes indeed, it was on the notice paper for a long period of time. In fact it was introduced in a pretty timely way, but then I was absent from the Parliament for some period of time and the government decided that it would come back into the sequence of the legislative program when I was back in the chamber. We have taken a bit of a while this year to clear the backlog of legislation that we accumulated in 2016, so my apologies to the house and my apologies to the people of Victoria for this delay. Nonetheless, I am pleased to say that the government has been complying with the intent of this legislation for the last couple of

years even though we have not formally been obliged to adhere to it.

Amendment agreed to; amended clause agreed to.

Clauses 3 and 4

Mr BARBER (Northern Metropolitan) — Minister, you would have heard the example I used during the second-reading debate of a government press release — in fact the government press release that announced the presentation of this bill — and I am sure I do not need to provide you with a copy of that original press release. My reading of the way this legislation works is that a 'public sector communication' means any information, material or message published by or on behalf of a public sector body. If it is your contention that that press release does not fit that definition and therefore does not come in under the regulations associated with this bill, could you explain what your reasoning is on that?

Mr JENNINGS — I thank Mr Barber for his question. On the press release that he refers to, he was gracious enough, on one level, when he described this as perhaps not being as full of hyperbole as it might have been, to actually acknowledge that in relative terms it was understated. I appreciate that, because I think it defeats the purpose sometimes for ministerial press releases to go over the top in the way in which they describe certain outcomes that would mean that the earth, the moon and the stars shift when perhaps they do not.

In this instance, going to the heart of his question, the reason the ministerial press statement is not covered by this legislation is that whilst there is an appropriate description of appropriate communication — and he has drawn attention to what the definition is of communication — Mr Barber has not gone back to first principles to describe what is in the Public Administration Act 2004. It defines the public sector bodies that are covered by the effect of this amending legislation, which include public service bodies. An example of that would be a department or an administrative office or a public entity, and that would be a body established under an act or by a Governor in Council or statutory authorities or a special body, such as IBAC or the Ombudsman or the Freedom of Information Commissioner — those bodies that are actually established under statute associated with the Parliament. That definition of a public sector body means that the scope of the descriptions in relation to what can be said in public communication would be limited to the effect of those bodies themselves.

Anticipating another further question that Mr Barber might have in relation to what then a public service body may have either as web links or other communication that may be connected to a minister's office, the only minister who can be referred to, in line with formal public communication by a public sector body, is the office of the Premier — as the Premier, not as the leader of the party — and certainly not by any reference to any other minister. So if there was any minister whose personal website or standing as a member of Parliament was linked to any public sector body, that would fall foul of these regulations or the act and the regulations that are amended to them. But if there is a connection between the public sector body and the office of the Premier in a non-party-political way, then that is the only circumstance by which ministerial correspondence would be referred to.

Mr BARBER — So is the minister saying that when I see a website and the URL is premier.vic.gov.au, that is a website that is actually operated by the Premier's private office rather than the Department of Premier and Cabinet. Is that the distinction that causes him to distinguish it from the argument I have been making?

Mr JENNINGS — No, I am not necessarily making that distinction. What I am saying is that in relation to whether the material is actually managed in day-to-day website management by the Premier's private office or by the department, I am not entirely sure what the delineation may be, but my in-built assumption is that the Premier's site is managed by the department. I believe that to be the case — no, sorry, it is not. Thank you very much for the clarification; I am glad I looked over my shoulder. The Premier's website is actually managed by his private office, and that is the only circumstance where there would be a connection between what would be the activities of a public sector body. Referencing back to the Premier's website would be the only connection.

I was giving you the example to make it clear that the circumstances of the Premier and ministers being not subject to these provisions within the Public Administration Act mean they are thereby not roped into the provision of public communication in the way in which the example that you gave before and after question time would give rise to. Beyond that I have already generated a line of inquiry that probably has the potential to skew what the effect of this particular piece of legislation is, which is in fact not necessarily concentrated on URL connections but in fact to regulate the way in which information is provided on television and in television communication, in line with our election commitment and what the very high levels of

public expenditure have been on television advertising over successive governments.

Mr BARBER — I need to, I think, ask my question again because I am still confused. I have got a press release here, and it says, 'Media release', 'Gavin Jennings, MLC' and 'Special Minister of State'. It has got the Victoria state government logo there. It is a little upside-down triangle. It says, 'Victoria state government'.

Mr Jennings — It's the right way up.

Mr BARBER — No, upside down, I'm sorry. Check my party's logo. All the good luck runs out if you turn it that way!

It is on the premier.vic.gov.au URL. The definition in the act says:

> ***public sector communication*** means any information, material or message published by or on behalf of a public sector body …

The minister's argument must be that it was published by, or on behalf of, the Premier's private office and therefore is not covered by these guidelines. Is that the simple version of it?

Mr JENNINGS — Well, that is the simple version in relation to the communication. I am actually saying to you that the restriction, based upon this piece of legislation, is in relation to what the communication of the public sector body is, not the ministerial staff. So if that is all you are after, perhaps I could have said that assumption is correct from the very beginning; we would have been home and hosed.

Mr BARBER — Well, home and hosed in the sense that we have worked out the size of the loophole. The loophole appears to be that if the government —

Mr Jennings — Do you reckon my press release is more influential than a TV ad? That is what you reckon?

Mr BARBER — Apparently you do. Apparently, Minister, you think it is all about the internet. We will come back to that in a second; I do not want to get distracted.

This is all about laws to enter taxpayer-funded political advertising. The taxpayer gives money to the Premier's office to run his private office. He can do what he wants with that money — that is the loophole — including, no doubt, employing the staff who drafted, uploaded and promulgated this press release. This is a genuine identified loophole.

I am concerned because I remember in the dying days of the last government these premier.vic press releases started coming out with quotes attributable to people who were candidates for elected office. They were not even ministers or MPs. At that point I think it was pretty clear that the Premier's private office, if that was how it was distributed — Premier Napthine — had effectively become an arm of his political machine and was quite happy to disseminate material for a political candidate. I certainly noticed that at the time.

It seems that the way to do it now is you actually get money off the taxpayer and put it into the Premier's private office and run your communications from there.

Another question is: I presume that the Premier's Facebook page — which does not look like a Victorian government Facebook page; it is just @DanielAndrewsMP — is also to do with him or his private office, not the Department of Premier and Cabinet, and therefore it is also exempt from these guidelines and these restrictions; is that correct?

Mr JENNINGS — I think the simple answer is yes. You might choose to spend a lot of time in relation to the object — this is the objects clause — of this piece of legislation. Your questions are relevant in relation to what are the communication standards, but they are ignoring the key hook to the commitment and what is in the legislation, which is in fact expenditure on advertising.

Mr BARBER — How much did the Premier spend promoting his own personal Facebook page? I am seeing large numbers of sponsored posts coming through, and if that money came out of his own pocket it is none of my business. But if that money came out of his electorate allowance, it is governed by a different set of rules — the same ones that govern me. If that money came from the taxpayer but was shifted out of the Department of Premier and Cabinet into his private office for the purpose of avoiding a loophole, then it is important to know, in discussing this loophole, exactly how much money has been stuffed into that loophole, even while you have worked on this legislation. So how much has been spent by the taxpayer, regardless of whether it was a public body or something you have defined as not a public body, on promoting and boosting posts on the Premier's Facebook page?

Mr JENNINGS — I will check in a second in the box about what I might know about the dollar number. In fact the dollar number that has been spent on the Premier's Facebook page has actually been released in the public setting prior to today, so that is not a mystery necessarily or anything hidden. The issue is: does the

material itself, in relation to what is 'advertising', fall short of the standard — a standard that has not necessarily been encumbered upon us because we have not passed the legislation yet — and whether in fact you are relying on examples of advertising which you believe fall foul of the requirements of the legislation? I am not sure that you have that or are going to put that to me. I will go and check in relation to the dollar amount and then come back to you.

In relation to advertising I believe the Premier was asked this question at the Public Accounts and Estimates Committee (PAEC). I believe the question was taken on notice, and I believe what was subsequently provided to PAEC was somewhere in the order of $120 000.

I do know that in the previous year there had been a release of material in the public domain which was in a similar order, I think a little bit less than $100 000, but nonetheless that is the range of expenditure that has been associated with this Facebook page.

Mr BARBER — And that number of $100 000 or so, that particular bit of taxpayer-funded government advertising, government-sponsored promotions or whatever you call it, that is not subject to this law; is that correct?

Mr JENNINGS — It is not subject to the law because this law was actually generated to deal with expenditure in the order of $100 million as distinct from thousands, but that does not mean that in fact the discipline that attempts to be associated with this material should not be consistent or harmonised, and as much is possible that would be a laudable objective, but those Facebook entries are not covered by the legislation.

Mr BARBER — I do have here some examples of how perhaps that expenditure of money is being disharmonised — if there is such a word — with the guidelines. For example, one of the rules that applies to the public sector body is that they cannot spruik projects that have not been committed to yet. Here we have an example of a video that was produced by the public sector body that is doing public consultation about different routes for a north-east link. That is what they are doing — they are doing consultation — and it is within the guidelines for a public sector body to produce a video like this that has a map of Melbourne and talks about different routes where a road might go. It is within the guidelines for them to produce that video using public funds because they are using it to consult people. It would be wrong for the government to advertise saying 'Gee, this amazing new road we're building' when they had not actually committed to the road. So that is common ground; that is what the guidelines are meant to prohibit. However, what the Premier does with his website is he takes that video and he produces his own post, and what the post says is:

> It's official, folks.
>
> This is the big one — the missing link in Melbourne's road network — and we're going to build it.

Well, in fact he has not funded it. He may have made a political commitment to do it. He can certainly never use public dollars to say 'We're going to build it' when there has actually been no commitment to build it. So what he has done — very cleverly; he has got some smart people down there — is he has used a video that complies with the guidelines and was created for him by the public sector body, and then he has shared it, but he has put his own spin on it to say, 'Hey, look at this video. This means we're building the road'. It is just a very simple way to get around the guidelines that we have not even created here yet as a Parliament. But it is actually a lot more than just $120 000 or whatever the Premier is spending on posts, because all the content — all the strange little videos with, you know, cars moving really fast and dodgy techno download-off-the-internet soundtracks — is being created by the public sector for one purpose. The Premier used it for another purpose, which is to say, 'Gee whiz, look at me; I'm doing this amazing thing.' It is a very clever way to get around guidelines. It is just quite disturbing that here we are passing a bill that is meant to create a new legal framework that is going to make these guidelines stick and these clever people over here have already worked out how they are going to get around it anyway. And there are other examples here. We've got a picture —

Mr Jennings — Do you want me to deal with one of them at a time?

Mr BARBER — I have passed them over to the minister.

Mr Jennings — I am just saying, do you want me to respond?

Mr BARBER — No; suit yourself.

Mr Jennings — This is a speech, this thing.

Mr BARBER — We have got another example here. The minister has got a copy of it in his hand. It is a Facebook tile, and it says, 'Federal funding for road and rail'. There is a little map of Queensland, a great big map of New South Wales and a tiny little map of Victoria. What is wrong with that is that if a government department produced it, it would not meet

the guidelines because in fact you are having a crack at another government. Well, it might meet the new guideline. There is a new guideline in here that I have just read from the proposed regulation that says you can use the money to advocate on behalf of the state. So it appears that what the government is doing here is they are advocating on behalf of us by actually attacking the federal government for not giving them enough money. I have got schools here —

Mr Jennings — And what is wrong with that?

Mr BARBER — We are about to determine that.

Mr Mulino — Why do you hate Victoria?

Mr BARBER — Why do you want Victoria so small?

> We're building 42 new schools. Here's a good look at one.

That is what the Premier says about this program, but in fact the 42 were not funded. He is sharing a piece of Facebook content — content is king. If it cheers the minister up at all, I see my own friends liking these tiles. I say, 'What are you doing? What are you doing liking the Premier's tiles? He's having a lend of you. He's spending your own money at you to make you like him.' That is the ultimate insult.

Mr Jennings — That is the sort of thing that you do.

Mr BARBER — The minister says that is the sort of thing I do. I am governed under a different set of guidelines. All my materials must meet those guidelines; I do not have any loopholes. And for that matter, if the Parliament decides that one of my tiles, one of my Facebook posts, one of my sponsored posts, fails the guidelines, it is back on me; I pay it out of my own pocket. I would love it if the Premier had to pay back $120 000 out of his own pocket because someone determined he had misused those taxpayer funds to promote himself. So let us not go there. We can bring in new guidelines for individual MPs if we want — I am happy to have a chat to the minister about that — but you cannot just put it off you when we are talking about you and your bill at the moment.

Again there is another one here about the trams and the headline 'Melbourne's trams to be solar powered':

> Good for jobs. Good for the environment.
>
> (And don't worry — you'll still be able to catch the tram at night.)

Very clever. You have got some cool dudes down there working for you, but unfortunately if they had to put upon themselves the type of discipline that this legislation, these regulations, would put on public servants, a large number of your groovy Facebook posts would be ruled out.

Mr Rich-Phillips — Does the minister want to respond?

Mr Jennings — I did not even know that a response was required, by the sounds of things.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — In the absence of a response from the minister, I will go to a further matter, which relates to the same definition that Mr Barber has been referring to. If I understand the minister's argument correctly, essentially the reason the communications Mr Barber is referring to are not included within this definition is that they are not created by a public sector body as defined under the Public Administration Act 2004, being a ministerial office, which is not within that definition.

The other element of public sector communication I would like to explore with the minister, putting aside the definition of 'public sector body', is the definition of 'communication' itself and whether there are any forms of communication that the government believes are not included within this definition? Is there anything the government is seeking to exclude from this definition, be it press releases by departments or any other form of communications that a public sector body would undertake?

Mr JENNINGS — I suppose one of the reasons why we have the potential for the intent of the legislation to be a little bit confusing is the way we have broadly described communication and communications methods and the various ways we try to provide protections, either through the legislation itself or through the regulations, in relation to the control of public money that is spent on forms of communication, in relation to its construct and its method of communication. That has been broad. So basically in response to Mr Rich-Phillips's question, yes, we are broad in relation to the way we define communication but are also specific in relation to what forms it can take.

Ultimately our purpose is in fact to constrain expenditure on television advertising, which again is not necessarily convenient to Mr Barber, because Mr Barber is actually trying to construct a story that the world is going to be overturned one tile at a time. That is not necessarily the case. There might be some evidence in the future to indicate that that is how most effective communication works, but up until now the prevailing expenditure

of public communication by government continues to be on free-to-air television. That is the primary focus of this piece of legislation, because of the way in which that has been, by and large, the centre of gravity of public expenditure that the government seeks to rein in and control through this legislation.

Mr RICH-PHILLIPS — Thank you, Minister. I take the point about television advertising. Obviously proposed section 97D relates specifically to television advertising, and we will come to that in clause 5. The other provisions of proposed part 5A relate to communications which are not television advertising. To the extent that the bill also relates to communications that are not television advertising I am keen to understand if it is the government's view that there are other forms of communications which are excluded from that definition.

Mr JENNINGS — Exclude, apart from what we have just talked about, relating to the scope of which entity or who generates it?

Mr RICH-PHILLIPS — Yes. Assuming the entity is a public sector body, which is the definition, is there any form of communication that would be undertaken by a public sector body that would not fall within this definition of 'public sector communication'?

Mr JENNINGS — I was going to confirm no; I am advised to say no. In fact the issue is in relation to the way in which the public sector body publishes under the definition that is in clause 4:

> … disseminate to the public by any means, including by —

publication in books, broadcast by radio or television, public exhibition or electronic communication. We think that covers the field.

Mr RICH-PHILLIPS — Thank you, Minister. The related question was actually going to that point, of the definition of 'publish': for the avoidance of doubt, does the government believe there is any form of communication that is excluded from that definition of 'publish'?

Mr JENNINGS — Not by design.

Could I just go back to a point that I am going to be arguing later on, because Mr Barber did not invite me to argue it at that time. In his reference to the allocation of federal funding and how Victoria has continued to be disadvantaged by decisions of federal governments, that may or may not —

Mr Barber interjected.

Mr JENNINGS — Mr Barber, now you are wanting to debate something completely different. The issue is, consistently — whether it is a coalition government in Canberra or whether it is a Labor government in Canberra — that the state of Victoria has done very badly over decades in relation to the degree of support. Either through the return of GST revenue or whether it be by national partnership agreements or whether it be on infrastructure programs, asset recycling, water allocations — you name it — Victoria has done badly. If you are actually saying that the state of Victoria should abrogate its opportunity to advocate on behalf of the interests of the people of Victoria, I think that is a bad move. The pictorial representation that Mr Barber created, which indicates that if the size of the states were proportionate to the level of commonwealth funding for road and rail, then Victoria almost disappears compared to New South Wales and Queensland —

Mr Barber interjected.

Mr JENNINGS — That is the one thing that they want to fund, Mr Barber. That is the thing that this whole gory mess in this current term has been about. If you actually tried to generate the contribution of jobs growth for the Australian nation in the last three years, and you did it proportionally on the basis of how many jobs have been created in Victoria compared to New South Wales and Queensland, I can tell you, thanks to our infrastructure program, that in fact those proportions would be completely inverted. So in terms of the contribution of state infrastructure spending, public transport infrastructure spending in the state of Victoria, then in fact jobs growth for this nation would have actually stood still. It is probably worthwhile that the Victorian community understands that the commonwealth are not contributing their fair weight to the effort of what Victoria is doing in either making jobs or that infrastructure expenditure.

Mr BARBER — The question really, Minister, though is: do you think the taxpayers want you to spend taxpayer funds to talk about how badly Victoria has done, knowing that eventually the federal government will probably be spending taxpayer funds to reply to your very successful advertising campaign? The question is not 'Should you advocate for Victoria?' — all Victorian governments would do that — but 'Are you going to use taxpayer funds to do that, because it could start an arms race of TV ads that would go on forever and start consuming money that could actually be used on the things that we agree we want?'.

Mr JENNINGS — Mr Barber, it is terrific to know, because in fact I was actually trying to not draw attention to what might unite us or divide us. It was by interjection that you told me what divides us. What I am saying to you is that currently the South Australian government continues to get, from its perspective, a very bad deal in relation to water allocations because, as you know full well, the further south you travel along a certain river system the worse you get in relation to a fair treatment. Currently the South Australian government feels obliged to have advertising to try to protect and promote the interests of its citizens, and Victoria is doing something similar at the moment in relation to it. Again, that is only through the prism of a website and not on the basis that we have put ads on TV that are very expensive. These are relatively modest graphics that were put up on a Facebook page. It probably took about 20 minutes to create the graphic and probably a minute and a half to write the text, and it was probably placed there pretty cheaply.

Mr BARBER — Your own bill actually draws a distinction between whether a public servant created that tile or whether a ministerial adviser in the minister's private office made that tile. Now this one relates to advocacy on behalf of Victoria. It would meet the guidelines for a public servant to deliver it, but there are a lot of other ones there that do not do that. It leads back to the same problem. If the South Australian government decides to create a TV ad saying that South Australia is getting ripped off on water, and then they just basically use targeted Facebook ads to pump that into the marginal federal seats that are in South Australia, it is entirely likely that everybody in that seat will start getting that little TV ad, effectively, via their Facebook page. The federal government can just turn around and do the exact same thing: target even more ads using taxpayer funds to people who live within marginal seats within the state of South Australia. I thought this bill was all about calling off the arms race, and maybe even unilaterally, but what I am finding as I go along is that the guidelines and the way the legislation is constructed do not necessarily do that.

Mr JENNINGS — Mr Barber has put it in an electoral context. At no stage have I put anything that I have said in an electoral context. In fact the bill prescribes actions of public sector bodies in relation to party-political activity. He might come back and say that the Premier in his entry decided to actually refer to a political party. Yes, he has referred to a political party in his text, but in fact the material that he has relied on clearly does not and clearly should not, in accordance with the guidelines that we are actually establishing for public sector entities.

Clauses agreed to.

Clause 5

Mr RICH-PHILLIPS — I move:

1. Clause 5, page 4, line 6, omit "Parliament; and" and insert "Parliament; or".

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

"(iv) the current Government of the State; or

(v) the current Government of the Commonwealth; and".

The amendments seek to make an amendment to proposed section 97C, which relates to public sector communication standards and provides:

> A public sector body that publishes or causes to be published a public sector communication must ensure that the public sector communication—
>
> (a) is not designed or intended to directly or indirectly influence public sentiment for or against—
>
> (i) a political party; or
>
> (ii) a candidate for election; or
>
> (iii) a member of Parliament.

The discussion I had during the course of the second-reading debate is that as far as paid advertising is concerned — and putting aside the press release example Mr Barber spoke about earlier — to the extent that governments undertake paid advertising, it is never directed towards a political party, it is never directed towards a candidate for election and it is never directed towards influencing sentiment for or against a member of Parliament. What it quite often is directed towards is influencing sentiment towards or against — generally towards — a government. Governments undertake advertising to promote themselves and to improve public sentiment in favour of themselves. I use the example of the billboard over CityLink that was on display quite recently promoting the Melbourne Metro project. It did not have any information about traffic congestion or disruption or anything like that. It was purely promoting the Melbourne Metro project and, by extension, promoting the incumbent government. The purpose of these amendments is to move beyond not promoting a party, a candidate or an MP, because that does not happen now, but in fact to say that government advertising should not be designed to influence — directly or indirectly — public sentiment for or against the current government of the state or the current government of the commonwealth.

Mr JENNINGS — I go back to my discussion about the commonwealth and just remind the committee that a few minutes ago I was having this conversation with Mr Barber in relation to what I believe should be the advocacy position of the state of Victoria in protecting Victorian citizens in the circumstances where the commonwealth may not protect their interests or may be actually working in adverse ways in relation to impacting upon their quality of life or in a way that would not fall foul of the guidelines but in fact would warrant public communication.

I want to take up the example that you talked about before, Mr Rich-Phillips, in the second-reading debate, and you have just repeated there in relation to the material that explains to the Victorian community what the Melbourne metropolitan railway system may be. You refer to a static advertisement that is on a billboard, indicating that in your view it is only to provide for a better impression of the Victorian community towards the government. I cannot deny that that may occur, but I would suggest to you that the primary reason why there needs to be an explanation of what the value of the project is is to actually provide for community permission and acceptance of the extreme disruption that the community has already started to feel and will feel over time in relation to understanding why there are roadworks, why the City Square has disappeared, why communities may be disrupted in relation to the level crossing removal program and why their intersections may be shut down and their strip shopping centres may be impacted on for a month or two in a way which has an adverse impact on businesses or communities for the months in which that construction takes place.

It is the government's view — and the view of the Level Crossing Removal Authority and the Melbourne Metro Rail Authority — that there needs to be a degree of community recognition of what these projects are about to provide for a degree of community acceptance. I am not going to hold you to it, because you have not voiced any word, but there was a nod there. I think that there is a need for the community to understand what the impact of policy and programmatic changes may be that may impact upon their lives so that they have an appreciation of it, and that would be supported by advertising campaigns that do run on electronic media that talk about the specific times during which trains will be replaced by buses or when intersections or roads may be closed, to enable reconfiguration of a person's daily activity. They will have a residual memory of why this is occurring rather than just focusing on the disruption itself. That is the logic. We try to connect those things.

Does that have the potential to hold the government in good light? Maybe it does on the basis of the importance of those projects, but as much as possible we try to not lose sight of our obligation to be as dispassionate as we can when it comes to how that material would be interpreted in party-political terms and what role that information plays in the community being better empowered and better informed about what might be inconveniencing their lives at this moment but may actually assist it in the future. I thought it was important for me to explain that concept.

The government is not going to agree to your amendment 2 for the reason that we believe we should not limit — not in a party-political sense but in the sense of protecting the interests of the citizens — the ability that this bill would provide if this amendment were imposed upon the state of Victoria in relation to taking action about a national issue that either may have previously disadvantaged Victorians or might disadvantage them in the future. We think it is the issue in relation to the connection of the advertising with the commonwealth that provides us with some difficulty in this context, and we cannot support this amendment.

Mr RICH-PHILLIPS — Thank you, Minister. I guess there are two issues there. Firstly, in relation to the example of the billboard promoting Melbourne Metro — I do not think it is there now; I think it was last month — over the CityLink freeway on the railway bridge, I accept the minister's point that there is a need for information around projects. What I would suggest to the committee, though, is that that billboard did not perform that function. Indeed if it did perform that function, if that was the intention, it would not fall foul of my proposed amendment because the proposed amendment relates to communications that should not be designed or intended to directly or indirectly influence public sentiment for or against — in my amendment — the government.

Mr Jennings — Sorry to interrupt you, but I was only giving that example in light of why that particular ad may serve a community benefit. Our difficulty with your amendment is in how it relates to the commonwealth.

Mr RICH-PHILLIPS — If you take the minister's explanation at face value — and I am still dubious about that particular billboard — that billboard and that communication would not be prevented by this amendment.

On the second point in relation to the commonwealth, it is our view that this amendment does not prevent advocacy — again because the intention of this section

is around influencing sentiment for or against a government. I would make the distinction between that and advocacy for or against projects. If they are advocating for extra funding — a bigger proportion of road funding or water allocation or whatever — that is very different to a campaign that is advocating, or a campaign that is designed to influence sentiment, for or against the commonwealth government. There is absolute legitimacy in the Victorian government advocating for things from the commonwealth, but that would not be through a campaign that was designed to influence public sentiment for or against that government. It would be through a campaign that was designed to promote the state's position on why we should have a bigger proportion of GST, a bigger proportion of road funding or a bigger water allocation, as distinct from being designed to influence sentiment towards or against the commonwealth.

Mr JENNINGS — I think that ultimately becomes a fairly subjective measure.

Mr Rich-Phillips — The whole bill is subjective.

Mr JENNINGS — Yes, absolutely it is, but this government is mindful — and I am not going to be talking about the circumstances in future Parliaments — of what this house might do in relation to where the government does not necessarily have a majority, or in some instances where the government does have a majority, and then what happens in this house in relation to the provisions of this bill.

In relation to this issue, let us take Mr Barber's example of the road funding allocation. He had difficulty with the state of Victoria saying that we are badly done by in relation to road and rail investment. He takes it from his vantage point as the opportunity to say, 'A pox on both your houses — state and federal government. I don't like either of your policies. I don't like either of your projects. I am going to reserve my right to have a go at you in relation to this issue of whether you get the money or not'. That is what his view is.

If Mr Rich-Phillips had a majority in this place without Mr Barber, then Mr Rich-Phillips could come into this chamber and condemn this government of the day because the coalition may have the majority available to it in this chamber and may spend six months using the provisions of this bill to criticise the Victorian government for doing nothing other than advocating a position, if your amendment gets up, because that is what you would rely on — the bill. You would argue in this chamber, and prevail, that we were adversely impacting upon the reputational standing of the coalition government in Canberra. That is how politics works in this chamber — I know it pretty well — and I would suggest to you that the less we provide for those opportunities, the better.

Mr BARBER — Hence the bill and hence the proposed improvements to the bill, which were all about disarmament. You are still going to be arguing against each other; you will just not have as much taxpayer funds to do it with.

Mr Rich-Phillips's example of the billboard was not a very good example of why his amendment should prevail. The billboard appears to impact on new section 97C(a), which says it:

> (a) is not designed or intended to directly or indirectly influence public sentiment for or against—
>
> (i) a political party; or
>
> (ii) a candidate for election; or
>
> (iii) a member of Parliament —

and now he says a government, state or federal. Well, that is a bit of a design fault with the legislation, is it not? The person — and it will not be a politician; it will be a public servant — has to kind of divine that that billboard is not designed or intended to directly or indirectly influence public sentiment. If the billboard said 'We're going to dig up the City Square for the next four years — just letting you know', that would be different. But this is simply saying, 'Melbourne Metro — let's revel in the glory of this project'.

There is a billboard at the end of my street, paid for by the government, that says they are doing level crossings in Melbourne. It is a billboard. It just says, 'We're doing level crossings'. You are not doing the level crossing at the other end of my street. You might be doing one level crossing up in Coburg, but that billboard does not contain any useful information. It does not help me as a citizen to participate more in civic life. It is not saying, 'Watch out. We're going to dig up your street'. It is not saying, 'Take this other route'. It is just saying, 'Damn, we're good. Look at what we're doing'. It is like some bloke who comes in and says, 'Look at me, darl, I just loaded the dishwasher'. What do you want? You should be doing that kind of thing.

Mr Mulino — Well, not all governments do though.

Mr BARBER — You see, there you go. The thing about this debate that we are having is that it may be that Mr Rich-Phillips's amendment does not actually have any impact on advocacy because in fact he is amending new section 97C, which invites a public servant to perhaps look into their own motivations or

perhaps do a textual analysis of whatever this advertising is and make sure that it is not designed or intended to influence public sentiment against this expanding list of people. But it is actually new section 97B that empowers the publication in the first place. It relates to the public interest. In fact when you go to the draft regulations, at (5) it says 'for the purposes of 97B', following the prescribed public interest purposes, and one of those is 'to advocate on behalf of the state to advance the state's position or interest'. So what it is effectively saying is that at new section 97B you can advocate for the state's interests, but at 97C, amended by Mr Rich-Phillips, you cannot do it in a way that is designed to make public sentiment for or against your government or somebody else's government.

I notice he has left out local government from this list. He only talks about state and commonwealth governments. Presumably he is happy for the government to spend money on advertising saying that such and such a council is doing a terrible job. Look at these people: they are not doing the three Rs anymore. They are not doing roads, rates and rubbish. Some of them thought the fourth R was reconciliation. Some terrible councils out there have got the four Rs now — roads, rates, rubbish and reconciliation. They might have a few Greens on them — they are not controlled by Greens, but they do have Greens on the councils. I am sure that there are very many politicians around here, if they had the chance, who would love to run some ads saying, 'That's a terrible council out there'. Because, let us face it, local government is the whipping boy of choice for all the state and federal governments around Australia.

An honourable member interjected.

Mr BARBER — I think I heard a little interjection up here on my right saying, 'They deserve it'.

I think this is okay. I think Mr Rich-Phillips's amendment simply de-escalates at one level the ferocity —

Mr Jennings — You just put a hole in it. You put a hole in it yourself.

Mr BARBER — The bill is full of holes — thank you very much, Minister — including one that says no minister's office has a budget for communications that is exempt from these regulations. Is that correct? He is nodding. The other man over there, from the Liberal Party, is making strange faces.

I did ask a question on notice on 7 June 2016 about the Premier's budget for these things. I actually asked the same question that I have asked today, which is: how much is the Premier spending on his Facebook? The answer I got back was:

> We are reducing expenditure by moving to more effective, efficient and targeted advertising such as digital.
>
> We've spent an average of $15 million less on advertising each year than the previous government.
>
> The most recent government advertising report —

blah, blah, blah, blah, blah. He did not answer the question.

We have got an answer today — that is good. Apparently the Public Accounts and Estimates Committee had a bit more luck than I did. The minister indicates that no other minister's office has access to funds that they can use to promote themselves or for Facebook posts or anything like that. I think that since new section 97B retains its intactness, we all agree that it is a matter of public interest, as defined by the act, to advocate on behalf of the state to advance the state's position or interests. But a public servant doing that would simply need to have mind to the next section — new section 97C — as they already do in relation to other advertisements and other types of communications.

I am not saying the Premier cannot advocate on behalf of Victoria. He can call a press conference if he wants. He can go up to the Council of Australian Governments and call a press conference up there. He generally gets a pretty good turn-up at his press conferences. But he is not going to be using taxpayers funds to do that advocacy — kicking off an arms race with the federal government then undertaking counter advocacy using taxpayer funds while the poor old taxpayer is in the middle saying, 'Why are these people wasting money on promoting their various political platforms when I might not actually agree with any of the propositions that are being put forward?'. For that reason, the Greens will support Mr Rich-Phillips's amendment.

Mr RICH-PHILLIPS — I thank the Greens for their support of this amendment. Just before we vote on the amendments and clause 5 there is just one other matter I want to ask the minister about. It is simply in relation to proposed section 97D, which is the section in relation to television. Could the minister outline what the definition of television is for the purposes of this act, given it is undefined whether it is intended to be just free-to-air advertising, paid TV advertising, internet television et cetera. What is the scope of television for the purpose of this section?

Mr JENNINGS — Maybe I should read from the text that has been prepared on this matter.
Mr Rich-Phillips is quite right: television is not defined in the bill and the Public Administration Act itself. It is not contained within the principal act or in any Victorian or commonwealth legislation for that matter.

It states:

> However, our view is that a court would be likely to give 'television' a narrow meaning for the purposes of the bill, in accordance with its natural meaning (e.g. an electronic broadcast system in which broadcasters transmit a continuous program of video content to the public or subscribers by way of antenna, cable, or satellite dish, often on multiple channels). On this meaning, television would not include the broadcasting/publication of video over the internet.

It would not.

Mr RICH-PHILLIPS — Thank you, Minister. That seems slightly contradictory — the reference to broadcasting over cable — but if the intent is that it does not cover internet television we will take it as free-to-air and paid television.

Committee divided on amendments:

Ayes, 26

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

Noes, 14

Dalidakis, Mr	Mikakos, Ms
Eideh, Mr	Mulino, Mr
Elasmar, Mr	Pulford, Ms
Gepp, Mr (*Teller*)	Shing, Ms
Jennings, Mr	Somyurek, Mr (*Teller*)
Leane, Mr	Symes, Ms
Melhem, Mr	Tierney, Ms

Amendments agreed to.

Amended clause agreed to.

Clause 6

Mr RICH-PHILLIPS — I move:

3. Clause 6, page 6, line 7, after "in part by" insert "a House of'.

The intention of this amendment is to clarify, with respect to the disallowance of regulations, that the regulations can be disallowed by either house of Parliament. It is the common practice of statutes in Victoria that where a statute provides that regulations may be disallowed they be disallowed by either house. The bill, as drafted, provides that the regulations may be disallowed by the Parliament, and implicit in that is the need for both houses to disallow regulations. So it is the intention of the coalition's amendment to modify that to be either house of Parliament, as is the convention with most regulations that are disallowable.

Mr JENNINGS — We will get no credit for this. We will get no credit at all, because we have had no credit up until now. We have introduced a bill to tighten regulatory controls on ourselves. That is all we have done, and we have been subjected to a bit of ridicule because of that. Having said that, that is all we are doing — placing regulations to restrict what a government can do in the future. We are actually saying that governments establish legislation and regulation, and the way in which we will measure that is by whether the Parliament supports the legislation and the regulation. That is the construct that we are into at the moment.

What we are concerned about and the reason we want it to be both houses is that we do not want a situation where the government of the day, which may not be the slightest bit interested in regulating itself — the government of the day that may have a majority in one house — may come in and say, 'No, we'll disallow this because we don't want the regulation to apply to us'. When this party was in the majority in this place, we fundamentally reformed this place. A number of you are sitting here because we reformed it when we had the majority in this chamber.

Mr Barber — I would be the member for Richmond now if you hadn't.

Mr JENNINGS — Your ego knows no bounds, Mr Barber. You could be the Secretary of the UN. I do not know that you should have limited yourself to Richmond.

Mr Barber — We had a Green on the UN Security Council.

Mr JENNINGS — Exactly. This is what I am saying to you.

Our track record is one of placing restrictions on ourselves. That is what we are doing again today. That is not the track record of the coalition, may I suggest to you, in relation to the way in which they have used this

chamber. Mr Davis will leave, because he gave no-one anything for four years — never a document, never an answer and never anything apart from what suited him. That is the thing we want to mitigate against: that potential for future governments to excuse themselves from any form of regulatory control. That is the reason we have opposed Mr Rich-Phillips's amendment.

Mr BARBER — I have a question for the minister. I have not checked this aspect. Do these regulations that will be promulgated have a sunset or are they perpetual?

Mr JENNINGS — There is not the intention at this point in time for them to sunset.

Mr BARBER — In relation to Mr Rich-Phillips's second amendment, the minister makes quite a good point. It is entirely possible that a party could use its numbers in one house to disallow regulations that were actually being lifted in terms of standards because that party thought it was just about to enter government and wanted a lower standard to apply to itself. It is just as likely that an incumbent government might try to lower the standards and that a house could actually prevent that lowering, but it is also possible that they could prevent the lifting of standards to a higher level.

Mr RICH-PHILLIPS — I disagree with the minister's proposition because the reality is that it will be open to any incumbent government to remake the regulations. A government will not need to disallow regulations. The minister's argument is that requiring both houses would prevent a government in the other place disallowing regulations it did not like. The reality is that it is open to an incumbent government to remake regulations anyway. A government does not need to disallow them; it can simply gazette new regulations which then could not be disallowed by both houses.

Mr JENNINGS — I think the committee has great potential to confuse itself in relation to the logic and the possible permutations of how this may apply. I chose to make a political point about how this chamber has been used and how this chamber could continue to be used in the future, and that is the reason and the logic that underpins our regulation. We are not going to die in a ditch over this matter in terms of the tortured logic of how this applies. I have made my political point. The government of this day is regulating itself in a way that no other government has chosen to. All we are getting is cheap shots coming back the other way, but nonetheless we intend to regulate and we intend to reduce expenditure in alignment with our commitment. That is what we are doing.

Mr BARBER — I think the minister and the shadow minister are both making the same mistake in assuming the lower house will always be controlled by one party.

Mr JENNINGS — Mr Barber will be a Green in the Legislative Assembly in the next Parliament, he is telling us.

Committee divided on amendment:

Ayes, 20

Atkinson, Mr	Morris, Mr
Bath, Ms (*Teller*)	O'Donohue, Mr
Bourman, Mr	Ondarchie, Mr
Carling-Jenkins, Dr	O'Sullivan, Mr
Crozier, Ms	Patten, Ms
Dalla-Riva, Mr	Peulich, Mrs
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
Dunn, Ms	Pennicuik, Ms (*Teller*)
Eideh, Mr	Pulford, Ms
Elasmar, Mr (*Teller*)	Purcell, Mr
Gepp, Mr	Shing, Ms
Hartland, Ms	Somyurek, Mr
Jennings, Mr	Springle, Ms
Leane, Mr	Symes, Ms
Melhem, Mr	Tierney, Ms

Amendment negatived.

Clause agreed to.

Clause 7

Mr JENNINGS — I move:

2. Clause 7, line 13, omit "11 April" and insert "30 November".

Amendment agreed to; amended clause agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

JURY DIRECTIONS AND OTHER ACTS AMENDMENT BILL 2017

Second reading

Debate resumed from 2 May; motion of Ms PULFORD (Minister for Agriculture).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I rise this afternoon to make some comments on the Jury Directions and Other Acts Amendment Bill 2017, which the house is considering. This is the latest tranche of legislation that the house has seen about clarifying and simplifying the framework with respect to directions to juries. It is part of an ongoing suite of amendments which has proceeded through the last two parliaments with the objective of making it easier for judges to give directions to juries and, importantly, making it easier for juries to understand the directions that are given in respect of matters that they are sitting in judgement on.

I refer to the main provisions of the bill. Clause 5 abolishes a number of common-law rules requiring judges to give certain directions relating to previous representations, reliability of evidence, interest in outcome of trials and motives to lie.

Clause 7 of the bill requires a judge in a trial involving a charge of sexual offence to inform the jury that it is common for a complainant's accounts of alleged sexual offending to differ and that both truthful and untruthful accounts may contain differences.

Clause 9 of the bill provides that a judge need not give a direction for a jury to persevere in reaching a unanimous verdict before giving a majority verdict direction. Clause 12 provides for the implementation of a general jury guide developed by an expert advisory group, which summarises important information relevant to criminal trials. Clause 22 removes the requirement that a jury deliberate for at least 6 hours before a court may discharge it or accept a majority verdict.

The coalition parties do not oppose this bill. We believe that a number of the provisions are quite reasonable in the way in which they reform the way that directions to juries operate. One of the concerns that has been raised with the coalition relates to the provisions of part 3 of the bill, and this is a matter that was raised as a concern by the Scrutiny of Acts and Regulations Committee (SARC) in its consideration of the bill. It is in relation to the fact that a court's reasoning must be consistent with how a jury would be directed and must not accept or rely on statements, suggestions or directions that a trial judge would not be able to give to a jury. So in instances where a court is sitting as a judge or as judges without a jury the court must reach its decisions in a way that would be consistent with how a jury would be directed.

Concerns have been raised by SARC that this may lead to significant limitations on how magistrates may operate and how the Court of Appeal may hear summary hearings, committal hearings and appeals from lower courts with that constraint placed around the reasoning of judges. SARC has flagged that as a concern, and that is a concern that stands with the coalition.

Another provision where there is an element of concern is in clause 7, relating to requiring a judge involved in a sexual offence trial to advise the jury that it is common for a complainant's account of alleged sexual behaviour to differ, so there may be differences — the evidence given by the complainant may differ. The way in which that direction is given and the implications that has on the conduct of the trial and the consideration of the jury is something that has been raised as a concern from within the legal profession. Obviously the intent is recognised, but the practical application of such a direction that evidence may vary, whether that is truthful evidence or untruthful evidence, risks creating confusion for a jury. The practical implication of such a direction is one that is of concern to some in the criminal jurisdiction of the legal profession, and it is one that we believe will need to be carefully monitored in its implementation as to the practical effects of giving such a direction to a jury in sexual offences trials.

The other key provisions in relation to the development of the general jury guide by an expert panel we think is a useful step forward in providing advice to jurors around their role and the way in which jury deliberations in criminal trials should be conducted, and we see that as a positive development in this bill. Likewise the provision that removes the requirement for a jury to deliberate for at least 6 hours before the court may discharge it or accept a majority verdict is also one that we see as reasonable. If a jury has determined that it is not going to reach a unanimous verdict, there seems little reason to persevere in requiring it to sit for 6 hours before determining that it can either be discharged if it is not going to reach a majority verdict or allow a majority verdict to be determined. That is a reasonable efficiency measure in improving the operation of the criminal jurisdiction of our courts. In trials where unanimous decisions are not going to be reached and where the jury has determined that they are never going to be reached, we see that as a

reasonable way of expediting proceedings without, presumably, impacting on the outcomes of justice. The coalition is happy to see that provision go forward.

The coalition does not oppose the bill. We do think there are some useful measures in terms of updating the law with respect to jury directions. This is a body of work which has been underway for a period of time. It is a useful body of work in terms of simplifying directions to juries and a jury's understanding of the way in which the criminal jurisdiction operates. We do have some reservations with respect to directions in sexual trials that it is common for evidence from the victim to differ. That is an area of concern. Likewise we recognise SARC's concerns with respect to part 3 around a court's reasoning being consistent with directions that would be given to a jury, even when a court is sitting as the Court of Appeal or as a magistrate. But with the exception of those two provisions we reflect that the rest of the bill is a useful amendment to the way in which jury directions operate in this state, and the coalition will not be opposing it.

Ms PENNICUIK (Southern Metropolitan) — I am pleased to rise to speak on the Jury Directions and Other Acts Amendments Bill 2017. This bill amends the Jury Directions Act 2015 and makes related amendments to other acts, including the Criminal Procedure Act 2009 and the Juries Act 2000. It aims to build upon the work that was done in previous reforms to jury directions, which first began with the Jury Directions Act 2013. The current Jury Directions Act 2015 made improvements to that act, which it replaced, and it added new provisions to clarify and simplify jury directions on issues such as unreliable evidence, delay and credibility.

The amendments in this bill are based on a report by the Department of Justice and Regulation called *Jury Directions: A Jury-centric Approach Part 2*. The expert advisory group was established by the department to assist in the reform process. That advisory group comprised high-level representatives from the Court of Appeal, the Supreme Court, the County Court, the Office of Public Prosecutions, Victorian Legal Aid, the Victorian Bar and the Judicial College of Victoria, as well as academics specialising in jury research. Members of the Criminal Law Review have also made a contribution to the department's report, outlining the recommendations implemented in this bill.

It is interesting to read the opening statement of the special counsel, Greg Byrne, in the report, where he says:

> Lord Justice Moses described the traditional approach to jury directions as 'a system designed to ensure, in any but the simplest of cases, that the path we require [the jury] to follow should be as obscure, as tortuous and as arduous as could possibly be devised.

I think we often hear that it can be quite difficult for juries, particularly in complicated trials, to follow proceedings. That is why it is important to make sure that juries are given clear, understandable directions from judges in criminal trials.

The opening statement to the report goes on to say:

> The aim of jury directions is to ensure a fair trial with the jury verdict representing the application of the law to the facts as found by the jury. However, after reviewing many empirical studies measuring jury comprehension, Ogloff and Rose concluded that 'jurors appear largely incapable of understanding judicial instructions as they are traditionally delivered by the judge … The overwhelming weight of the evidence is that [jury] instructions are not understood and therefore cannot be helpful.

We are now in the seventh year of reform of jury directions to make them more clear, concise, accurate and understandable by juries. The bill before us addresses a number of problematic areas to provide for more clear and simple directions to juries, such as the giving of evidence by an accused, the interest an accused or witness has in the outcome of a trial, a prosecution witness's motivation to lie and differences in a complainant's account of an alleged sexual offence. In particular that is addressed under clause 7 in new section 54D. That is, we believe, a helpful provision in giving effect to important research in the area of sexual offences and how victims react to trauma.

Under new section 54D, in particular section 54D(2)(c), where the trial judge considers that there is evidence in the trial that suggests a difference in the complainant's account of the offence charged that is relevant to the complainant's credibility or reliability, it is mandatory rather than discretionary for a judge to direct a jury that experience shows that people may not remember all the details of a sexual offence or may not describe a sexual offence in the same way each time; that trauma may affect different people in different ways, including by affecting how they may recall events at different times; that it is common for there to be differences in accounts of a sexual offence; and so forth.

We too have had representations made to us about this particular provision, new section 54D, which requires a judge to inform a jury that people may not remember all the details of the offence or may describe it differently on different occasions due to trauma et cetera. While we understand the points being made by those who raise concerns with this particular provision, as Mr Rich-Phillips referred to, we do

believe the evidence is that juries do require direction regarding these types of matters.

The other issue that pertains to jury directions in sexual offence cases is that under the act they are not mandatory. We have on previous occasions raised the issue that not only is there the evidence about what I have just been describing — about how complainants can be traumatised by the experience and have different recollections at different times et cetera — but the evidence also points to the fact that within the community there are still stereotyped attitudes towards sexual offences, and these are carried of course into criminal trials by jurors who share those stereotyped attitudes and who can, without careful direction by judicial officers, perhaps not come to the right conclusions with regard to the evidence that is given by complainants in such cases. That is why we have always taken the view that there should be mandatory directions.

Acting President, we do have some amendments, which I would like to have circulated, to that effect with regard to mandatory jury directions. There are some other amendments as well that could be circulated at the same time in regard to the terms 'victim' and 'complainant'.

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

Ms PENNICUIK — As I was saying, the Greens have in debating previous bills, where there has been the opportunity to do so, attempted to make jury directions in sexual offence cases mandatory rather than discretionary. This would mean that judicial officers would need to ensure that all juries have a clear understanding about the legal requirements in sexual offence cases. This has been called for by groups such as the Centre Against Sexual Assault and the Federation of Community Legal Centres, which assist people in sexual assault cases, and by the Victorian Law Reform Commission (VLRC). However, these have not been supported in the past. Given that this is another opportunity to do so, even though this particular amendment may be outside the scope of the bill, I do have a motion to put before the committee that the committee be able to consider such amendments.

As I was saying, we feel it is very important that juries in all sexual offence case are given clear directions by judicial officers as to the law, and in particular with regard to consent and other matters that may be raised in such cases. This is to make sure that juries are applying the law over and above the attitudes they may have brought with them into the courtroom.

The bill also does a few other things. It abolishes common-law directions on the truthfulness and reliability of a victim's evidence. It provides that problematic common-law directions on previous representation evidence are not required. It provides directions about majority verdicts and persevering to reach a unanimous verdict in that a judicial officer would encourage juries to persevere if they were to report back that they are unable to reach a unanimous verdict. It allows the judicial officer to decide whether or not, or at what time, they will advise the jury that if they cannot reach a unanimous verdict they may be able to reach a majority verdict. It also removes the 6-hour time limit that currently exists.

Importantly, the bill provides legislative backing for a general jury guide to assist jurors during the trial and their deliberations. We believe this is an important initiative to demystify criminal proceedings for juries and to help them in performing the very important role that they play for the community. Such a guide may contain general information about the process of criminal trials, including the role of the jury, the judge and the parties; the usual order of events in a trial; information about legal concepts that are relevant to criminal trials, including information about the presumption of innocence and the requirement for proof beyond reasonable doubt; and general information about jury deliberations and processes.

The bill provides directions about the order in which certain matters are considered in jury deliberations and applies relevant aspects to the Jury Directions Act 2015 to criminal proceedings that do not involve a jury. That was a matter that was raised by Mr Rich-Phillips and also by the Scrutiny of Acts and Regulations Committee (SARC). I have had a look at the issues raised by SARC, and also at the minister's response to those, about how judicial officers, in the absence of a jury, would in fact apply what would be jury directions to themselves when considering cases in those circumstances, and I am satisfied with the response given by the Attorney-General in regard to that matter.

The other amendment that I have circulated is about the use of the terms 'complainant' and 'victim' in jury directions in all court cases. I have queried why the term 'complainant' is not preferred in almost all cases, rather than the term 'victim', as 'complainant' is a neutral term that does not allow for conscious or unconscious bias to be formed by a jury, a judge or anyone else against an accused. The bill continues to use the term 'complainant' for sexual offence cases,

which provides for a jury to determine whether a complaining witness is a victim or not — which is a fundamental principle of law.

In raising this query regarding the appropriate use of the terms 'victim' and 'complainant' with the Attorney-General, I was informed that the VLRC in its recent report states that in the majority of cases:

> … there is no dispute that the victim is truly a victim …What is in dispute is whether it was the accused who committed the crime … In sexual offence cases …

where a person can give consent to sexual acts —

> the issue may be whether the alleged victim is a victim or a voluntary consenting party.

So the term 'complainant' is used.

The Attorney-General referred to the use of the term 'victim' in other legislation relating to criminal law to justify its use throughout this bill; however, some of the instances of its use elsewhere are for very discrete or specific purposes, such as sections 79 and 108C of the Evidence Act 2008, which refer to 'victim' not in the context of the actual complainant in the case before the court but in reference to expert opinion being provided relating to the behaviour of children who have been victims of sexual offences. Here it would not be appropriate to use the term 'complainant'.

The term 'victim' is used in certain other pieces of legislation, and also in part 6 of the jury directions bill for family violence provisions. The use of the term 'victim' under this part is, however, only in relation to very discrete and specific circumstances — that is, within the context of family violence — and is needed to cover situations where the victim is in fact a deceased person and so could not be referred to as a complainant.

While section 6 of the act provides that in giving a direction to the jury, trial judges need not use any particular form of words, I think it is preferable to be consistent and in the interests of justice to use the term 'complainant' rather than 'victim' wherever possible so as not to lead a jury, for example, as to the guilt or innocence of the accused. While it can be argued that in the majority of cases there may be little dispute that a victim truly is a victim — the question is whether the accused committed the crime — there are still cases where the alleged victim is not a victim and in fact may have made a false allegation, and this must be accounted for even with the provisions in the bill relating with general application.

I also think the word 'victim' has a lot of other connotations around it, and I do believe that the word 'complainant' is a more neutral term. I was interested when reading through *Jury Directions: A Jury-centric Approach* to see that in part 5 the report talks about doubts regarding the truthfulness or reliability of a complainant's evidence, known as the Markuleski direction, which is actually repealed by this bill. In that particular chapter, which talks about general application, not just in sexual offences, the term 'complainant' is used. In fact throughout the report there is a bit of interchangeability in the use of the terms. The report does not actually go to the issue of the uses of the terms 'victim' and 'complainant', but I have thought about it and discussed it with a number of people and I think it would be an improvement if legislation erred on the side of using less emotive terms, or less loaded terms, and more neutral terms.

With those comments, the Greens are supportive of the reforms in the bill. We would just like to see jury directions in sexual offence cases being mandatory, and we do have this issue with regard to the use of those terms that I have mentioned, 'complainant' and 'victim', and their appropriateness.

Ms SYMES (Northern Victoria) — I too rise to just make a brief contribution on the Jury Directions and Other Acts Amendment Bill 2017. The government is committed to further simplifying and improving the way information is provided to juries in criminal trials. We have heard from previous speakers that the reform process in relation to jury directions and jury reform has been underway for many years, and it is great to see continual improvements as we proceed. Of course jurors are faced with a difficult task in criminal trials, so reform of the law in relation to jury directions should aim to make their task easier by ensuring that the directions given to jurors are clear and assist in their decision-making processes. These changes are intended to result in fewer appeals and retrials and therefore minimise as much as possible the stress and harm caused to victims and their families. We are always working to improve the experience of the criminal justice system for victims. Of course we all understand that going through the criminal justice system as a victim is never an easy time, so we should certainly be looking at anything we can do to lessen the burden that is placed on victims being forced into the system.

Directions that jurors can more easily understand and apply will also enhance the integrity of jury verdicts and the criminal trial process. Jury directions are the directions a trial judge gives a jury to help them to decide whether the accused person before them is guilty or not guilty, so it is a very important area of law.

Given the fundamental importance of trial by jury to Victoria's criminal justice system, directions must be helpful, relevant and as fair as possible.

This bill builds on previous reforms, including the Jury Directions Act 2015, and also makes related amendments to other acts, including the Criminal Procedure Act 2009 and the Juries Act 2000. In essence the reforms include clarifying the content of particular directions, discouraging or abolishing unhelpful and confusing directions, removing arbitrary time requirements for jury deliberations and introducing new directions to address common misconceptions. In the same way as previous jury directions reforms have been discussed in detail by the expert advisory group established by the department to assist in this reform process, the members of this advisory group — and I would like to thank them for their work — consist of representatives of the Court of Appeal, the County Court, the Office of Public Prosecutions, Victoria Legal Aid and the Criminal Bar Association as well as the Judicial College of Victoria and a few academics specialising in jury research. Their input has been vital to ensure that the proposed jury directions are fair, clear and effective.

Ms Pennicuik has indicated that the Greens have some amendments. I note that one of those is out of scope, but on this occasion it is not the government's intention to oppose the motion to proceed with those amendments. Having said that, it is not the government's intention to support those amendments, Ms Pennicuik. I will allow the minister to further elaborate in the committee stage. I commend the bill to the house.

Motion agreed to.

Read second time.

The ACTING PRESIDENT (**Ms Dunn**) — I have considered the amendments circulated by Ms Pennicuik. In my view amendments 2 and 12 are not within the scope of the bill, therefore an instruction motion pursuant to standing order 15.07 is required.

Instruction to committee

Ms PENNICUIK (Southern Metropolitan) — I move:

> That it be an instruction to the committee that they have power to consider amendments and new clauses to amend the Jury Directions Act 2015 to change the circumstances in which directions on consent and reasonable belief in consent are to be given in a criminal proceeding relating to a sexual offence.

As I mentioned in my second-reading contribution, the Greens have raised the issue before in this Parliament that jury directions in sexual offence cases should be mandatory rather than discretionary, meaning that judicial officers would need to ensure that all juries have a clear understanding about the legal requirements in sexual offence cases. This is something that is being called for by groups such as the Centre Against Sexual Assault and the Federation of Community Legal Centres, who assist people in sexual assault cases, and by the Victorian Law Reform Commission.

Many surveys and studies have shown that there are still existing attitudes in the community with regard to blaming people who have been sexually assaulted — blaming the victims, so to speak. There are in fact some recent surveys showing worrying trends among young men in particular — not only amongst young men but amongst the general community — with regard to sexual offence cases. Of course we know the vast majority of cases do not actually proceed to court. Many sexual offences are not even being reported let alone proceeding to court, so we believe it is important, given these prevailing attitudes in the community, that in these cases, that in all cases which come to court with regard to sexual offences, jury directions about the legal requirements and other matters in the case are always given to the juries in the interests of a fair trial, in the interests of justice for all parties and in terms of making clear to juries what their responsibilities and roles are with regard to those particular cases.

Motion agreed to.

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — The house has agreed to an instruction motion to give the committee the power to consider amendments regarding direction on consent and a reasonable belief on consent.

Ms PENNICUIK (Southern Metropolitan) — I move:

1. Clause 1, page 2, line 3, omit "victim" and insert "complainant".

This is an amendment to clause 1 to omit the word 'victim' and insert the word 'complainant'. I understand that this is a test for my amendments numbered 4 to 11 and amendment 15, which make a similar change to a number of other clauses or parts of clauses. This is with regard to the desire to see in the act

the use of the word 'complainant' rather than 'victim', because it is a much more neutral word than 'victim'. I think it would be preferred in most cases as it is a neutral term that does not allow for conscious or unconscious bias to be formed by a jury, a judge or anyone else against an accused. The bill uses the term 'complainant' for sexual offence cases and provides for a jury to determine whether a complainant witness is a victim or not. That is because in sexual offence cases the issue of consent is central to the matters at hand.

In my second-reading debate speech I spoke about queries I had raised with the Attorney-General and his reference to some particular sections of the Evidence Act 2008 — sections 79 and 108C — which refer to 'victim', but in a case where they are not talking about a complainant but are referring to a third party or they are talking about a child who is a victim of child sexual abuse, and also to another part of the act which could be referring to a deceased person, who of course could not be referred to as a complainant either. I note that in giving a direction to a jury, trial judges need not use any particular form of words; however, I think it is preferable to be consistent and in the interests of justice to use the term 'complainant' rather than 'victim' wherever possible so as not to lead a jury, for example, as to the guilt or innocence of the accused, remembering that everybody is presumed innocent until proven otherwise — which of course would be a direction given by judges to juries in many cases in any case. That is why I am moving this amendment.

Ms TIERNEY (Minister for Training and Skills) — The government will not support this amendment. We believe that the word 'victim' for provisions with general application and the term 'complainant' for provisions in part 5, which applies to sexual offences, in fact reflects the fact that in many cases what is in dispute is not whether the victim is truly a victim but whether it was the accused who committed the crime or whether the relevant elements of the offence are made out. In sexual offence cases where a person can give consent to sexual acts the issue may be whether that person is a victim or a voluntary consenting party. For this reason the term 'complainant' is preferred in sexual offences matters.

This is consistent with the approach in the Jury Directions Act of 2015. This is also consistent with the approach of the Victorian Law Reform Commission's *The Role of Victims of Crime in the Criminal Trial Process* report of August 2016. The references are in paragraphs 1.6 through to 1.9 of that report. Also, section 6 of the Jury Directions Act of 2015 provides that in giving a direction to the jury, trial judges need not use any particular form of words — for example, the trial judge may refer to a victim, alleged victim or complainant.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The coalition will not support Ms Pennicuik's amendment 1 and the consequential amendments that seek to change reference to 'victim' to 'complainant'. Obviously I understand the intent of Ms Pennicuik's amendment, but we believe that the use of 'victim' is a well-established practice in the criminal justice system in relation to sexual offences, and we do not believe that the case is well made. Balancing consideration of victims and perpetrators, we do not think the case is well made to change the reference to 'victim'.

Ms PENNICUIK — Thank you, Minister, and Mr Rich-Phillips for your remarks. I do understand those arguments, and I understand what Mr Rich-Phillips has said — that it has been traditional and it is the way it has been done — but I suppose what I am doing is challenging the way it has always been done. I understand the argument that in many cases of general application — not sexual offence cases but other criminal matters before juries — it may be that it is thought to be well established that the person is a victim, definitely something happened to them, and the matter is: did the defendant actually perpetrate the act that occurred to the victim?

I am aware of other cases where a person was deemed to be a victim of a crime and not only was the defendant found not to have committed the crime but the crime was not committed at all and the person who was being referred to in that case in the traditional way as a victim was not a victim but in fact had made a false allegation and no crime had been committed. That is why I think this use of the word 'complainant' is more neutral. I also think that the word 'victim' over many years has become a loaded term — it has a lot of baggage attached to it that the word 'complainant' does not have. I think the type of case I referred to, where not only was the alleged victim not a victim and the defendant did not commit the crime but the crime was not committed at all. I think that these sorts of cases need to be covered by the language used, and that is why I raise this issue with respect to this particular bill.

Amendment negatived.

Ms PENNICUIK — I move:

2. Clause 1, page 2, line 11, after "directions" insert "relating to sexual offences, including directions".

This is a consequential amendment to substantive amendment 12. The substantive amendment is to insert

a new clause following clause 5. It seeks to make it mandatory for trial judges in sexual offence cases to give jury directions on reasonable belief in consent rather than it being at the discretion of the judge or at the request of counsel. The Greens have pursued this matter before a number of times. As I said in the second-reading debate, we believe that there is evidence in reported surveys and studies that have been done of prevailing attitudes, particularly with regard to consent, that are quite disturbing. The prevalence of a non-understanding of what consent is in sexual offence matters in the general community is quite disturbing.

Not only do we need to make sure that in all sexual offence cases the jury are given directions on this matter to make sure that they do understand what consent means — because sexual offence trials turn very much on this matter — but we need more education in the community to overturn these prevailing disturbing attitudes that are in the community with regard to the non-understanding of what is meant by withdrawing consent or not giving consent at any time.

These attitudes are prevailing in the community and therefore are represented on juries, and unless juries are given directions on the issue of consent then injustices could and probably do result. So in the interest of a fair trial for everybody involved in these cases, we believe that these directions should be mandatory.

Mr RICH-PHILLIPS — The coalition will not support Ms Pennicuik's amendment 2, which is a test of her amendment 12. It is a wry irony that Ms Pennicuik is seeking to mandate directions with respect to consent, given the position the Greens frequently take with respect to judicial discretion and their abhorrence of mandatory directions to the court on any number of matters. There is a certain irony in Ms Pennicuik seeking to mandate that directions be given with respect to consent. We believe it is appropriate that the judiciary have discretion with the giving of directions around consent. Therefore we will not be supporting her amendment.

Ms TIERNEY — The government does not support this amendment, because it is also a consequential amendment that is related to amendment 12, which we do not support.

Ms PENNICUIK — I just have to take up Mr Rich-Phillips's point, as I am sure he expected. As I outlined, we are talking about serious cases here. We are talking about disturbing prevailing attitudes in the community with regard to consent and with regard to attitudes to sexual offences that carry into the courtroom in juries. That is why we believe it needs to be mandatory that until these prevailing attitudes are not there in the community juries be given directions on consent and on other legal matters with regard to the cases that are before them.

I think it is a very important issue and is not to be confused, as Mr Rich-Phillips was trying to make out, with our consistent opposition to mandatory sentencing, which is a completely different issue from mandatory jury directions in sexual offence cases to overcome the prevailing disturbing attitudes that are in the community with regard to consent in those matters.

Committee divided on amendment:

Ayes, 5

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

Noes, 35

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

Amendment negatived.

Clause agreed to; clauses 2 to 24 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

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

Second reading

Debate resumed from 23 June; motion of Ms PULFORD (Minister for Agriculture).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise to make some brief comments this afternoon on the Justice Legislation Amendment (Court Security, Juries and Other Matters) Bill 2017, which is something of an omnibus bill with respect to a range of court-related matters.

The key provisions of the bill — clauses 7 to 12 — relate to the way in which jurors will be identified in the selection process and proceedings. These changes arise from recommendations from the Victorian Law Reform Commission (VLRC) report which was presented to the previous government in late 2013. They relate to a process by which jurors will be identified by number rather than by name when the jury selection process is underway. The intent of those provisions is to ensure that jurors are not excluded from participation in juries by defence counsel essentially on the basis of their name.

The bill also seeks to decrease the number of peremptory challenges that are available against jurors, from three to two in the case of a civil trial and from six to three in the case of a criminal matter. There are different provisions in respect of where a single person has been arraigned as opposed to where there are two or more people arraigned in the one criminal trial. As I said, this is a matter which has arisen from the VLRC report and it is designed, particularly in respect of using numbers rather than names, to lead to a more representative jury participating in trials.

Part 3 of the bill relates to making it easier for parties who are successful on appeal to obtain compensation arising out of judicial error. Clause 34 of the bill relates to compulsory acquisition of interest in land and determination of compensation, and it lifts the threshold for matters that can be heard at VCAT from the current $50 000 threshold up to a $400 000 threshold, which is intended to reflect the change in values since the original provisions were put in place in 1986. This is a measure designed to effectively fast-track consideration of compulsory acquisition matters by allowing them to be heard in the VCAT jurisdiction. Up to $400 000 is one that the coalition thinks is a reasonable step. It obviously lowers cost, taking it out of the substantive courts into the tribunal jurisdiction, and it should be a useful step in streamlining those compulsory acquisition matters.

The bill also clarifies authorised persons' powers and responsibilities and confers new powers in respect of court security officers insofar as their capacity to respond to security incidents in and around courts. This is a part of the title of the bill, and it is an area in which the coalition believes the government has dropped the ball — that is, the general issue of court security and funding for court security. We have seen in recent years an increase in security-related concerns around our courts, such as in relation to high-profile cases, particularly matters around terrorism and terrorism-related cases where you can have large attendance in public galleries, highly emotive attendance in public galleries and in the vicinity of the court, and high-profile defendants. The capacity for court security to deal with that has perhaps been limited, and the resources available to court security to deal with that have also been limited.

Ironically the powers that the bill provides to court security officers are in some respects reflective of the powers previously available to Victoria Police in the move-on laws, which the government removed very early in its term and has had to make subsequent amendments to reinstate in part, as we saw in the Parliament last week. They are similar to the powers being provided to court security officers by virtue of clause 49 of this bill. In respect of the court security elements, we think this bill has an element of catch-up. The government has not provided adequate resources to date and this is an area that needs to be addressed both in terms of powers, which are being provided by this legislation, and also in terms of resources to Court Services Victoria to undertake those security functions at our courts.

The bill also allows the Victorian Legal Services Board to approve persons to receive trust moneys. The intent there is that the class of people who are likely to be approved to receive money will be barristers' clerks, and that is a useful administrative change which the coalition does not oppose.

Clause 72 of the bill allows for the reimbursement of costs in certain VCAT planning enforcement matters. Where local government takes planning enforcement matters before VCAT, it will have the capacity to recover costs in taking those matters before VCAT.

As I said, the bill is very much an omnibus bill. It covers a broad range of matters. The most significant is in respect of the capacity to challenge the make-up of juries and reduce the component which can be

peremptorily challenged in civil and criminal matters. There is also the shift from the use of names to numbers in identifying jurors. Likewise, the provision in respect of court security is also significant. The coalition believes that all these measures, and the other measures I outlined, are reasonable. As I said, they are a broad range of unrelated matters but the coalition believes that they are reasonable, and accordingly it will not be opposing this bill.

Mr ELASMAR (Northern Metropolitan) — I rise to make my contribution to the bill before the house, the Justice Legislation Amendment (Court Security, Juries and Other Matters) Bill 2017. It is a bill which I understand has the support of all parties, so I am pleased that common sense has prevailed in this matter and that members of this chamber are united in supporting the implementation of a new court security model for metropolitan and regional law courts in Victoria.

For too long our law courts have been lacking in fundamental protection for users of the justice system. In particular, victims of family violence, who are already deeply traumatised by their experiences, need to have safe access to justice. We know that some criminals — in my view that is what they are — use family violence to intimidate and threaten their victims and then add insult to injury by using their court attendances as an opportunity to further abuse and terrify their victims.

To this end, an additional allocated fund amounting to $58 million in the last budget has been set aside to pay for the increased costs of providing court security. Additional court security officers will be appointed as authorised officers under the Court Security Act 1980 and will hold existing powers as well as the proposed new powers of authorised officers under the bill. The new court security model will ensure that all Victorian courts have entry screening capability and an increased private court security officer presence.

This year Court Services Victoria will roll out a new integrated statewide contract to significantly increase the number of private court security officers and will install entry screening equipment at a number of courts where it is not currently available. The new model will ultimately improve the overall operation of our criminal and civil justice system and provide a proper and secure environment for staff and public alike. This government is committed to ensuring that all Victorians, whether in metropolitan or regional locations, have access to modern, safe and secure courts.

The bill also deals with some housekeeping matters and makes several minor amendments to court, tribunal and associated statutes. The overall purpose of the bill is to provide safety and security to all staff and members of the public who use the court system to obtain justice. The bill also makes clear and increases the powers of authorised officers to ensure that court security officers are able to resolve security incidents adequately and appropriately. I commend the bill to the house.

Ms PENNICUIK (Southern Metropolitan) — The Justice Legislation Amendment (Court Security, Juries and Other Matters) Bill 2017 is an omnibus bill which makes a range of amendments to various acts in the justice and regulation portfolio, including providing for a new security model for the Victorian courts and tribunals with the use of private security officers, appointing them as authorised officers with expanded powers. It reforms juries such that there will be a reduction in the number of peremptory challenges in civil and criminal jury trials. There are statutory criteria which a court may consider in determining whether to order the empanelment of additional jurors and a requirement that a potential juror must be identified by number, not name, unless the court considers it is in the interests of justice to identify potential jurors by name because the trial is in a regional court and the names are important in alerting the judge, lawyers and the person arraigned that they may have a personal connection with a potential juror.

The bill provides for reforms that will improve the operation of the appeal costs scheme and make it more efficient; it makes minor amendments to provisions in the Land Acquisition and Compensation Act 1986 in relation to the correct forum for determining relevant disputes over compensation payable and will not alter a person's entitlement to or calculation of compensation; and it provides that the statutory fee reimbursement provision under the Victorian Civil and Administrative Tribunal Act 1998 is extended to enforcement proceedings under the Planning and Environment Act 1987 so that local councils are not discouraged from taking action to enforce contraventions of planning laws. That is an interesting amendment that we certainly support.

We have raised before in this chamber, particularly during the term of the last government, the issue that the statutory fee reimbursement presumption under the VCAT act should be changed to allow for councils to be covered by it with respect to planning proceedings and to make sure that the fees charged do not discourage local councils from using VCAT. The bill provides the legal services board with greater power to safeguard clients' trust money that is handled by

barristers' clerks and makes consequential amendments to natural resources legislation which the statement of compatibility states do not diminish the distinct cultural rights of Aboriginal persons in Victoria which were enhanced under previous legislation.

The amendments with regard to juries reduce the number of peremptory challenges — that is, challenges without a reason — in civil trials from three to two for each party in accordance with recommendations by the Victorian Law Reform Commission in its *Jury Empanelment* report, and they reduce the number of peremptory challenges in criminal trials from six to three. The government states that challenges tend to be based on the characteristics and appearance of the potential juror, facilitating stereotyping which distorts the composition of juries. That is why it wants to see the number of peremptory challenges reduced.

It has been argued by defence lawyers that this reduction in the number of challenges for an accused person may actually place at risk the proper conduct of a fair trial. The number of peremptory challenges in criminal trials has already been reduced from 15 to six in order to produce significant savings in the administration of the jury system, and this, defence lawyers say, should not be further reduced from six to three.

However, on the other hand the government says that the rate of challenges to women in criminal trials are double that of men so that there is the very real problem of defence lawyers removing most, if not all, women from a jury panel, which fails to keep the jury system representative of a cross-section of society. We acknowledge that we need to make sure there is diversity on juries, so we are supportive of that change. Also the reduction of peremptory challenges does not preclude challenges with reason to be made by defence lawyers, and these remain unlimited.

The other amendments that I wanted to speak about really go to the issue of the court security changes, which are the main changes in the bill. We know that for a long time there has been a mix of private security, protective services officers (PSOs) and police in the courts and tribunals. Private security contractors have largely been stationed at the gates and entry points of most metropolitan courts and state buildings. For higher risk areas, such as within the courts and tribunals and in areas where there is a higher security risk and where response and arrest may be required, PSOs and Victoria Police are used. In the highest risk areas there are generally only police officers.

As outlined by the Attorney-General in the second-reading speech, the government is expanding the use of private court security officers appointed as authorised officers as part of a new court security model. I understand this will be in areas of low volume where a police presence cannot be justified — for example, in regional courts. Private court security officers are to be used not only at entry points, as has been traditional, but also within the courts, with limited and expanded powers. I understand they will not be armed with firearms and will not be able to make arrests but that they will have batons and wear bullet-proof and stab-proof vests and will be able to use reasonable force to remove individuals who may be causing trouble in the courts.

The court security officers will conduct roving patrols of the court premises and provide escorts for vulnerable attendees, including victims of family violence. PSOs will still have a presence in the courts, but it is not clear if this will be for all courts, including regional courts always, given deployment of PSOs is up to police command. Police officers will continue to provide security at the Supreme Court and the County Court in the CBD while also responding to major incidents.

While authorised officers can already undertake searches, prevent a person from entering or remove a person from court premises, there is no express authorisation for authorised officers to use force in relation to other powers — for example, to seize a prohibited item — or to use reasonable force to ensure the safety of an escorted person et cetera. This bill provides new powers for authorised officers to give directions in particular circumstances and clarifies the permissible force that may be used by authorised officers.

In terms of the oversight of the use of private security officers, the statement of compatibility says:

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

I note that there will be a court security agreement for the purposes of section 2C of the Court Security Act 1980.

Oversight by the Ombudsman of a private security contract is due to the interaction of provisions of the Ombudsman Act 1973 and the Court Security Act, and this is not affected by this bill. Under section 13 of the

Ombudsman Act the principal function of the Ombudsman is to inquire into or investigate administrative actions taken by or in an authority. A private security contractor engaged under section 2 of the Court Security Act is an authority for the purposes of the Ombudsman Act. So a contractor's administrative actions can be investigated by the Ombudsman and are also covered by the definition of 'contractor' in section 2(1) of the Court Security Act and the definition of 'authority' and 'specified entity' in the Ombudsman Act and schedule 1 of the Ombudsman Act.

Private security officers are subject to Court Services Victoria, which is responsible to the Parliament via the Attorney-General, and oversight is provided by the Ombudsman. However, the Greens have some concerns about this. We understand that court security is very important. The court security model ideally is a matter of public policy, and we believe that the model of private security officers at entry points, as is currently the case, is probably the ideal model.

If we go back to the original purpose of protective services officers, we can see that over the years their role has been expanded. It was originally and for a very long time limited to security at the courts, at Parliament, at the Shrine of Remembrance and at Government House. Now there is a wide array of places where they can operate under the act. What we are concerned about is the change under this bill to allow the appointment of private security officers, who are not public servants, as authorised officers and allowing them to be given further powers to use reasonable force — for example, when removing a prohibited item or removing a person. We have always raised concerns about the use of reasonable force by authorised officers, but we raise concerns in particular with this class of authorised officers who would not be public servants in any way, shape or form.

The Greens are concerned about the chain of command — that is, who will be directing these private security officers in the courts, because they will now be within the courts — and who will be responsible for private security officers and their actions. It is quite a departure from the current situation, where police and PSOs are inside the court and are clearly under the direction of police command, however that is organised by the commissioner, deputy commissioners or whoever is in charge in that regard.

I ask the government to provide some answers to those questions. I went into detail with regard to the oversight of the Ombudsman or the ability of the Ombudsman to investigate incidents, for example. That is possible and has been done in terms of authorised officers on the railway system or on the public transport system. There have been some quite damning reports with regard to authorised officers overstepping their authority on the public transport system. I do not think it would be an overstatement to say there has been quite a lot of public concern about the behaviour of some authorised officers over the years on the public transport system.

We are now talking about a different class of private security officers, who are not public servants, being given these types of expanded powers. We are always concerned about the expanding of the powers of authorised officers. It is something we have raised over the years. We foreshadowed that there would be creep and that these expanded powers would expand more and more, and that is exactly what we are seeing.

I suppose the crux of the question for the government is why, given that we are having more protective services officers employed and more police employed, we do not just employ more police and protective services officers in the court to maintain court security and leave the private security officers where they have traditionally been. We are concerned about this change even though, as I said, there is the oversight by court services and there is the potential investigative power of the Ombudsman, but that is after the fact of course. It is important, but it is still after the fact.

In terms of the other changes in the bill — a large number of changes are made to various acts in this bill — the Greens are supportive of those generally, but it is this issue of the expansion of powers of private security firms as authorised officers in the bill that we are concerned with.

Mr MORRIS (Western Victoria) — I rise to make my contribution to the Justice Legislation Amendment (Court Security, Juries and Other Matters) Bill 2017, an important bill that has already been canvassed by other members. I did want to particularly home in on one particular element of the bill, that being court security. We know how incredibly important it is that people can attend court and do so in a secure way and feel safe. We need to ensure that when people are attending court the risks associated with going to court are minimised, which is why I am terribly dismayed at what we have seen happen in Ballarat, insofar as we had the Attorney-General come to Ballarat in October last year and announce that there would be upgrades to the security at the Ballarat courthouse, which would see new walk-through metal detectors as well as more security staff at the courthouse in Grenville Street. They were supposed to happen in the 2016–17 financial year,

these security upgrades — these important security upgrades.

The courthouse in Geelong, which is of course in our electorate of Western Victoria Region, has already seen these types of security measures put in place where people need to go through metal detectors and the like to attend the courthouse. I was very recently at the Ballarat courthouse to see a particular case unfold, and I did note the distinct lack of security there. This is despite the very clear commitment from the Attorney-General to upgrade the security and have it done in the 2016–17 financial year. So I am somewhat dismayed by the lack of action from this government to ensure the security of the Ballarat courthouse. It is an area that is growing, unfortunately, in terms of the custom at the courthouse under this government. We are seeing crimes skyrocket under the Andrews government. We are seeing aggravated burglaries in particular in Ballarat going through the roof. We are seeing the crime of ramming a police car similarly going through the roof. That is because the Labor government has chosen not to support the very important legislation that was proposed by Mr O'Donohue in this place. Indeed it passed in this place and was knocked back by the government in the lower house, which was an absolute disgrace.

This bill is an important bill, but it is shocking and disgraceful to see that this government is not following through with commitments that they have made. The courthouse in Ballarat is less secure as a result of the government not fulfilling the promise they made to the people of Ballarat. I encourage them to make amends in relation to where they are at this point in time and see that these upgrades to the Ballarat courthouse occur immediately.

Ms TIERNEY (Minister for Corrections) — We will see whether we will end up in committee. There were a number of questions primarily raised by the Greens party this afternoon in respect of matters in this bill, primarily as they deal with issues to do with court security officers (CSOs). One of the first questions asked was: why is the government employing private security contractors to guard our courts? The government in response says that the private sector security guards at our courts are not a new thing. This bill simply supports the expansion of longstanding existing arrangements for court security and clarifies the powers of private court security officers. Private security officers are used extensively in the public sector for public building security, management of safety in public spaces and secure transport. Court Services Victoria advises that private security guards have been deployed to provide security at a number of high-volume Victorian courts, including the Melbourne Magistrates Court since the mid-1990s, Ms Pennicuik. Providing important safety and security at courts is a key government initiative, especially in the context of family violence disputes. The government has invested $58.1 million to upgrade Victorian courts and expand the presence of court security officers to all Victorian courts on sitting days.

There was a further question about why court security is not provided by protective services officers (PSOs) and police. CSOs, PSOs and Victoria Police all perform different roles in providing court security. The role of CSOs is to maintain the integrity of the entry screening process, respond to courtroom incidences and report incidences to Victoria Police. Victoria Police and PSOs provide security for criminal sittings of the Supreme Court and the County Court, as required by the Court Security Act 1980, and to the Magistrates Court within greater Melbourne. CSOs will provide basic security in urgent incident response to criminal and civil court proceedings in all Victorian courts, especially regional courts. Victoria Police will continue to respond to emergencies and criminal behaviour across Victoria's metropolitan and regional courts. There is, and will continue to be, strong coordination between the courts and Victoria Police in relation to security requirements.

A key feature of the expansion of court security officers to regional court sittings is that Victoria Police, who currently provide security on sitting days in regional courts, will be able to be redeployed from courts to frontline law enforcement activities in their communities. Victorian police officers are a vital and limited resource, especially in those areas.

A question was raised during the course of the debate about whether the court security officers will be armed. Currently private security officers are managed under contract by Court Services Victoria (CSV), and they are not armed. Under the new contract the CSOs will be trained and will have the necessary authorisation under the Control of Weapons Act 1990 to carry operational equipment, including batons, handcuffs and stab-resistant protective vests. CSV advises that at courts where police and protective services officers are deployed, CSOs will not carry operational equipment. In courts where there are no police or PSOs, CSOs will carry operational equipment. Private security officers will not carry guns or pepper spray. These arrangements are appropriate and proportionate to the duties that CSOs are expected to carry out in keeping Victorians safe in our courts.

Another issue that was raised was: what happens if an authorised officer acts unlawfully or inappropriately? In

exercising powers under the Court Security Act 1980 an authorised officer, as a public authority under the Charter of Human Rights and Responsibilities Act 2006, must act compatibly with human rights. A private security company engaged under the Court Security Act is an authority for the purposes of the Ombudsman Act 1973 and can be investigated by the Ombudsman in relation to administrative actions. In addition the Private Security Act 2004 establishes a process for the investigation of complaints about licensed security guards, noting that private security guards appointed as authorised officers will be contractually required to be licensed security guards. Any private security company engaged under the Court Security Act will also be subject, through contractual arrangements, to performance monitoring and reporting and will be required to have a robust complaints management system, including appropriate disciplinary measures. I trust that I have covered off on most of the issues that have been raised.

I can go to matters that talk about the policy context of the new court security model. I can deal with the implementation of the new security model and how many additional private security officers will be provided under this new security model, and I will go to that.

This new court security model will deploy approximately 160 private security officers across court and tribunal premises, including at 40 courts where there was previously no formal security presence. The new model will provide approximately 70 new court security officers in addition to 94 security officers currently deployed under the existing model. I believe that I have covered off now on the issues raised by Ms Pennicuik.

Motion agreed to.

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

Third reading

The ACTING PRESIDENT (**Mr Ramsay**) — I am of the opinion that the third reading of this bill requires to be passed by an absolute majority, and I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — This is a bill that requires to be passed by an absolute majority. In order that I can determine whether an absolute majority can be obtained I ask those members who are in favour of the question to stand in their place.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

ADJOURNMENT

Ms PULFORD (Minister for Agriculture) — I move:

That the house do now adjourn.

Goulburn Valley Health

Ms LOVELL (Northern Victoria) — I wish to raise a matter for the attention of the Minister for Health, and it relates to the story of two of my constituents, father and son Ken and Chris Keating, who reside in Shepparton. Minister, when will you give a commitment to establish and fund appropriate radiotherapy services at Goulburn Valley Health so locals like Ken and Chris Keating do not have to travel long distances to receive life-saving treatment?

Ken and Chris Keating own and operate a successful transport business in Shepparton, and both have been touched by the terrible scourge that is cancer. Their battles with the disease were exacerbated by the need to travel long distances away from their friends and family to receive radiotherapy treatment. Sadly their story is all too familiar for many Shepparton people.

In the latter part of last year, Ken Keating was diagnosed with cancer, and his specialist recommended that brachytherapy form part of his treatment plan, a treatment only available in Melbourne. After the one week of the brachytherapy treatment in Ringwood Ken was sent home to rest for two weeks before his radiotherapy treatment started. Had radiotherapy services been available at Goulburn Valley Health, Ken would have been able to complete his treatment at home in Shepparton. But with no local radiotherapy service Ken was forced to uproot and live in Melbourne for nearly three months. Ken lived in a caravan park and a motel and finally rented a unit at $350 per week. Away from his family and the comforts of home for nine weeks, Ken battled Melbourne traffic to and from the hospital every day to receive a 10-minute radiotherapy treatment.

Ken's son Chris lives in Shepparton and was diagnosed with cancer early this year. Doctors have decided that Chris's treatment plan involves radiotherapy four days

a week, which is currently ongoing, but with no radiotherapy services in Shepparton, Chris's treatment is in Bendigo. Being the managing director of the family transport business founded by his father, Chris has to continue to work during the treatment, so from Tuesday to Friday every week Chris leaves his home and his family and drives 1½ hours to the Peter MacCallum Cancer Centre in Bendigo. Once there, Chris receives his 10-minute course of radiotherapy and then he drives home again, another 1½ hours, where he goes straight to work. Because of the 3 hours of travel time that Chris endures four days a week, he finds that in order to catch up he does not finish work until late in the evening.

The stories of Ken and Chris Keating are just two of the stories of many cancer patients from Shepparton and the Goulburn Valley. Patients are away from their families and the comforts of home. Patients are enduring long and uncomfortable car trips, often in terrible pain. Patients are out of pocket for large expenses such as accommodation, food and petrol — factors that are not the case for patients with radiotherapy services on their doorstep. It is just not good enough. The people of the Goulburn Valley deserve so much better. So again I ask the minister: when will you give a commitment to establish and fund radiotherapy services at Goulburn Valley Health so locals like Ken and Chris Keating do not have to travel long distances to receive life-saving treatment?

Eastern Victoria Region sporting events

Ms SHING (Eastern Victoria) — I wish to raise a matter for the attention of the Minister for Sport in the other place, Minister Eren. I along with hundreds of thousands of people across Gippsland welcomed the recent announcement of the partnership between the Victorian state government and elite sporting stars to play and coach in the Latrobe Valley. It was really wonderful to welcome players and officials from the National Basketball League and the Melbourne Stars Big Bash League team to Traralgon to allow local residents to really access and get up close to sporting legends close to home and to learn from the best in a series of clinics, tournaments and matches as well as to experience world-class sport in their communities. We have a three-day preseason tournament coming up at Traralgon Sports Stadium in September, followed in December by the Melbourne Stars taking on the Hobart Hurricanes in a Big Bash preseason match in Traralgon.

The action I seek from the minister is to work with me in promoting these community programs and engagements and the partnership benefits that they will deliver not just in community grassroots health but also in economic growth and prosperity for the region as these significant events are delivered between now and the end of the year.

Drouin builder

Ms DUNN (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Planning. Up to 20 families in Drouin have been devastated by the dodgy practice of a builder. Having bought land and house packages in 2014, they have waited for three years only to have the builder walk away from half-built houses that are now overgrown with weeds.

John Grezos, the builder-developer responsible for the Drouin estate, has form in this regard. In November 2008 he was sued under the Fair Trading Act 1999 by Consumer Affairs Victoria. The Supreme Court of Victoria found he had misled more than 120 consumers and was ordered to take responsibility for $2.9 million in debt owed to credit providers by its customers. It is unacceptable that this individual has been allowed to continue operating in this industry. This is a plight that has affected many Victorians, and it is just not good enough.

Building a home is the largest investment many households will ever make, and yet the protections around home building and land and home packages are incredibly lax. It leads to life savings being lost and people being left without homes and with an improbable road to financial recovery. The action I seek is that the minister direct the Victorian Building Authority to provide all assistance possible to the family of Manohar John and other affected households that have bought house and land packages in Drouin.

Active Victoria

Mr EIDEH (Western Metropolitan) — My adjournment matter tonight is for the Minister for Sport, the Honourable John Eren. I welcome the Andrews Labor government's new plan, *Active Victoria*, which will get more people more active, more often. The framework will also provide a strategy to cope with increasing demand on our community sporting facilities, which is particularly important in the many growing and expanding communities in Western Metropolitan Region and the new housing developments throughout my electorate.

In my electorate there are hundreds of sporting clubs, many community facilities and thousands of people who participate in sport, from players, coaches, umpires and volunteers to the mums and dads who get their kids

up early on the weekend to get out and get active. Sport and recreation is central to our way of life in Victoria, and I welcome this plan to get more people active and to ensure that Victorian communities have the facilities they need so that every Victorian can participate in sport and recreation. The action I seek is that the minister promote the *Active Victoria* strategy in Western Metropolitan Region to ensure that local clubs and my community get the best possible community sport outcomes.

Southern Autistic School

Ms CROZIER (Southern Metropolitan) — My adjournment matter this evening is to the Minister for Education. I recently visited Southern Autistic School in Bentleigh East and saw firsthand the excellent work of teachers and staff, who provide educational opportunities for students with autism and support to their parents and carers. The school services South Eastern Metropolitan Region, but we know that there is an increasing need to provide further services and support to so many families, and I am sure Mr Finn, who is the shadow parliamentary secretary for autism and who is doing an excellent job, knows only too well of the issues that are surrounding this very difficult area for so many families and understands the needs of a facility such as this.

One of the issues raised with me was the increasing demand for the facility and for children with autism or dual diagnoses to be able to attend Southern Autistic School. Some are coming from areas a considerable distance away. Of course with that demand comes the additional problem of overcrowding. The overcrowding and the demand for children wanting to attend Southern Autistic School has also been raised with me by parents of students who attend Bentleigh Secondary College, which shares a boundary with Southern Autistic School. They too are well aware of the increasing demands and enjoy having Southern Autistic School as such a close and important neighbour.

Acknowledging that both schools are providing excellent services to students, there appears to be no medium to long-term plans for accommodating both schools and the excellent education and services they provide to students and their families. The action I therefore seek is for the minister to provide any advice he has received regarding the relinquishing of any land from the Bentleigh Secondary College site to accommodate future expansion for the longer term needs of Southern Autistic School.

Mordialloc bypass

Ms SPRINGLE (South Eastern Metropolitan) — My adjournment matter is for the Minister for Roads and Road Safety. In June the minister said preliminary investigations into the environmental impact of the Mordialloc bypass were being undertaken by VicRoads and findings would inform the need for any future investigations. VicRoads has now published its *Preliminary Flora and Fauna Impact Assessment for Mordialloc Bypass*. The assessment recorded several matters of national environmental significance within or near the project area. These matters included migratory bird species, including Latham's snipe and the sharp-tailed sandpiper, two critically endangered communities under the Environment Protection and Biodiversity Conservation Act 1999; one threatened bird species, the Australasian bittern; and one threatened flora species, swamp everlasting. As a result, the assessment strongly recommended referral of the project to the commonwealth Department of the Environment and Energy to provide legal certainty.

It also found that several environmental effects, as set out in the Environment Effects Act 1978, may be triggered by the project. Based on these effects, the report states that:

> … the Mordialloc bypass project is the subject of an EES referral, and a determination will be made by the minister whether an EES will be required.

Based on VicRoads's referral and recommendations, the action I seek is for the minister to commission an environment effects statement for the Mordialloc bypass and for the minister to refer the project to the commonwealth Department of the Environment and Energy.

West Gate tunnel project

Mr RAMSAY (Western Victoria) — My adjournment matter today is for the Minister for Roads and Road Safety, Luke Donnellan, and the action I seek is a total re-evaluation of the West Gate tunnel project. This $5.5 billion shemozzle has been mired in controversy from day one. This is not surprising given it came from nowhere. It was born of wishful thinking from the Transurban boardroom, seemingly more interested in securing future income generation than a genuine traffic solution for Melbourne.

This project has had several names, taken different forms, inspired different panels, ignored public sentiment and filled pages of our local papers, and without having been built it is already hurting the pockets of Melbourne commuters in the form of

increased and extended tolls on CityLink. Whether you use it or not, the West Gate tunnel is already costing Melburnians. If it were anyone else's project, the Premier would simply call it a dud.

A transport modelling and economic expert, William McDougall, told the government earlier this month that the business case and traffic modelling for the project are flawed; they represent an upsell that even McDonald's would be proud of. The government then requested that the bulk of Mr McDougall's evidence to a Senate inquiry on the nation's toll roads be kept behind closed doors. Strangely enough, Mr McDougall no longer works on this project. He has spoken the truth this government does not want to hear.

Today we learn that a second independent traffic expert also agrees with Mr McDougall. According to today's *Age* newspaper, John Allard was hired by the government to review the traffic modelling for the project done by Veitch Lister Consulting, and he has also disputed the traffic predictions upon which this project is based. Even former Labor ministers are doubting the proper planning around the project and questioning its capacity to enable urban renewal.

The height of the Maribyrnong bridge crossing is in question, with news reports questioning if it is being built high enough to avoid impeding commercial and non-commercial use of the river at high tide. The Maribyrnong council says the river crossing lacks foresight, will block river views and will spoil the precinct's character and future public use opportunities. A former Victorian government architect, Geoffrey London, has described the elevated highways as an 'urban blight'.

Perhaps all this was best described by Melbourne city councillor Nick Frances Gilley, who chairs the City of Melbourne's transport portfolio, who last month said the tunnel project was 'a dog's breakfast'. The council's own report indicates the tunnel will actually make traffic conditions worse, extending peak-hour traffic conditions to 12 to 14 hours a day in North Melbourne. It also says it will reduce the performance of trams in the area now and into the future and, quite simply, should be scrapped.

The action I seek from the minister, given that we on the western side of the West Gate Bridge are looking like having congestion and delays for many, many years to come due to the problems associated with this West Gate tunnel, is that the minister stop this expensive and poorly planned folly and begin work on a genuine solution.

Western Metropolitan Region ambulance services

Mr MELHEM (Western Metropolitan) — My adjournment matter is directed to the Minister for Health and Minister for Ambulance Services, the Honourable Jill Hennessey. Data from the most recent June quarter showed that the Andrews Labor government has been successful in lowering ambulance response times to their lowest point in seven years. Response times were particularly positive for stroke victims, recording their best annual results on record: 94.2 per cent of stroke victims were treated by a response unit within 60 minutes, up by 5.3 per cent on the figure under the previous government, when Mr Davis was the minister.

Under this government, Victorians are experiencing faster ambulance response times than they did during the previous Liberal government administration. This means that people who have suffered life-threatening circumstances are getting the care they need sooner. But a good government knows that there is always more that can be done to improve the health and wellbeing of its populace. The Victorian budget 2017–18 included an additional $26.5 million to continue to improve response times and rebuild our ambulance services to meet the needs of our growing population. I commend the Andrews Labor government on its efforts.

The action I seek is that the minister update me on the planning underway to provide ambulance super response centres in Western Metropolitan Region and how that will benefit the people in the community I represent. I am particularly interested in hearing about the service planned for Westmeadows, when it will be operational and how additional paramedics will operate from this site.

Bridge Street–Williamstown Road, Port Melbourne

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is for the Minister for Roads and Road Safety, and it is in relation to the intersection of Bridge Street and Williamstown Road in Port Melbourne. I have been contacted by many constituents about this intersection. It sits in a part of my electorate that has seen dramatic change over time, and in recent years it has had ever-increasing, it seems, amounts of traffic. This is because of general population growth and increasing density, but it is also because Bunnings, Australia Post and some other major employers have moved in nearby.

The intersection is very, very poorly configured and the visibility in places is poor, and I know this from personal experience. It is also a very difficult intersection whether you are driving or travelling by foot. As some residents have reminded me, it is even more difficult if you are pushing a pram or if — like one resident who came to see me does — you use a wheelchair. The answer for many residents is to simply avoid this intersection, which is often quite difficult and takes them well out of their way in their local neighbourhood. If they did not actually avoid this intersection the congestion would no doubt be even worse at Bridge Street and Williamstown Road.

As one constituent wrote to me:

> I would like to see lights at the intersection of Bridge Street and Williamstown Road. It is a high-density traffic area and can be a trap for pedestrians. There is a lot of foot traffic such as Bunnings staff and customers crossing at this intersection. Sometimes it seems that you are playing Russian roulette. I live in Derham Street which has a one-way exit onto Williamstown Road. Motorists use this street as a 'feeder' onto Williamstown Road to avoid the huge amount of traffic at the aforementioned intersection.

My constituent, who uses a wheelchair, tells me that he has been trying to get this intersection fixed so that there is space made in the guttering to accommodate his wheelchair. He has been trying to get that done ever since he moved to the area, which was 11 years ago. The action I am seeking — and as soon as possible — from the minister is that he work with the City of Port Phillip to ensure that this intersection is improved and made safer for drivers and pedestrians.

City of Wyndham councillor

Mr FINN (Western Metropolitan) — My adjournment matter this evening is for the Minister for Local Government, and I must relay to the house and to the minister the enormous concern expressed to me about the future role of Cr Intaj Khan of Wyndham City Council. Cr Khan currently faces nine charges of breaching the Local Government Act 1989, and I cannot emphasise enough my view that he is deserving of the right to the presumption of innocence, as indeed we all are. The courts will do their job in due course, and I have no desire in any way, shape or form to interfere in the judicial process.

My great concern is that the charges relate directly to his role as a councillor. Many, many community members have come to me and suggested very strongly that he step aside until these legal matters are resolved, and I agree. Cr Khan should step aside from the council responsibilities pending the court case. This, as I say, reflects not his guilt nor his innocence but just the fact that these charges relate directly to his role as a councillor on Wyndham City Council.

Ms Pulford — On a point of order, President, the matter that Mr Finn is raising is a matter before the courts. It is a matter that relates to an individual councillor, and I would have thought that at the least it is beyond the normal rules of the adjournment debate.

Mr FINN — On the point of order, President, I had not actually got to my request. As I said, I have absolutely no intention of interfering with the court case, and I have said quite clearly that Cr Khan has a right to the presumption of innocence, as we all do. What I am asking the minister to do has absolutely nothing to do with the court case but indeed his role as a councillor.

Ms Shing — On the point of order, President, just taking up the points that you raised today in your ruling in relation to sub judice, I note that considerations around the public interest and around a potential for influence of an outcome once charges have been laid where the subject matter connects in any relevant way to the matters that are before the courts may indeed, on the tests outlined by you in that ruling, fall foul of the sub judice issue. I note that in this regard — and it may not be Mr Finn's intention to do so given that he has referred to the presumption of innocence — Mr Finn has indicated that he agrees with views expressed to him that Mr Khan should stand aside. On that basis I would seek your guidance as to how the ruling that you issued today affects the capacity of Mr Finn to be raising this matter in the way that he is in this particular adjournment matter.

Mr Davis — On the point of order, President, Mr Finn has actually been very careful on this, and he has made the point that the criminal matters are one issue. A second issue, in one sense related but in another sense quite a distinct matter, is what happens at council level whilst these criminal charges proceed, and that is a matter for the Minister for Local Government, and perhaps for the Special Minister of State in terms of his integrity functions, as to whether there is a process to stand aside a councillor whilst those matters are considered appropriately by the legal authorities.

Ms Shing — Further on the point of order, President, perhaps in asking for that particular action to be taken by the minister Mr Finn could in fact just seek that that be engaged in as a general form of assistance being sought from the minister without in fact passing commentary or giving context, which I appreciate Mr Finn sees as relevant to the adjournment matter, that might otherwise fall foul of the public interest matters

that you have raised in the course of charges which Mr Finn in his contribution has indicated do have a relationship to the matter at hand before the house this evening.

The PRESIDENT — On the point of order, I think Ms Shing's comment is actually valuable in terms of referring to this type of circumstance where somebody is perhaps defending charges and them standing aside. In fact the general public convention is that if somebody is involved in proceedings, they would normally stand aside from their duties, frankly. If I was charged with something, I would stand aside. I would obviously stand down. There is some greyness around this, but in terms of public integrity and the expectations of the community today, I think that most people who were involved in a situation where they were needing to defend some charges would actually of their own volition stand aside to allow those charges to proceed and be defended and their innocence established in a general sense.

In terms of the matter today — and it is interesting that this one has come up after we did discuss sub judice this morning — I was listening very intently and I can understand the concerns that have been raised in the points of order put by both the minister and indeed Ms Shing, who I think made a very positive suggestion at any rate. Coming back to the specifics and the way in which Mr Finn put this matter, I do not think that he is breaking the sub judice rule in the sense that he is not entering into the matter of the charges and the legal proceedings per se. We have not heard his action yet, and I may need to rule again once I have heard his action, but from what he has said I think he is questioning whether or not there is a process by which the minister can direct — or whether she has the power to direct or encourage in some way; she possibly does not — the gentleman to stand down until those proceedings are concluded. That is a separate matter, and I do not think it offends sub judice, but if there is any venturing into the actual charges, then that would not be appropriate.

I do take the matters raised by the minister and Ms Shing about some of the context, or Mr Finn's agreement with residents about some matters pertaining to this, as something to be careful about, notwithstanding that again the remarks made by Mr Finn did not infer guilt in the making of those remarks, either by him or indeed by those residents. But the question raised in the whole matter is: should somebody continue to vote and participate in proceedings if in fact they are facing some other proceedings that might well be judged by the courts?

Ms Shing — On a point of order, President, for avoidance of any doubt I also want to make sure that both you as the Chair and those in the chamber at the moment were not under any assumption that this point of order or the discussion was being raised as anything other than a point around process and that in fact there is no cavilling with the capacity for Mr Finn to raise matters of a general nature in this regard, and it should not be assumed that it was anything more than that.

The PRESIDENT — I think the points of order have been taken in good faith, and I agree on process. Mr Finn, I will not direct you in terms of what further remarks you might make, but certainly it might be appropriate to go to the action so that we are able to understand that the action is quite separate to any sub judice infringement.

Mr FINN — I understand that Cr Khan has the ability to step down of his own volition, but in this particular case there is not a great deal of confidence in the community that that will occur. If Cr Khan refuses to step aside, I believe the minister has a role to play and a responsibility to remove him from the council, however temporary that might be. That is particularly important given his closeness to the Premier of this state. I ask the minister to do that. I ask her to protect the integrity of the Wyndham council process, such as it is. If Cr Khan will not step aside from the council voluntarily, I ask her to stand him down until this matter is resolved.

Plan Melbourne: Refresh

Mr DAVIS (Southern Metropolitan) — My matter tonight is for the attention of the Minister for Planning, and it concerns the City of Monash. On Saturday I was fortunate enough to attend a forum on planning in the City of Monash. A range of people were there who had very strong views about what is occurring in the City of Monash. The recent changes that the government has made under *Plan Melbourne: Refresh* and the subsequent decision of the planning minister to put in place the VC110 planning scheme amendment have meant that a significant set of changes have occurred.

In municipalities like Glen Eira and neighbouring municipalities the increased density the government is pushing for very strongly — and that is its policy through Infrastructure Victoria and the stated comments of the Premier and the planning minister — will see neighbourhood residential zones with massive density occur on those blocks. The two-dwelling cap has been removed, and there can now be unlimited dwellings on those properties. But in the City of Monash there is less of that sort of planning overlay and protection, and it

has mainly general residential zones. The government's changes there have seen the increase in the minimum maximum height, if I can describe it that way, from 9 metres to 11 metres and an explicit allowance of three storeys in the general residential zones.

Some other municipalities face this challenge too. The Mornington Peninsula shire and the City of Kingston are also areas where general residential zones predominate. There is a significant push now occurring, and a number of people related this to me closely at the forum that was held on Saturday of the weekend just gone. What we will see is a massive increase in density and a change to our suburbs.

What I am seeking from the minister is that he review VC110 and its impact and reverse some of these changes that he has put in place. These changes clearly are going to change the nature of our suburbs. There is no sufficient planning behind it in terms of infrastructure, whether it is for traffic support, parking, schools, maternal and child health — I could go on.

An honourable member — Kindergartens.

Mr DAVIS — Kindergartens are the same. There is a massive push for increased density and a targeting of the south and east of Melbourne. It is quite explicit in the Infrastructure Victoria documents that the south and east will be the ones that are targeted. VC110 is targeting the south and the east for increased density. Monash in this case is facing real pressure in its general residential zones, with three-storey heights and massive infill into many of those suburban streets, which people have bought into in good faith. I seek that review and reversal of a number of these changes which have impacted on those areas. In the case of Monash a key issue is that Monash have put in applications not understanding what was going to occur with the general residential zones.

Noise pollution

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the attention of the Minister for Police. It follows in part what Mr Davis was talking about: increased density in some neighbourhoods and the increased traffic that is flowing as a result. Specifically it relates to increased noise levels from vehicles, particularly motorbikes with no silencer but a straight-through exhaust, that breach noise pollution levels. I have been contacted by a person who lives in the inner northern suburbs who has advised me that he lives in a second-floor apartment and has double glazing on all windows but is unable to hear the TV and his sleep is disturbed when motorbikes with straight-through exhausts — that is, with no silencers — pass by in the street, which I am advised happens with great frequency. He has sought advice from VicRoads and written to the Minister for Police but has not had any substantive response.

Clearly this will be a growing issue over time as population density increases in large parts of Melbourne's suburbs and communities. The action I seek from the minister is that she work with the chief commissioner to develop enforcement campaigns to address this issue of noise pollution so that for people who are exceeding the maximum noise levels prescribed there will be a deterrent effect from that enforcement campaign.

Responses

Ms PULFORD (Minister for Agriculture) — I have 12 adjournment matters that have been raised for ministers this evening: Ms Lovell raised a matter for the Minister for Health; Ms Shing, for the Minister for Sport; Ms Dunn, for the Minister for Planning; Mr Eideh for the Minister for Sport; Ms Crozier, for the Minister for Education; Ms Springle, Mr Ramsay and Ms Fitzherbert, for the Minister for Roads and Road Safety; Mr Melhem, for the Minister for Ambulance Services; Mr Finn, for the Minister for Local Government; Mr Davis raised a matter for the Minister for Planning; and Mr O'Donohue raised a matter for the Minister for Police.

I have written responses to adjournment debate matters asked by a number of members on dates from 21 March to 8 August.

The PRESIDENT — On that basis, the house stands adjourned.

House adjourned 6.47 p.m.