PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Tuesday, 9 May 2017

(Extract from book 8)

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

(from 10 November 2016)

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Legislative Council committees

Privileges Committee — Ms Hartland, Ms Mikakos, Mr O'Sullivan, Ms Pulford, Mr Purcell, Mr Rich-Phillips and Ms Wooldridge.

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

Legislative Council standing committees

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

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

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

participating members

Legislative Council select committees

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

Joint committees

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

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

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

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

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

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

House Committee — (*Council*): The President (*ex officio*), Mr Eideh, Ms Hartland, Ms Lovell, Mr Mulino and Mr Young. (*Assembly*): The Speaker (*ex officio*), Mr J. Bull, Mr Crisp, Mrs Fyffe, Mr Staikos, Ms Suleyman and Mr Thompson.

Independent Broad-based Anti-corruption Commission Committee — (*Council*): Mr Ramsay and Ms Symes. (*Assembly*): Mr Hibbins, Mr D. O'Brien, Mr Richardson, Ms Thomson and Mr Wells.

Law Reform, Road and Community Safety Committee — (*Council*): Mr Eideh and Ms Patten. (*Assembly*): Mr Dixon, Mr Howard, Ms Suleyman, Mr Thompson and Mr Tilley.

Public Accounts and Estimates Committee — (*Council*): Ms Patten, Ms Pennicuik and Ms Shing. (*Assembly*): Mr Dimopoulos, Mr Morris, Mr D. O'Brien, Mr Pearson, Mr T. Smith and Ms Ward.

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

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The Hon. B. N. ATKINSON

Deputy President:
Mr K. EIDEH

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

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

Leader of the Greens:
Mr G. BARBER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
Bath, Ms Melina [2]	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	O'Brien, Mr Daniel David [1]	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel	Western Metropolitan	DLP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Dalidakis, Mr Philip	Southern Metropolitan	ALP	O'Sullivan, Luke Bartholomew [4]	Northern Victoria	Nats
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Patten, Ms Fiona	Northern Metropolitan	ASP
Davis, Mr David McLean	Southern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin [3]	Northern Victoria	Nats	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Pulford, Ms Jaala Lee	Western Victoria	ALP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Purcell, Mr James	Western Victoria	V1LJ
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Shing, Ms Harriet	Eastern Victoria	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Herbert, Mr Steven Ralph [5]	Northern Victoria	ALP	Springle, Ms Nina	South Eastern Metropolitan	Greens
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Melhem, Mr Cesar	Western Metropolitan	ALP	Young, Mr Daniel	Northern Victoria	SFFP

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

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

PARTY ABBREVIATIONS

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

CONTENTS

TUESDAY, 9 MAY 2017

Tuesday, 9 May 2017

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

ACKNOWLEDGEMENT OF COUNTRY

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

CRIMES LEGISLATION AMENDMENT (PUBLIC ORDER) BILL 2017

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade); by leave, ordered to be read second time forthwith.

Statement of compatibility

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) 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 Crimes Legislation Amendment (Public Order) Bill 2017.

In my opinion, the Crimes Legislation Amendment (Public Order) 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

This bill contains a number of measures designed to ensure that Victoria Police have the appropriate powers to deal with disturbances of public order. The need for these measures has been highlighted by recent violent clashes at protests, sporting events and other public gatherings.

Under the Control of Weapons Act 1990, the Chief Commissioner of Police may make a planned or unplanned designation of an area for the purpose of enabling weapon searches to be conducted in that area. The maximum time limit for designated areas under the act is 12 hours. The bill will allow for additional non-search-related powers to be used by police in those designated areas, to prevent and control outbreaks of public disorder.

New statutory public order offences will be created by the bill and three outdated common-law offences abolished. The new offences carry aggravated maximum penalties where they are committed by someone covering their face with a bandana or scarf to obscure their identity or shield themselves from capsicum spray, in recognition of the impact on victims and the difficulty for police in identifying offenders.

Finally, the bill creates a legislative requirement for local councils to consult with Victoria Police when considering an application to hold a protest. The decision as to whether or not to approve a permit will remain exclusively a matter for the local council, but the requirement to consult will ensure that Victoria Police is made aware of any upcoming protests that may become violent.

Human rights issues

Additional powers within designated areas

As I have noted, the bill provides additional non-search-related powers to be used by police in areas designated under the Control of Weapons Act 1990. The requirements for declaring a designated area differ between planned and unplanned designations. However, before making either type of designation, the Chief Commissioner of Police must be satisfied that violence or disorder is likely to occur and that the designation is necessary to protect the safety of all people in that area.

The test for a planned declaration of a designated area under section 10D is linked to the previous use of weapons in that area or during previous occasions of the event, while the test for making an unplanned designation relies on a future likelihood of violence or disorder involving weapons occurring in the designated area. The purpose of the additional search powers within a designated area is therefore to detect people carrying weapons and deter the commission of weapons-related offending.

When the search powers were introduced in 2010, it was concluded that the exercise of such powers was incompatible with human rights under sections 13(a), 21 and 17(2) of the charter (privacy, liberty, and the rights of children to protection). These search powers have been found to be effective in the detection of offenders and in deterring others from offending, and the concern of the community in relation to violence involving the use of weapons in public places has not abated. I consider that these search powers remain necessary and in the best interests of the community.

The amendments contained in this bill will not expand the use of search powers; instead they create new powers for police to manage public safety issues in respect of those who conceal their faces in a designated zone. I will now discuss the compatibility of the new powers in the bill with human rights under the charter.

Freedom of movement (section 12)

Section 12 provides that every person lawfully within Victoria has the right to move freely within Victoria and to enter and leave it.

This scheme will create a justifiable limit on the right to freedom of movement under section 12 of the charter by

providing special powers for temporary use by police in designated areas.

A designation can only be made when the Chief Commissioner of Police is satisfied that it is necessary to prevent or control outbreaks of violence and public disorder and protect the safety of all people in that area. This bill will allow police to issue a direction to leave a designated area in two situations. The first of these situations relates to a person wearing a face covering primarily to obscure the person's identity or to shield the person from capsicum spray. New section 10KA(1) created by clause 5 of the bill will allow a police officer to order a person wearing a face covering to leave the designated area if the officer reasonably believes the person is wearing a face covering for this purpose and that person has refused a request by the officer to remove it. This power is only available if the officer reasonably believes the person is wearing it to conceal their identity or shield themselves from capsicum spray. If the main purpose of wearing the face covering is for cultural or medical reasons, the power should not be used and police will receive guidelines and training on the appropriate use of this power. Violent behaviour committed by masked individuals has induced additional fear in members of the public and created significant issues for police in identifying offenders and controlling crowds in situations such as the Moomba riot and the protest in Coburg in 2016.

Designated areas have a maximum time limit, hence people's ability to move freely is not affected for a long or indefinite period.

Police will also be able to issue a direction to leave the designated area when the officer reasonably believes that the person intends to engage in violence that would constitute one of the two most serious statutory offences being created by this bill, being affray and violent disorder (see clause 7). The test of reasonable belief is a high threshold and police will need to be satisfied on that basis that a person intends to commit one of these indictable offences before being able to order a person to leave the designated area. If a person refuses to comply with either direction after the obligations have been explained, they may be charged with an offence punishable by 5 penalty units (see clause 6). This is not an oppressive penalty. Given the temporary and restricted application of these powers and the need to protect the safety of all persons attending these kind of gatherings, I consider any limitation this places on a person's right to freedom of movement is reasonable and justified on the grounds of public safety and that there are no less restrictive measures available, noting that current measures have not been sufficient to control outbreaks of violence and public disorder in several protests and events over the past 12 months.

As a safeguard to the use of these powers, Victoria Police will be required to report annually on the number of declarations made under the Control of Weapons Act 1990 and whether any of the new powers under section 10KA(1) were used while the designation was in effect. This will complement the existing requirements to report on searches conducted in designated areas.

Freedom of religion and belief (section 14), cultural rights (s 19) and equality before the law (section 8)

Section 14 of the charter protects the right of a person to demonstrate his or her religion or belief in public. Section 19 of the charter provides that all persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy his or her culture, to declare and practise his or her religion and to use his or her language. Section 8 of the charter provides that every person has the right to enjoy their human rights without discrimination, including on the basis of religious belief or activity.

These rights are relevant to the power of a police officer, in a designated zone or event, to order a person to remove a face covering. This power is only available if the officer reasonably believes the person is wearing it to conceal their identity or shield themselves from capsicum spray (clause 5). As I stated earlier, if the main purpose of wearing the face covering is for cultural or medical reasons, the power should not be used and police will receive guidelines and training on the appropriate use of this power.

As above, an additional safeguard to the use of this power is that a person who chooses not to remove their face covering when ordered to by police will be given the option to leave the area instead of removing their face covering. If the person chooses to keep wearing the face covering and leaves the area as directed, they will not have committed an offence. Hence, a person can choose to continue wearing their face covering if they leave the designated area immediately. Only a person who refuses to comply with either option after having them properly explained by the police officer can be charged with an offence punishable by 5 penalty units.

I note the safeguards contained in the provision, including that a police officer cannot direct a person to remove a face covering for cultural or medical reasons, and that a person can choose to continue wearing their face coverings if they leave a designated area. I also note that a blanket ban to wearing face coverings in the designated area is not the approach that has been adopted under the bill; it is only an offence if a person refuses to comply with either of the two options outlined above. This is a less restrictive approach. I therefore consider that any limitations placed on the right of a person to demonstrate his or her own religion are proportionate and justified.

Freedom of expression (section 15) and the right to peaceful assembly (section 16)

The rights to freedom of expression and to peaceful assembly are protected under sections 15 and 16 of the charter. Section 15 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. Section 16 provides that every person has the right of peaceful assembly and the right to freedom of association with others.

These rights are relevant to the powers that police will have available in designated areas to direct a person to leave, particularly where the direction is to leave a protest. As I have noted above, the scope for police to use these powers is circumscribed and proportionate; police can only use these powers in the two ways described above. Section 15(3) provides that special duties and responsibilities are attached to the right to freedom of expression and the right may be subject to lawful restrictions to respect the rights of other people (such as other civilians or protesters) and for the protection of public order. I consider that the powers described above likely fall within the internal limitation in section 15(3).

The government respects the right of all Victorians to peaceful protest under section 16 of the charter and the powers in this bill will be directed only at persons who threaten violence while expressing their views. In this respect, the powers will also protect the rights of all other protesters to demonstrate

peacefully. I consider that any limitations to the right to freedom of association for those threatening violence or deliberately shielding their face as proportionate and justified.

The implied constitutional right to freedom of political communication is also relevant to the use of these powers. As with the right to freedom of expression under the charter, it is justifiable to limit the implied freedom of political communication for persons using or threatening violence in protests. I consider that the limited use of special police powers in these circumstances is necessary to maintain peace and good order.

Protection of families and children (section 17)

Section 17 of the charter provides that every child has the right, without discrimination, to such protection as in his or her best interests and is needed by him or her by reason of being a child.

The new powers proposed in the bill will apply to all persons, including children, while present in a designated areas. Recent outbreaks of violence and public disorder during events such as Moomba and at the Summersault Festival have highlighted the need for these new powers to protect the safety of all attendees, including children.

New statutory public order offences

This bill abolishes the common-law offences of affray, rout and riot and replaces them with two modernised statutory offences. Clause 7 creates the new offences of affray and violent disorder with penalties of increasing seriousness.

The offences carry higher maximum penalties where they are committed by a person wearing a face covering to conceal their identity or shield themselves from the effects of a crowd-controlling substance such as capsicum spray. This is relevant to the right under section 14 of the charter of a person to demonstrate his or her religion or belief in public. The operation of these higher maximum penalties will not impact this right, as it will be a matter for the prosecution to raise and prove beyond reasonable doubt that the face covering was worn for an impermissible purpose rather than for a legitimate cultural or religious purpose.

These offences are designed to protect the safety of all people involved in peaceful protests and those attending other large-scale public gatherings. I consider that they are compatible with the charter, are the least restrictive measures available and promote the right to life (under section 9 of the charter) and the right to peaceful assembly (section 16) for other members of the community by ensuring those committing violent acts in public events can be arrested and prosecuted.

Requirement for local government to consult with Victoria Police

The bill inserts a provision at clause 3 into the Summary Offences Act requiring councils to consult with Victoria Police when considering an application made for a permit in relation to a proposed protest. This will ensure that Victoria Police are made aware of any upcoming protests that may become violent and that councils have the expertise of Victoria Police available to them in relation to upcoming protests.

The right to peaceful assembly and freedom of association under section 16 is not affected by this amendment, as local councils will retain the authority they currently have to approve or deny a permit to protest. Further, not all protests require a permit and this bill does not alter that position.

The Hon. Gayle Tierney, MP
Minister for Corrections

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

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

That the bill be now read a second time.

Incorporated speech as follows:

The Crimes Legislation Amendment (Public Order) Bill 2017 contains a range of new measures to prevent serious disturbances of public order, including outbreaks of violence at protests, demonstrations and other public events.

The need for these laws has been highlighted by recent unacceptable disturbances at events in Victoria — the rampage at the recent Summersault Festival, riots at the Moomba festival, and clashes between violent protesters at demonstrations. Police were well prepared for these events, and responded appropriately to these outbreaks of violence. However, these events indicated that greater powers are needed to prevent violent clashes before they occur.

We have also seen an increase in the use of balaclavas and other makeshift face coverings by those who intend violence at public events. These face coverings are menacing and their presence can cause those participating in peaceful protest to fear for their personal safety. Face coverings prevent police from identifying troublemakers, and the anonymity they provide can lead the wearer to think that they can act without consequence. The measures contained in this bill will ensure police have the ability to respond to cowards who shield their identity to commit acts of violence. The bill will also impose much higher penalties on persons who do commit offences while wearing face coverings.

Additional powers in designated areas

The Chief Commissioner of Police already has the authority to declare a specific area or event to be a designated area under the Control of Weapons Act 1990. Before doing so the chief commissioner must be satisfied that there is a likelihood that violence or disorder involving the use of weapons will occur in that area. The making of a declaration provides Victoria Police with additional powers to search people and vehicles within that area for the duration of the designation.

The test for a planned declaration of a designated area under section 10D of the Control of Weapons Act 1990 is linked to the previous use of weapons in that area or during previous occasions of the event, while the test for making an unplanned designation under section 10E relies on a future likelihood of violence or disorder involving weapons occurring in the designated area.

The bill provides additional powers for police to use within designated areas. These powers include the ability to require a

person wearing a face covering to either remove their face covering or leave the area immediately. If a person chooses to remove their face covering, that person is free to stay in the area and continue protesting — peacefully. But if they refuse to remove their face covering, and refuse to leave the area, they will be committing an offence. The bill also provides a new power to police to deal with persons intending violence. A police officer who reasonably believes a person intends to use the kind of violent and antisocial behaviour that would constitute one of the new public order offences of affray or violent disorder created by this bill will be able to direct a person to leave a designated area. If the person refuses to comply with this order to leave, they will be committing an offence.

These laws respect the right of Victorians to engage in peaceful protest, whilst ensuring that police are able to deal with those who seek to disrupt peaceful protests and other events. They are powers for use in restricted circumstances, over a limited area and for a limited duration. A designation can only be in place for as long as necessary, and no longer than 12 hours. The area affected by a designation must be no larger than is reasonably necessary and the Chief Commissioner of Police will be required to report to the Minister for Police on the number of declarations made under sections 10D and 10E of the Control of Weapons Act 1990 and when the new powers are used.

The laws relating to face coverings apply only to face coverings worn primarily to hide the wearer's identity or to shield the wearer from capsicum spray. The powers do not apply to face coverings worn for religious or cultural purposes. Nothing in these laws will prevent a person from wearing a face covering for legitimate purposes, nor deter such persons from participating in peaceful protests.

Move on laws

I note that in the wake of the violent protest in Coburg last year, the opposition called for the government to reinstate their 'move on' laws that were repealed by this government shortly after coming into office. The government will not be doing this. The 'move on' laws were not targeted at violent protesters, but sought to silence Victorians who wished to engage in peaceful protest and industrial action.

Unlike the move on laws, these new laws apply to protests and other events designated because of the threat of violence and public disorder. The fact that a protest is designated under these laws — due to the violence of, for example, a small number of troublemakers — will not prevent other participants from continuing to engage in peaceful protest.

New offences

In the wake of the violent protest at Coburg in May 2016, the government committed to stronger penalties for those involved in violent disorder. This bill will achieve this by modernising the offences applicable to such conduct.

Currently, there is a range of common-law offences applicable to such conduct, including affray, rout, and riot. The elements of these common-law offences are not found in legislation but in case law, and have existed in their current form for many years. With the exception of affray, these offences are not often charged. Every other Australian jurisdiction has abolished these common-law offences and replaced them with statutory offences.

This bill will abolish these offences in Victoria and introduce two new statutory offences. These offences will be known as affray and violent disorder.

The new statutory offence of affray will capture all conduct that currently constitutes the common-law offence of affray. The maximum penalty for the offence will be five years imprisonment, in line with the current penalty for the common-law offence.

The more serious offence is the new offence of violent disorder, which will be punishable by a maximum penalty of 10 years imprisonment. This offence will be committed when six or more persons use violence for a common purpose, and that conduct damages property or causes injury to a person.

Each of these offences will carry a higher penalty if committed by a person wearing a balaclava or other face covering. In the case of affray, the increased penalty will be seven years. For those who commit violent disorder while wearing a face covering, a maximum penalty of 15 years will apply. These penalties will send a strong message to those who think they can evade detection and engage in violence by shielding their identity.

Consultation with local government

The bill introduces a requirement that local government consult with Victoria Police regarding any application for a permit that relates to a proposed protest. This will ensure that Victoria Police is advised in advance of proposed protests, so that they can work together with the relevant council to minimise the risk of violence.

This change will not impose a requirement on people to seek a permit for protest. It will apply only to situations where permits are already required, and will impose obligations only on the relevant local council. The government is not requiring people to seek permits where a permit was not previously needed.

Conclusion

The measures contained in this bill will ensure that Victoria Police has the powers it needs to prevent and respond to outbreaks of violence at protests, demonstrations and other events. It does so without restricting the ability of Victorians to engage in industrial action and peaceful protest.

It will allow police to take appropriate action against those who hide behind balaclavas and face coverings, while preserving people's right to wear face coverings for legitimate purposes. It will also ensure that tough and appropriate penalties apply for persons who do commit acts of violence at public events.

I commend the bill to the house.

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

Debate adjourned until Tuesday, 16 May.

STATUTE LAW REVISION BILL 2017

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade); by leave, ordered to be read second time forthwith.

Statement of compatibility

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

Opening paragraphs

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

In my opinion, the Statute Law Revision 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 corrects a number of ambiguities, minor omissions and errors in acts to ensure their meaning is clear and reflects the intention of Parliament.

The bill also repeals wholly redundant acts identified by the Office of the Chief Parliamentary Counsel and departments.

Human rights issues

Human rights protected by the charter that are relevant to the bill

No human rights protected by the charter are relevant to the bill.

Is any limit on relevant rights by the bill reasonable and justified under section 7(2)?

As no human rights protected under the charter are relevant to the bill, it is not necessary to consider section 7(2) of the charter.

The Hon. Gavin Jennings, MP
Special Minister of State

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

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

That the bill be now read a second time.

Incorporated speech as follows:

The bill before the house, the Statute Law Revision Bill 2017, is a regular mechanism for updating and maintaining the accuracy of statute law in Victoria. The bill ensures that the state's laws remain clear, relevant and accurate.

The bill corrects a number of ambiguities, minor omissions and errors found in statutes, to ensure the meaning of acts is clear and reflects the intention of Parliament.

The bill also repeals wholly redundant acts identified by the Office of the Chief Parliamentary Counsel and departments.

By correcting references and fixing errors, the bill will help to ensure that Victorian statutes are updated and clear, and maintained in a regular and orderly manner so that they remain relevant and accessible to the Victorian community.

I commend the bill to the house.

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

Debate adjourned until Tuesday, 16 May.

GEELONG CITIZENS JURY

Final report

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade), by leave, presented report, January 2017, and government response.

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 6

Ms BATH (Eastern Victoria) presented *Alert Digest* No. 6 of 2017, including appendices.

Laid on table.

Ordered to be published.

PAPERS

Laid on table by Clerk:

Drugs, Poisons and Controlled Substances Act 1981 — Report pursuant to section 96 by Victoria Police for 2016

Planning and Environment Act 1987 — Notice of Approval of the following amendment to a planning scheme —

Macedon Ranges Planning Scheme — Amendment C110 (Part 1).

Statutory Rules under the following Acts of Parliament —

Borrowing and Investment Powers Act 1987 — No. 25.

County Court Act 1958 — No. 21.

Dangerous Goods Act 1985 — No. 22.

Equipment (Public Safety) Act 1994 — No. 23.

Occupational Health and Safety Act 2004 — No. 22.

Supported Residential Services (Private Proprietors) Act 2010 — No. 24.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rules Nos. 19 and 22 to 26.

FAMILY VIOLENCE PROTECTION AMENDMENT BILL 2017

The PRESIDENT — During formal business on Tuesday, 2 May 2017, I read a message from the Assembly presenting the Family Violence Protection Amendment Bill 2017 and requesting the agreement of the Council to the proceedings that followed. The minister first read the bill and was granted leave for it to be read a second time forthwith. It was at this point that the minister laid on the table the incorrect statement of compatibility as required by the Charter of Human Rights and Responsibilities Act 2006 and subsequently incorporated the incorrect second-reading speech into *Hansard*. As such I call on the minister now to present the correct documents in lieu of those from Tuesday, 2 May.

Ms TIERNEY (Minister for Training and Skills) — By leave, I move:

That in relation to the Family Violence Protection Amendment Bill 2017 —

(1) the statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006 be tabled in lieu of that tabled on Tuesday, 2 May 2017;

(2) the second-reading speech be incorporated into *Hansard* in lieu of that incorporated on Tuesday, 2 May 2017; and

(3) the statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006 and the second-reading speech incorporated on Tuesday, 2 May 2017, be expunged from *Hansard*.

Mr Davis — On a point of order, President, clearly a significant error has occurred here. The opposition is obviously happy to fix that, but perhaps the minister might like to provide an explanation to the house as to what occurred and why, and what steps she will take to ensure it does not happen again.

The PRESIDENT — Order! I have actually provided the explanation that Mr Davis has just sought, and it does occur to me that on the last occasion we had a similar error in this house Mr Davis was the Leader of the Government — it was in 2014. Leave has been granted, so I intend to put the motion that has been moved by Ms Tierney.

Mr Ondarchie — On a point of order, President, we actually do not have that motion yet. It has not been circulated.

The PRESIDENT — Order! That is fair enough. Leave has been granted for the motion to be put, and I am intending now to put that motion to the test.

Motion agreed to.

Statement of compatibility

Ms TIERNEY (Minister for Training and Skills) 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 Family Violence Protection Amendment Bill 2017.

In my opinion, the Family Violence Protection Amendment 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 of the bill

The bill amends the Family Violence Protection Act 2008 and various other acts, including the Criminal Procedure Act 2009, the Magistrates' Court Act 1989, the County Court Act 1958 and the Coroners Act 2008, to implement a number of recommendations of the Royal Commission into Family Violence. The bill also includes two additional amendments to the Family Violence Protection Act that were not explicit recommendations of the royal commission.

Also included in the bill are amendments to the Public Health and Wellbeing Act 2008, to assist in creating a stronger leadership role for local government in preventing and responding to family violence.

Human rights issues

Human rights promoted by the bill

The amendments to the Family Violence Protection Act included in the bill will make significant improvements to the system of family violence safety notices and family violence intervention orders, and the response of the justice system to family violence, to maximise the safety of victims of family violence, including children.

Through these amendments, the bill promotes a number of charter rights, including the right to life (section 9), the right to protection of families and children (section 17), the right to security of the person (section 21), cultural rights (section 19) and the right to a fair hearing (section 24).

The right to life encompasses the right not to be arbitrarily deprived of life. This right includes a duty on public authorities to take appropriate steps to protect a person's right to life in certain circumstances.

The protection of families and children provides that the family unit is a fundamental group in society, and that families are entitled to be protected by society and the state. Further, every child has the right to protection, without discrimination, as is in their best interests, in recognition of a child's special vulnerability because of their age.

Every person is also entitled to the right to security, which includes a duty on public authorities to protect a person's physical security in certain circumstances where there may be a real and immediate risk to life.

The cultural, religious, racial or linguistic background of individuals in the community, including the right to enjoy their culture, to declare and practise their religion and to use their language, is also protected by the charter. The cultural rights of Aboriginal persons are specifically protected, with the charter providing that Aboriginal persons hold distinct cultural rights that must not be denied.

The bill promotes these rights by:

extending the maximum duration of family violence safety notices from five days to 14 days, to provide victims with an opportunity to better prepare for court and access relevant services;

establishing a rebuttable presumption that children are either included in an affected family member's family violence intervention order or protected by a separate order of their own, to ensure children are properly protected from further family violence;

clarifying the courts' power to strike out appeals where the appellant does not appear, to assist in preventing respondents using the appeal process to further victimise the protected person;

adding criminal proceedings that relate to family violence offences to existing provisions that permit certain witnesses, including children, to give their evidence-in-chief via a prerecorded interview, to avoid them having to repeat their evidence in court;

allowing contravention of family violence safety notice and intervention order matters to be considered by the Magistrates and County Koori Courts, to provide a court environment that respects the practices and cultural traditions of Aboriginal people, and allows for more culturally appropriate sentencing orders;

establishing the Victorian Systemic Review of Family Violence Deaths unit in legislation, which through its in-depth investigations of family violence-related deaths and the provision of evidence-based research supports coroners in formulating prevention-focused recommendations that aim to reduce non-fatal and fatal forms of family violence;

requiring councils to include family violence measures in their municipal public health and wellbeing plans, to assist in creating a stronger leadership role for them in family violence prevention and response.

Human rights limited by the bill

Rebuttable presumption that children are included in family violence intervention orders

The bill amends the Family Violence Protection Act to create a rebuttable presumption that children are to be protected by family violence intervention orders, as recommended by the royal commission.

Clause 5 of the bill provides that before deciding whether to make an interim order, the court must consider whether there are any children who have been subjected to family violence committed by the respondent. Similarly, clause 8 provides that before deciding whether to make a final or an associated final order, the court must consider whether there are any children who have been subjected to family violence committed by the respondent or additional respondent.

Clauses 7 and 10 of the bill provide that where a court decides to make an interim, a final or an associated final order, the court must either include a child who has been subjected to family violence committed by the respondent or additional respondent in the order, or make a separate order for that child. Where an order that is made by the consent of the parties does not include a child who has been subjected to family violence committed by the respondent or additional respondent, the court must make a separate order protecting the child.

However, the court is not required to include the child in the interim order or make a separate interim order for the child if it is not necessary to do so to protect the child or ensure the safety of the child pending a final decision about the application. Similarly, the court is not required to include the child in the final order or make a separate final order for the child if it is not necessary to do so to protect the child.

If the court does not make an interim order for an affected family member, the court may make, on its own initiative, a separate interim order for the child, if satisfied that the child has been subjected to family violence committed by the respondent, and an order is necessary to protect the child pending a final decision about the application. Further, if the court does not make a final order for an affected family member, the court may, on its own initiative, make a final order for a child of the affected family member or the respondent, if satisfied that the respondent has committed family violence against the child and is likely to continue to do so or do so again. Similarly, if the court does not make an associated final order for an affected family member or an additional applicant, the court may, on its own initiative,

make a final order for a child if satisfied of the grounds in new section 77B(2).

The right to equality (section 8), the right to freedom of movement (section 12), the right to privacy (section 13), and the protection of families and children (section 17) are relevant to these amendments.

The right to equality means that every person has the right to enjoy their human rights without discrimination, is equal before the law and is entitled to the equal protection of the law without discrimination. This right is qualified by section 8(4) of the charter which provides that certain special measures do not constitute discrimination, namely measures 'taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination'.

While the right to equality is relevant to these amendments, as they protect children in a preferential manner on the basis of their age, the right is not limited because the amendments fall within the exception under section 8(4), being special measures to assist or advance the protection of children recognising that they are particularly vulnerable by reason of being a child in addition to having been subjected to family violence and potential ongoing risk. The amendments are also reasonable and justified as they are consistent with the intention of the Family Violence Protection Act, and promote the protection afforded to children under section 17(2) of the charter.

The right to freedom of movement provides that a person is entitled to move freely within Victoria, to choose where to live in Victoria, and to freely enter and leave Victoria.

A person also has a right not to have their privacy, family or home unlawfully or arbitrarily interfered with or their reputation unlawfully attacked. An interference with privacy is not unlawful if it is permitted by a law, and is not arbitrary if the restrictions it imposes are reasonable, just and proportionate to the end sought.

The charter protects families and children, providing that families are a fundamental group unit of society, and must be protected by society and the state. However, whilst the family unit is an important charter right (section 17(1)), so too is the right in section 17(2), that children are entitled to special protection.

These rights are relevant to the rebuttable presumption, to the extent that including a child in an order, or making a separate order for a child, may result in the respondent being excluded from a particular place, including their residence (thus limiting the right to freedom of movement), or having access to their child limited (thus limiting the right to privacy of the home and family, and protection of families and children).

Whilst the presumption may limit a respondent's right to freedom of movement, right to privacy and right to the protection of families and children, any limitation is reasonable and justified in accordance with section 7(2) of the charter, because of the important objective of ensuring swift and effective protection of children who have been subjected to family violence committed by the respondent and the grave impacts on the safety, wellbeing and lives of children should they continue to experience family violence.

The amendments are necessary, and a reasonable response, to address the royal commission's finding of disparities between the number of family violence incidents attended by police at which children are present, the number of children recorded by police as affected family members, and the number of children listed on original family violence intervention order applications. The amendments address the royal commission's findings to strengthen the existing special provisions for children in the Family Violence Protection Act.

The royal commission considered the rights of respondents in making its recommendation, however concluded that on balance any limitation on the rights of respondents was outweighed by the need to provide proper protection to children who have been subjected to family violence.

This conclusion is consistent with the protection afforded to children under section 17(2) of the charter as it recognises that children who have been subjected to family violence (including through witnessing, hearing or otherwise being exposed to the effects of such violence) and are at ongoing risk should be protected either by their own family violence intervention order or by being included in an affected family member's order.

To mitigate against any unnecessary limit on the rights of a respondent, the bill provides that the presumption will not apply if the court is satisfied that the inclusion of a child in an interim or final order, or the making of a separate order for the child, is not necessary to protect the child from family violence.

The amendments in the bill to the operation of family violence intervention orders are, therefore, considered to be compatible with the charter.

Extension of the duration of family violence safety notices

A police-issued family violence safety notice provides temporary protection for affected family members and also acts as an application for an intervention order. Currently, the first court mention date for an application commenced by a family violence safety notice must be within five working days of the notice being served on the respondent.

Clause 32 of the bill extends the maximum period for the first mention date from five working days to 14 calendar days.

The right to freedom of movement, right to privacy, and protection of families and children are relevant to the extent that a notice may include conditions prohibiting the respondent from being within a certain distance of an affected family member, or excluding the respondent from a particular place. As a result of the amendment, these conditions may operate for a longer period before being subject to judicial oversight.

Although extending the maximum period within which a family violence safety notice must be brought to court may limit the rights of a respondent, any limitation is reasonable and justified under section 7(2) of the charter as family violence safety notices:

operate for a limited duration;

can only be issued in circumstances that require an urgent response;

are necessary to ensure the protection and safety of victims of family violence, and the extended period promotes a victim's ability to properly prepare for the intervention order application;

> are subject to judicial oversight, as they also act as an application for a family violence intervention order.

The royal commission found that the extension of the duration of a notice from five days to 14 days is appropriate, given the need to ensure that the parties have sufficient time to prepare for court, to allow for appropriate specialist referrals to be made, and to avoid the risk to the victim of protracted or poorly prepared family violence intervention order applications.

Further, the bill provides an additional safeguard to limit the interference with a respondent's right to access to their home, and to mitigate against the risk of homelessness, by providing that where a notice excludes the respondent from their primary place of residence and the police officer who applied for the notice believes the respondent may not have access to temporary accommodation, the first mention date must be as soon as practicable. Currently, the first mention date for a notice including an exclusion condition must be as soon as practicable.

Alternative service of applications and family violence intervention orders

Clause 28 of the bill provides that the court may order that a family violence intervention order or another document be served by a means other than personal service, where the court is satisfied that alternative service:

> is likely to bring the document to the attention of the person to be served; and
>
> will not pose an unacceptable risk to the safety of the affected family member, protected person or any other person; and
>
> is appropriate in all the circumstances.

If a court has ordered when alternative service is taken to be effective, or the presumptions in the bill for service by post or electronic communication apply, clause 28 places an evidentiary burden on the accused to prove that they did not receive a copy of a family violence intervention order in any proceeding for contravention of the order.

The reversal of onus in clause 28 might have implications for the right to be presumed innocent under section 25(1) of the charter. The right provides that a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law, whether the offence is an indictable or a summary offence. While applications for and making of family violence intervention orders are not criminal proceedings, once in place, a contravention of a family intervention order is an offence.

Whilst a law that shifts the burden of proof to the accused or applies a presumption of fact or law operating against an accused may limit this right, provisions that merely place an evidentiary burden on an accused with respect to any available exception or defence do not generally limit the right to be presumed innocent. This is because the prosecution still bears the legal burden of disproving that matter.

If the reversal is a limit on the right, the limit is reasonable and justifiable under section 7(2) of the charter because it relates to matters which are peculiarly within an accused's knowledge. Further an accused in a proceeding for a contravention of a family violence intervention order may produce evidence showing that they did not receive a copy of the order. Therefore, the amendment is compatible with the right to presumption of innocence.

Strike out of family violence intervention order appeals if the appellant fails to appear

Clause 33 of the bill inserts a new provision in the Family Violence Protection Act enabling the court to strike out an appeal if an appellant fails to appear at a mention hearing or at the appeal hearing itself. This will clarify the existing inherent powers of the court to manage its procedure and will help ensure that intervention order appeals are not used by some appellants to further harass victims of family violence.

The amendment is relevant to the right to a fair hearing. However, the right to a fair hearing is not limited under section 7(2) because of the purpose of ensuring intervention order appeals are not used by appellants to harass victims of family violence. Further, the amendment includes fair hearing safeguards that enable an appellant to have a struck out appeal reinstated if the court is satisfied that their failure to appear was not due to fault or neglect on the part of the applicant.

Use of recorded evidence-in-chief

Part 6 of the bill amends the Criminal Procedure Act to add criminal proceedings that relate to family violence offences to existing provisions that permit certain witnesses to give their evidence-in-chief via a prerecorded interview. Use of recorded evidence-in-chief is currently permitted for witnesses who are children or persons with a cognitive impairment in criminal proceedings for sexual offences, indictable offences involving assault, injury or threat of injury, and certain summary assault offences. The amendment will enable children and persons with a cognitive impairment who are witness to family violence offences to also give their evidence-in-chief via prerecording.

The right to privacy might be promoted by the part 6 amendments. The amendments extend existing provisions about the use of recorded evidence. The existing provisions enable the court to allow recordings to be used for other court proceedings, but only if the court is satisfied that it is in the best interests of the witness to do so, having regard to the need to protect the privacy of the witness. This acknowledges that the recorded evidence-in-chief of a witness often contains deeply personal information, for example, the graphic details of family violence, and this must be considered by the court in determining whether it can be replayed.

The right to minimum guarantees for a person charged with a criminal offence under section 25(2) of the charter is relevant to the amendment, including to: have adequate time and facilities to prepare a defence; examine, or have examined, witnesses against them, unless otherwise provided for by law; and obtain the attendance and examination of witnesses against them, unless otherwise provided for by law.

The right to minimum guarantees in criminal proceedings and the right to a fair hearing are relevant to the part 6 amendments because they affect the manner in which evidence can be used in criminal proceedings for a family violence offence. Under section 7(2) of the charter, these rights are not however limited in this case, as hearings will remain fair for an accused person because the provisions include a range of safeguards. The existing provisions about use of recorded evidence-in-chief include requirements that a

transcript of the recording is served in advance, the accused and their lawyer have a reasonable opportunity to listen to or view the recording, and the witness attends court to attest to the truthfulness of the recording and is available for cross-examination and re-examination. The court may also direct that the recording be edited or altered to delete the whole or any part of the contents of a recording that is inadmissible.

Extension of the Koori Court jurisdiction to include contraventions of intervention orders

Part 4 of the bill amends the Magistrates' Court Act and County Court Act to extend the jurisdiction of the Koori Court divisions of:

the Magistrates Court to deal with contraventions of family violence intervention order or family violence safety notice matters;

the County Court to deal with contraventions of family violence intervention order, family violence safety notice or personal safety intervention order matters.

The amendments build upon the successful Koori Court model already in operation in the Magistrates Court and County Court.

The right to recognition and equality is relevant to the amendments to the extent that the jurisdiction of the Koori Court is limited to offences committed by Aboriginal people. Therefore, only Aboriginal people will be eligible to have their family violence contravention offences considered by the Koori Court.

However, the amendments do not limit the right to recognition and equality because they fall within the exception under section 8(4) of the charter. The purpose of establishing the Koori Courts was to assist Aboriginal people who are generally disadvantaged and overrepresented in the criminal justice system. The Koori Courts are achieving their aim of redressing this overrepresentation through the reduction of recidivism. Extending the jurisdiction of the Koori Courts to hear family violence contravention matters will support them to further reduce recidivism. Accordingly, these amendments are considered compatible with the charter.

The rights of an accused in criminal proceedings are relevant to the extension of the jurisdiction of the Koori Courts to consider family violence contravention matters, specifically the right to be presumed innocent, and the right to review of a conviction under sections 25(1) and 25(4) of the charter.

A guilty plea is a fundamental aspect of the Koori Court model. Therefore, an Aboriginal accused charged with a family violence contravention matter must plead guilty in order for it to be dealt with in the Koori Court. However, nothing in the Magistrates' Court Act or the County Court Act limits the right of an Aboriginal person to be presumed innocent and to have their proceeding heard at first instance in the appropriate court or on appeal in the County Court, sitting other than as the Koori Court division. Therefore, the amendment does not limit section 25 of the charter.

Publication of information about family violence intervention orders by the Coroners Court

In specific circumstances, clause 44 of the bill lifts the publication restrictions in section 166 of the Family Violence Protection Act and section 534 of the Children, Youth and Families Act 2005 to allow the Coroners Court to publish certain information relating to the subjects of orders and proceedings under the Family Violence Protection Act in the Magistrates Court and Children's Court.

These circumstances are where a coroner determines that the publication is in the public interest, and in the case of an order or a proceeding under the Family Violence Protection Act in the Children's Court, no person likely to be identified by the publication is a child.

Whilst clause 44 is relevant to a person's right to privacy given the publication of personal information, the interference is not unlawful nor arbitrary, as any publication:

is limited to information which relates to the subjects of orders and proceedings under the Family Violence Protection Act (and not other personal information);

must be in the public interest;

is only for the purpose of a coroner's findings, comments and recommendations made after an inquest or investigation;

will assist the Coroners Court to undertake the public health and safety aspect of its work.

Further, the amendment supports the protection of children under section 17(2) of the charter by retaining the current publication restrictions under the Children, Youth and Families Act where the publication would likely lead to the identification of a child. This is in recognition of the sensitivities involved in disclosing information relating to orders made by or proceedings in the Children's Court.

For these reasons clause 44 of the bill is compatible with the charter.

The Hon. Gayle Tierney, MP
Minister for Corrections

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Ms TIERNEY (Minister for Training and Skills).

Ms TIERNEY (Minister for Training and Skills) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Family violence is our number one law and order issue. More than 78 012 family incidents were reported to Victoria Police in 2015–16, a figure which has increased by over 45.3 per cent since 2012.

All governments have a responsibility to put an end to family violence. The Victorian government is doing everything we can to protect the safety and wellbeing of women and children. It is why the government established Australia's first Royal Commission into Family Violence and is implementing all of its 227 recommendations. *Ending Family Violence: Victoria's Plan for Change* details how the

government will deliver these recommendations, and build a new system that protects victims, holds perpetrators to account, and changes community attitudes.

The Family Violence Protection Amendment Bill 2017 (the bill) responds to a number of royal commission recommendations, which aim to improve the operation of the system of family violence safety notices and intervention orders, and the response of the justice system to family violence. The amendments in the bill include streamlining the process for serving family violence intervention orders, promoting the protection of children, measures to prevent respondents abusing the intervention order appeal process, and allowing recorded evidence to be used in some proceedings for family violence offences.

The bill also responds to a recommendation of the royal commission to strengthen the leadership role of local government in preventing and responding to family violence.

Finally, the bill amends the Family Violence Protection Act 2008 to streamline the administrative arrangements for counselling orders made under that act, and the Coroners Act 2008 to allow coroners to publish information about family violence intervention orders and proceedings.

Fourteen-day family violence safety notices

Family violence safety notices are issued by police officers and provide short-term protection for victims of family violence. They also act as an application for a family violence intervention order and a summons for the respondent to attend court on the first mention date for the application.

Currently, the first mention date for an application commenced by a family violence safety notice must be within five working days of when the notice is served on the respondent. If a notice includes a condition excluding the respondent from the protected person's residence (an exclusion condition), the first mention date must be as soon as practicable within that five-day period.

The royal commission observed that police-initiated applications that are brought to court very quickly can have a detrimental effect on both the capacity of victims to decide what they want to do and the accountability of perpetrators. It recommended increasing the period within which the first mention date must occur from five working days to 14 calendar days.

The bill implements this recommendation, providing that the first mention date for an application commenced by a family violence safety notice must be within 14 days of the respondent being served with the notice. It also provides that if a family violence safety notice includes an exclusion condition the first mention date must be as soon as practicable within the 14-day period where the police officer who applied for the notice believes that the respondent may not have access to temporary accommodation. This intends to better target the existing requirement regarding the first mention date for family violence safety notices including an exclusion condition.

The aim of the royal commission's recommendation is to ensure that police applications are fully investigated and the parties properly informed before the application is considered, so there are fewer adjournments and the first encounter with the court is as meaningful and productive as possible. The commission sought to balance the need to ensure the safety of victims at high risk of harm against the risk of harm to the victim arising from protracted or poorly prepared family violence intervention order proceedings.

Rebuttable presumption that children are protected by family violence intervention orders

Family violence has serious short and long-term impacts on the health and wellbeing of children; there is no known safe level of exposure to such violence. The Family Violence Protection Act recognises this, with its comprehensive definition of family violence, which includes behaviour that causes a child to hear or witness, or otherwise be exposed to the effects of, family violence, and other special provisions for children.

Children are often present when their mothers suffer family violence. However, the royal commission found disparities between the number of family violence incidents attended by police at which children are present, the number of children recorded by police as affected family members, and the number of children listed on original family violence intervention order applications. It was of the view that not all children are being considered for protection by an order.

In response, the royal commission recommended establishing a rebuttable presumption that, if an applicant for a family violence intervention order has a child who has experienced family violence, that child should be included in the applicant's family violence intervention order or protected by their own order. The bill implements this recommendation.

Before making either an interim or a final family violence intervention order, the bill requires the court to consider whether there are any children who have been subjected to family violence committed by the respondent. Being subjected to family violence includes a child hearing or witnessing, or being otherwise exposed to the effects of, family violence; for example, a child being present when police officers attend a family violence incident, or a child providing comfort or assistance to a family member who has been assaulted by another family member.

If the court decides to make an interim or a final family violence intervention order, the bill requires the court to either include any child who has been subjected to family violence in the affected family member's order or make a separate order for the child. This applies to both children who are included in the affected family member's application and those who are not.

However, the court is not required to include the child in an interim order or make a separate interim order for the child if satisfied that it is not necessary to do so to protect the child or ensure the safety of the child pending a final decision about the application. Similarly, the court is not required to include the child in a final order or make a separate final order for the child if satisfied that it is not necessary to do so to protect the child from family violence committed by the respondent.

If a court refuses to make an interim or a final family violence intervention order for an affected family member, the court may, on its own initiative, make an interim or a final order for a child of the affected family member or respondent, where the court is satisfied that the grounds for making such an order are met.

Alternative service of family violence intervention orders and applications

Under the Family Violence Protection Act, many documents, such as applications and family violence intervention orders, must be served personally on the parties or one of the parties. Police officers generally effect personal service. If a document cannot be served personally, a police officer may apply to the Magistrates Court or the Children's Court for substituted service.

A family violence intervention order is not enforceable against the respondent until it has been served on them. Personal service provides a high degree of assurance that the respondent is made aware of the order, promoting their compliance and accountability and the protected person's safety. On the other hand, some respondents may avoid service, and the personal service of documents impacts on the resources of Victoria Police and the courts.

The royal commission observed that there might be cases where a magistrate may be satisfied that service can be effected by other means (for example, by email or registered post) and service by such means will not materially reduce the safety of the protected person or weaken the accountability of the respondent. Changes were recommended to streamline the service of documents, to ensure police and court time is spent protecting and supporting victims and holding perpetrators to account.

The bill implements the recommended changes, providing that where a document, including a family violence intervention order, must be served personally, the court may order alternative service if satisfied that it:

> is likely to bring the document to the attention of the person to be served;
>
> will not pose an unacceptable risk to the safety of the affected family member, protected person or any other person; and
>
> is appropriate in all the circumstances.

The court may make an order for alternative service on its own initiative or on the application of a party to the proceeding, for example a police officer or the affected family member. An order for alternative service can only be made against an adult. The reform does not apply to children, nor does it apply to the service of a family violence safety notice.

The bill also provides that where an adult respondent is before the court when a family violence intervention order is made and has been given an oral explanation, the order is immediately enforceable. In these circumstances, a copy of the order must be given to the respondent; rather than being served personally on them. This amendment will also ensure that protection is put in place quickly and further reduces the burden that personal service places on Victoria Police and the courts.

Strike out of family violence intervention order appeals for failure to appear

A party to a proceeding under the Family Violence Protection Act may appeal against an order of the court or a refusal to make an order. The royal commission heard that perpetrators may use legal processes, such as appeals, to further harass and intimidate victims. For example, a perpetrator may use delaying tactics such as failing to attend hearings, seeking adjournments at late notice, and filing an appeal without good reason.

Consistent with the royal commission recommendation, the bill clarifies the courts' powers to strike out an appeal under the Family Violence Protection Act where the appellant fails to appear at a mention date or the hearing of the appeal.

Clearer legislative provisions will promote certainty and confidence for the courts to strike out appeals. The new provisions balance the objective of providing an appeal process to rectify errors in the making of a family violence intervention order with appropriate powers to reduce the risk of the process being used to retraumatise the protected person.

Explanation of family violence intervention orders

The interaction between the federal family law system and state-based family violence intervention order systems is complex and can be confusing and difficult for people to deal with. State courts have limited jurisdiction under the Family Law Act 1975 (cth). For example, in proceedings to make or vary a family violence intervention order, the Magistrates Court has the power to revive, vary, discharge or suspend certain family law orders to the extent that the family law order is inconsistent with the family violence intervention order.

In the royal commission's view, clear communication is required from the courts to help the protected person and the respondent understand the effect of a family violence intervention order, particularly where orders have been made under both the Family Violence Protection Act and the Family Law Act.

Currently, the Family Violence Protection Act provides that the magistrate must explain a final family violence intervention order to the protected person and/or the respondent if they are before the court, and the registrar must explain an interim order. These oral explanations must include the information specified in the Family Violence Protection Act. A written explanation containing this information must also be provided to the protected person and the respondent.

As recommended by the royal commission, the bill requires the magistrate to explain an interim order, rather than the registrar. It also requires the oral and written explanations of a final order to include information about how the order interacts with a family law order or an order under the Children, Youth and Families Act 2005. This information must already be included in the oral and written explanations of an interim order.

As a result of these amendments the magistrate will explain both interim and final family violence intervention orders, and the information that must be included in the oral and written explanations of interim and final orders about family law and children protection orders will be consistent.

Recorded evidence-in-chief for witnesses who are children or cognitively impaired persons

Giving evidence in a criminal proceeding can be difficult for victims and witnesses. This experience can be particularly traumatic if it occurs in the physical presence of the accused, or if the evidence needs to be repeated in later proceedings. Using special procedures, such as allowing evidence to be prerecorded and replayed, can improve the experience of witnesses in proceedings.

The royal commission suggested that the government 'investigate the possibility of prerecording the evidence of victims of family violence (or some categories of victims, for example victims with disabilities) for use in family violence-related criminal prosecutions'.

A range of special procedures are already available for the giving of evidence by certain classes of witness. In particular, the Criminal Procedure Act 2009 allows prerecorded evidence-in-chief to be used for a child or person with a cognitive impairment who is a witness in proceedings for a sexual offence or an indictable offence which involves an assault or threat of assault.

The bill expands these provisions in the Criminal Procedure Act so that they apply in proceedings for a family violence offence.

Approval of prosecutions for the 'failure to protect' offence

As recommended by the royal commission, the bill provides that a prosecution for the offence of failure to disclose a sexual offence committed against a child under the age of 16 years, in section 327 of the Crimes Act 1958, must not be commenced without the consent of the Director of Public Prosecutions.

In determining whether to consent to a prosecution, the Director of Public Prosecutions must consider whether the alleged offender has been subjected to family violence that is relevant to the circumstances in which the offence is alleged to have been committed. For this purpose, the term family violence has the same meaning as it has in the Family Violence Protection Act.

Jurisdiction of the Koori Magistrates and County courts

The Koori Magistrates Court does not currently have jurisdiction to deal with contraventions of family violence safety notices, family violence intervention orders or personal safety intervention orders. Although it has jurisdiction to deal with contraventions of personal safety intervention orders, the Koori County Court has no jurisdiction over contraventions of family violence safety notices or family violence intervention orders.

The royal commission recommended the extension of the jurisdiction of the Magistrates and County Koori Courts to include offences where it is alleged that the accused has contravened a family violence intervention order, subject to the approval of the Aboriginal Justice Forum and inclusion of any necessary safeguards. In April 2016 the Aboriginal Justice Forum endorsed this expansion as well as giving the Koori Magistrates Court jurisdiction to deal with contraventions of personal safety intervention orders.

The bill will extend the jurisdiction of the Koori Magistrates Court to include contraventions of family violence safety notices, family violence intervention orders and personal safety intervention orders, and that of the Koori County Court to include contraventions of family violence safety notices and family violence intervention orders.

The bill enables a staged rollout of the expanded jurisdiction of the Koori Courts. This will allow the courts to develop the safeguards necessary to ensure that the hearing of family violence contravention matters delivers cultural safety for victims as well as perpetrators and safety from violence for victims, and provides access to appropriate interventions for both victims and perpetrators.

Victorian Systemic Review of Family Violence Deaths

The Victorian Systemic Review of Family Violence Deaths was established at the Coroners Court in 2009 to support coroners investigating family violence-related deaths. The work of the Victorian Systemic Review of Family Violence Deaths unit aims to improve the understanding of the human and systemic factors involved in family violence-related deaths, and to provide information that assists coroners to identify opportunities to improve policies, systems and service responses for victims and perpetrators of family violence.

The royal commission considered that the process of the Victorian Systemic Review of Family Violence Deaths has clear benefits. As recommended by the royal commission, the bill will establish a legislative basis for the Victorian Systemic Review of Family Violence Deaths unit, by amending the Coroners Act 2008. The new provisions include a list of functions for the Victorian Systemic Review of Family Violence Deaths unit and a requirement that the Coroners Court report on the operation of the unit in its annual report.

Repeal of the uncommenced interim order reform

In response to a royal commission recommendation, the bill repeals uncommenced amendments in the Family Violence Protection Amendment Act 2014, that would have established a new process to allow some interim orders to automatically become final orders without a further court hearing.

Amendments to the Public Health and Wellbeing Act 2008

The bill amends the Public Health and Wellbeing Act 2008 to require local governments to include measures in their municipal health and wellbeing plans to prevent and respond to family violence. The proposed amendments to the act will assist in creating a stronger leadership role for local government in family violence prevention and response. A number of councils are already proactively addressing family violence in their municipalities.

Conclusion

The government is committed to building a future where all Victorians live free from family violence, and where women and men are treated equally and respectfully. This bill is an important part of the government's landmark reforms to build a new system that protects victims, holds perpetrators to account, and changes community attitudes. We still have more to do, but we are confident that by working together we can achieve our vision for Victoria.

I commend the bill to the house.

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, 10 May 2017:

(1) notice of motion given this day by Ms Wooldridge in relation to the production of Department of Health and Human Services Public Accounts and Estimates Committee documents;

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

(3) order of the day 13, resumption of debate on the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015;

(4) order of the day 19, resumption of debate on the motion relating to Heyfield mill; and

(5) notice of motion given this day by Mr Rich-Phillips to establish a select committee to inquire into the use of the second residence allowance.

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 requiring the legal and social issues committee to inquire into youth justice centres and report by 1 August 2017 be amended so as to now require the committee to present its report by 6 September 2017.

Motion agreed to.

MINISTERS STATEMENTS

Early childhood education

Ms MIKAKOS (Minister for Families and Children) — I rise to inform the house how the Andrews Labor government is building the education state of Victoria's youngest citizens. The early years matter, and that is why we are investing $202.1 million to deliver the education state early childhood reform plan. This is the largest single investment from a state government in early childhood ever. The plan sets out a range of nation-leading reforms and our long-term vision for the early childhood system in Victoria — a high-quality system that is accessible and inclusive. It recognises the importance of providing families with the support they deserve so that their children are ready for kinder, ready for school and ready for life.

Quality early education is essential, and that is why we are boosting funding to our kindergarten system by $108.4 million. This includes $55.3 million in school readiness funding — an Australian first — so children who need extra support get it. We are expanding and strengthening our maternal and child health service with an $81.1 million investment to give more families more support for issues affecting their children.

In another Australian first we will deliver $11 million to provide additional maternal and child health outreach visits for children and families who are at risk of or are experiencing family violence. This funding follows the Victorian government's record $133 million investment in our maternal and child health (MCH) service in last year's state budget, ensuring that Victoria maintains a world-class MCH service.

The Andrews Labor government will start to implement the plan immediately, with funding for many initiatives starting in this calendar year. Measuring our achievements will be important, and we will seek to develop measures that track our progress towards improving outcomes for Victoria's children and families. In delivering the plan we will continue to work closely with all of our government, sector and community partners. Together we will transform the lives of generations of young Victorians.

MEMBERS STATEMENTS

Victorian Heart Hospital

Ms WOOLDRIDGE (Eastern Metropolitan) — What a debacle Labor's heart hospital and its management of it has become. In November 2014 Daniel Andrews promised Victorians that his government would deliver a new standalone 195-bed heart hospital, with the state contributing $150 million of the $300 million to $350 million cost. Now in 2017 this flailing government has failed to secure the necessary funding to deliver this Daniel Andrews idea that copied and replicated a model that the coalition had put forward for a $120 million dedicated heart hospital to be co-located with the Monash Medical Centre. What we are finding is that investors and co-investors are walking away from this project that is going to cost, I believe, at least $450 million.

Daniel Andrews is now trying to blame the federal government for his own funding shortfall. The state Treasurer has described this as an election commitment 'that we can't deliver'. They did not even mention federal funding for this project until 18 months after Daniel Andrews's original promise. Two and a half years on, the Minister for Health had not even written to the federal government asking for funding. It was not until she was shamed at a Public Accounts and Estimates Committee hearing in March this year, when asked if she had written to the federal government, that a letter was then subsequently sent, two weeks later. This is just another example of Daniel Andrews making a promise and expecting someone else to pay for it. This is an absolute debacle. It has been poorly managed, and Daniel Andrews should hang his head in shame.

Cyclist safety

Ms DUNN (Eastern Metropolitan) — This week has been declared the fourth United Nations Global Road Safety Week in order to focus attention on standalone target 3.6 of the Global Goals for Sustainable Development, specifically:

> By 2020, halve the number of global deaths and injuries from road traffic accidents.

This target was adopted by Australia and 192 countries and parties in September 2015.

There has been insufficient effort on the part of the Victorian government in reducing deaths of cyclists on Victoria's roads. There have been five cyclist deaths so far this year, and it is only May. Over the April–May period there were three cyclist deaths on Victoria's roads that involved a motor vehicle: in Yarraville a mother of two was hit by a truck, in Benalla a bicycle touring enthusiast was hit from behind by a car and in Pakenham a father of five was struck by a ute.

This death toll is needless. It leaves children without parents. It leaves friends bereft. It leaves communities without leaders. It is well past time that the Victorian government did more to protect vulnerable road users. The Victorian government is now alone in opposing minimum passing distance laws. Every other state has either put the laws into force, trialled them or pledged to support them.

This week I will be reintroducing minimum passing distance legislation into this place. I implore members to support this bill and help prevent cyclist deaths on our roads.

Darley Early Years Hub

Mr MELHEM (Western Metropolitan) — On 27 April, on behalf of the Minister for Families and Children, the Honourable Jenny Mikakos, I had the pleasure of officially opening the Darley Early Years Hub. The $4.15 million new integrated children's centre in Darley provides three and four-year-old kindergarten programs, playgroups, maternal and child health services, a planned toy library, family services, occasional care and community space.

The development of the facility involved the relocation of existing services and groups, including the Lerderderg Kindergarten and maternal and child health services as well. As a result of this new hub, interested local families and children will no longer need to sign up for a three-year waiting period to access this important community service. I want to thank the Minister for Families and Children and Moorabool Shire Council for their hard work in making sure this service is now being made available to the local community.

Maribyrnong Korean War memorial

Mr MELHEM — On another matter, I further welcome the government's announcement that a new war memorial to honour those who served in the Korean War will be built in Maribyrnong Quarry Park in my electorate. I congratulate the Korean consulate general and the Victorian division of the Korean Veterans Association of Australia, who strongly advocated for the creation of this memorial. I also commend the Minister for Veterans, John Eren, for his commitment to making sure that it happened. More than 17 000 Australians served in the Korean War between 1950 and 1953. In that war 339 Australians tragically lost their lives and another 1200 were wounded. The Andrews Labor government has provided $100 000 towards the new memorial, the Korean War Memorial Committee has provided $150 000 and the Republic of Korea, $300 000, which was announced last year.

Antonio Vaitohi

Ms LOVELL (Northern Victoria) — I would like to acknowledge and congratulate a very inspirational young man from Shepparton. Antonio Vaitohi is just 13 years old and became the new national men's under-15 champion in the 100 metre and 200 metre athletics races at the Australian Athletics Championships. He was also a silver medallist in the men's under-16 100 metre and 200 metre relay races. Antonio showed incredible power and resilience to win

these races against competitors up to two years older than him. Antonio is at a disadvantage compared to metropolitan athletes as he does not have access to top coaches, and during his preparation for the national championships he did not even have access to a running track, training instead in the street outside his home.

Antonio was one of seven Shepparton Little Athletics club representatives to represent our town and state in the Australian Athletics Championships at the end of March. I would also like to congratulate Liam and Emily Schreck, Bridget Catania, Hannah and Aiden Smith and Kyle Murphy on their achievements.

Rashidi Sumaili and Jennifer Hippisley

Ms LOVELL — I would like to extend my congratulations to Shepparton's Rashidi Sumaili and Jennifer Hippisley, who were recently recognised as ambassadors for peace by the Universal Peace Foundation. Rashidi and Jennifer coordinate the Goulburn Valley youth leadership program Future Voices, which works to engage local young people in education while encouraging them to be aware of global issues. They were awarded for their outstanding dedication and commitment to cultural diversity and having a positive impact on their community. Congratulations and thank you, Rashidi and Jennifer.

Yarra Ranges Tech School

Mr MULINO (Eastern Victoria) — On 18 April I attended the opening of the Yarra Ranges Tech School with the Premier, the Minister for Education and member for Eastern Metropolitan Region Shaun Leane. The Yarra Ranges Tech School is the first tech to be opened. What a great outcome for the eastern suburbs. It will provide 12 000 secondary students with an opportunity to experience cutting-edge equipment and training across fields such as robotics, virtual reality and 3D printing. A total of 10 tech schools will be built across the state — part of a $128 million initiative.

Arena Child and Family Centre

Mr MULINO — It was a privilege to attend the opening of the Arena Child and Family Centre in Officer on behalf of the Minister for Families and Children, Jenny Mikakos. I was at the sod turn for this centre. It was very satisfying to see a project that transformed a muddy field into a modern, fully functional kindergarten. The centre will provide 66 four-year-old kindergarten places and 22 three-year-old kindergarten places. It received $650 000 from the state government and over $2 million from Cardinia Shire Council. Congratulations to Cardinia for the effort they put into this project. It is a much-needed project given rapid population growth in the area, and the centre was very busy right from day one.

Country Fire Authority Beaconsfield station

Mr MULINO — It was also a privilege to open the new Beaconsfield Country Fire Authority station on behalf of the Minister for Emergency Services. Over $2.7 million was invested in acquiring land and building new facilities. This will mean dedicated car parking for members that they did not have in the past, new shower facilities and change rooms. The brigade has been operating since 1944, and these much-needed new facilities will be very important for servicing a rapidly growing population.

Local government funding

Mr DAVIS (Southern Metropolitan) — I want to draw the attention of the house to a terrible decision that was made in the recent state budget to slice the support for interface and growth councils from $50 million to $25 million. Those councils that over the last two years have developed a strong focus on this funding and provided projects and a series of important infrastructure outcomes have had that money ripped away from them. Twenty-five million dollars was ripped away this year, $25 million will be ripped away next year, and in the two years following there is no money in the state budget for those councils.

Those councils face enormous growth pressures. I was out at Melton recently, where there has been 5 per cent growth over one year. We are seeing 2.1 per cent growth statewide — 127 500 people — but that ring of growth councils around Melbourne are actually facing the enormous pressure, and this government has seen fit to tear that money away from them.

The government are also sitting on a huge amount of growth areas infrastructure contribution money, collecting $175 million more this year to add to the pool, and they spent about 4 per cent to 5 per cent of the money they held last year. Wyndham, Hume, Melton, Cardinia, Casey, Mitchell, Nillumbik, Mornington, Whittlesea and Yarra Ranges are councils that deserve to be treated better than Daniel Andrews has treated them in cutting their funding in this way.

Federal Labor advertising campaign

Ms SPRINGLE (South Eastern Metropolitan) — The last couple of days have seen my social media feeds — and I suspect other members in this chamber's

social media feeds — become the stage for a debate about whether the federal Labor leader's 'Australian first' campaign ad for Channel 9 was racist. The ad showed Bill Shorten with 12 white-looking people and implied they were the Australians that should be given jobs before foreigners.

Of course it is incredibly problematic to associate authentic Australianness with a particular skin colour or a particular ethnicity, unless that ethnicity is Aboriginal or Torres Strait Islander. But it seems as though many people cannot see why ethno-nationalism is problematic. I am disappointed that that view still exists, because of course Victoria and Australia are proudly multicultural and multiethnic.

Simply having a particular pigment in your skin does not make you any more or less Victorian or any more or less Australian than anyone else. The ad was incredibly disappointing, especially at this moment in Australia's history when it has never been more important and vital to present a vision of Australia that is inclusive and diverse, which is nothing more than showing what Australia really is.

Ivanhoe RSL

Mr ELASMAR (Northern Metropolitan) — It was with a heavy heart that I learned of the devastating fire that gutted the historic mansion that was home to the Ivanhoe RSL on the morning of 21 April. I have been to the Ivanhoe RSL many times, as have you, President, and seen the beauty of this 150-year-old building. I understand that the Minister for Veterans, the Honourable John Eren, and the member for Ivanhoe in the Legislative Assembly, Anthony Carbines, were present shortly after the blaze broke out. Notwithstanding this tragedy, the Ivanhoe RSL president, 95-year-old Fred Cullen, insisted that the annual Anzac Day march scheduled for 25 April go on. Banyule council came to the rescue and provided a refreshment venue in one of their council community centres for the marchers after the ceremony.

Thankfully there is now an army of supporters and an abiding resolve to rebuild and restore this magnificent mansion to its former glory. Already commitments have been made and donations have begun to flow, and I look forward to the day when the building is fully restored and functioning again for the former diggers of Ivanhoe.

Country Fire Authority enterprise bargaining agreement

Mr O'SULLIVAN (Northern Victoria) — The Country Fire Authority (CFA) is one of the great organisations that we have here in Victoria. What has been really disappointing is the latest attack from the Premier, Daniel Andrews, in his war against the CFA, and what is really disappointing is that we see more secrecy coming out from this government in relation to its intentions about the CFA and where it will go in the future. We see that a secret cabinet committee has been established to work through some issues around dividing up the CFA, and that is really disappointing, particularly when we have got National Volunteer Week happening this week and we should be celebrating the role that the CFA and all volunteers play in our community.

We are seeing at the moment that that will be brought into serious consideration because of the current view of the government in relation to the CFA itself. The CFA has some 70 000 volunteers, and already we are seeing a reduction in the number of volunteers that are participating in the CFA as a result of this ongoing campaign by the United Firefighters Union against the CFA. There was an interesting line in the *Herald Sun* saying 'Is there anything the Premier won't do to support Peter Marshall and the UFU?'. This might be the biggest political payback to the unions in the history of Victoria.

Country Fire Authority enterprise bargaining agreement

Mr MORRIS (Western Victoria) — I am going to join Mr O'Sullivan in lamenting the Premier's actions in attempting to destroy the great and proud organisation that is the Country Fire Authority (CFA). What we have seen of late is that Daniel Andrews is attempting to smash this proud organisation — this organisation that protects all Victorians when they are at their most vulnerable.

Just yesterday in the *Courier* there was a letter to the editor that was written by a member of the United Firefighters Union (UFU) — and not just a member of the UFU but a shop steward for the UFU — who was attempting to discredit the work of volunteers across the state in saying that the community was left exposed because of our volunteers. Yet this could not be further from the truth in fact. This UFU member is not just a shop steward but also was awarded the Ballarat Trades Hall Young Activist of the Year, Mr Finn.

Mr Finn interjected.

Mr MORRIS — So this man is someone who is intent on ensuring that his union master in Peter Marshall achieves the outcome that he wants — that is, to smash the CFA to ensure that the tentacles of the UFU are spread further and further across Victoria, ensuring our integrated stations across western Victoria and others have their volunteers kicked out, replaced by paid UFU members, which will leave community safety exposed across our state.

Ambulance services

Mr EIDEH (Western Metropolitan) — We have just provided the biggest ever investment in Victoria's ambulance services, and early last month this government boosted its previous investment of $144 million by a record $500 million. This has certainly paid off, because over the past two years for emergency arrival times with code 1 the average response times have been the quickest they have been in five years. This $500 million funding boost means that an extra 127 full-time equivalent paramedics are on the road, where they are needed most, across Victoria.

In my electorate I am pleased that a new paramedic team, branch and ambulance vehicle have hit the road and are ready to use their skills to help save lives in emergency call-outs in Wyndham Vale and Manor Lakes. The new 24-hour ambulance service for the Manor Lakes branch will be staffed by a team of highly skilled paramedics and will operate in addition to the existing Werribee branch. The new branch will also include rest areas, training rooms, bedrooms and a kitchen, as well as a garage for paramedic vehicles. This will make a great difference to the response times of ambulance services and paramedics, as more resources will be available and able to help save more lives.

Multicultural policy

Mr FINN (Western Metropolitan) — I must ask: what is happening to Australia? Since this house last met we have discovered that taxpayer-funded polygamy is rife across parts of the nation. It has been confirmed that female genital mutilation — a foul form of torture — is practised widely in Australia. It is reported that child brides are far too common — and that of course is just another form of paedophilia. We have seen a young offender found guilty of eight counts of sexual assault, and he has walked free on 'cultural grounds'. God help us.

In Australia there should be one law for all. Those who wish to practise polygamy, paedophilia, vile torture of women or sexual assault should stand for Parliament on that platform. Any attempt to introduce them by stealth is entirely unacceptable and should be rejected by every member of this house. The future of Australia is at stake, and our nation is far, far too important for any other consideration to be taken into account.

COMMERCIAL PASSENGER VEHICLE INDUSTRY BILL 2017

Second reading

Debate resumed from 9 March; motion of Ms TIERNEY (Minister for Training and Skills).

Referral to committee

Mr O'DONOHUE (Eastern Victoria) — I move:

That —

(1) debate on this bill be adjourned until the economy and infrastructure committee tables a report into this bill; and

(2) the Commercial Passenger Vehicle Industry Bill 2017 be referred to the economy and infrastructure committee for inquiry, consideration and report by Tuesday, 8 June 2017.

I would like to make some remarks on the motion. I am pleased to move this motion on behalf of the coalition because the Liberal and National parties have had significant concern about the way the regulation of ridesharing has been handled and its impact on taxi licence-holders and all those involved in the taxi industry — the impact it has had on them as families, as people and as legitimate small business owners that have invested often several hundreds of thousands of dollars and more into an asset the value of which for many taxi licence plate owners has diminished enormously.

This is not a new concern for the coalition. Indeed the Standing Committee on the Economy and Infrastructure undertook an inquiry into ridesharing before the government even got around to introducing its legislation. That report identified a number of issues that are yet to be addressed by the government and yet to be addressed by the Minister for Public Transport, Ms Allan, and that are not addressed by this legislation. There is no sunset clause, for example, on the new tax. I am sure we all recall the Premier, Daniel Andrews, as Leader of the Opposition, staring down the camera in response to a question from Peter Mitchell and saying that he undertook that there would be no new taxes under the Andrews government. We know the new Uber tax, or the new tax that is proposed, is indeed a broken promise. There is no sunset clause, so this can only then be considered a revenue-raising measure.

There has been very little consultation and there has been limited opportunity for those in the taxi industry who are directly impacted by the loss in value to put their case. I think it is important that the inquiry that I am proposing today on behalf of the coalition, which I hope will have the support of the house, be held so that the taxi industry has the opportunity to put their position, to be heard, so that the Parliament and, through the Parliament, the community can understand the impact this legislation has on small businesses and on the taxi industry and can explore other alternatives. We also know from the economy and infrastructure committee's report that there are other ways to regulate in this space and other ways to compensate. Other jurisdictions in Australia have done so. It appears that Jacinta Allan and the Premier, Daniel Andrews, have come up with the worst possible set of combinations in this legislation.

This is an important time to stop and have an inquiry with a quick turnaround. We are conscious of the effect that this issue, which has been dragging on now for a considerable period of time, has had on all the stakeholders, on all those in the industry. Other states have gotten on with the job of compensation and regulation in a way that engages with industry, engages the stakeholders and creates a new framework. I am conscious that we have wasted months and months and months with inaction and lack of engagement from the government.

Mr Morris — Years.

Mr O'DONOHUE — Years indeed, Mr Morris. But these issues need to be considered, and this inquiry is an opportunity for this committee to examine these issues and to try to address some of the flaws that were identified in the first committee report but have not been addressed in this legislation.

I am pleased to move the motion for this inquiry, and I look forward to the house's support for this move by the coalition.

The PRESIDENT — Order! We do not normally refer to people in the gallery, so my explanation is more to the house so that the house knows where we are and perhaps the people in the gallery might take note of that explanation. The bill that is before us would normally go through a process of a second-reading debate where all members would have the opportunity to contribute and then the house would be expected to move into the committee stage and perhaps consider some of the intentions of clauses within the bill and look at amendments.

What Mr O'Donohue is proposing is that, rather than the debate proceed at this time in the house, the bill go off to a committee of inquiry — a committee of members of this house — which will allow some consultation and submissions to consider matters that are contained in the bill and matters that may have been raised in the debate in the other place, the Legislative Assembly, but particularly to give consideration to issues that have been raised by some of the stakeholders in the industry. Mr O'Donohue is seeking that this committee undertake an inquiry into what the legislation proposes and the implications of some of the measures and actions that are proposed in this legislation.

Ms DUNN (Eastern Metropolitan) — Thank you, President, and I thank Mr O'Donohue for his motion today. Certainly it has always been the desire of the Greens to have the Commercial Passenger Vehicle Industry Bill 2017 referred to a committee for inquiry. Essentially we have come to that view because there are many questions that remain outstanding, that are unclear. We were disappointed that this bill was not referred to the ride sourcing inquiry that was underway. That would have enabled this bill to already be in inquiry. However, that is history, and here we are contemplating it now going to that committee.

In terms of the bill in front of us, there are a range of concerns. Members have probably all heard those concerns because their inboxes are probably reflective of my inbox in terms of the hundreds of people who have contacted us in relation to these issues. I have to say that they are a very diverse group of views too; they are not necessarily consistent in what they are saying in relation to the levy, the transition payments and the Fairness Fund. There is a multitude of views out there, but what is significant in relation to this is the appropriateness of those transition payments and the appropriateness of the criteria that are being applied with the Fairness Fund.

It concerns me that many people have heard nothing about their applications in relation to the Fairness Fund. They have done the right thing — they have put in their applications — and in some cases they have not even had an acknowledgement that their application has been received. That concerns me greatly. Certainly if you want to create unrest in a sector, that is a very good way to go about it — by keeping them in the dark as to what is happening with their applications.

It is curious in the sense that Mr O'Donohue has raised some of the issues that really need a light shone on them in relation to this bill. They are around the lack of a sunset clause, the value of the levy itself and how that

levy will be collected. I am certainly alarmed by answers provided by the State Revenue Office during the ride sourcing inquiry about recovering that levy from companies which keep their records overseas and offshore. I think that will create enormous difficulties. That needs to be explored further as part of the inquiry. I think the issues around regional impacts are important, as are the equity arrangements in relation to the levy.

The Greens are very concerned about the impact on low-income people, people with mobility issues and young people accessing any sort of commercial passenger vehicle service for short trips for schooling. We are concerned about the impact in relation to disability services in terms of providing services to this sector into the future. I certainly think an inquiry is the absolutely best mechanism to explore all of those issues. I agree with Mr O'Donohue in that there should be a short time line in relation to that inquiry. The reality is that this does not need to go on and on. At least now we have some wording to a bill that that committee can properly examine and shine a light on. I think the reporting date suggested is a reasonable one. The Greens will be supporting the motion.

Ms PATTEN (Northern Metropolitan) — I also rise to speak briefly in support of this motion for a brief inquiry. As with many of us, I have met with numerous members of the industry and I have read very personal and detailed positions and experiences from a range of stakeholders in this industry. One thing that has struck me is that one size does not fit all, and also that there is a lack of transparency in the Fairness Fund, as mentioned by my colleagues, which we really need to get to the bottom of. In my opinion one size does not fit all. I would be proposing a number of amendments to this bill so I am pleased to see an inquiry happen before we go into debate on this bill — before we have our second-reading debate. The previous inquiry of the economy and infrastructure committee was not able to consider what this legislation would look like. It was not able to consider why there is no sunset clause on the levy, the amount of the levy or how the compensation packages were going to work. There were great problems there.

I would also like to note that I put up the first ridesharing bill in this house last year. The government at that stage committed to have this done and dusted by the end of 2016. Well, we are into May 2017 and we have still not been able to do this. I would hope that possibly by June 2017 we will be in a position to speak more openly, to speak with greater knowledge about this bill and to have the benefit of input from stakeholders and other people interested in this very significant piece of legislation that is recognising some of the technological changes that our society is facing in this brave new world. I support the motion.

Ms PULFORD (Minister for Agriculture) — I would like to indicate that the government too supports this course of action. Indeed other parties have been aware of our preference for this course of action for some weeks. Given the level of uncertainty that has existed for an industry experiencing significant transformation, I think we are all in furious agreement about the desire to provide some resolution to this sooner rather than later. In a discussion across parties yesterday we again were all very quick to agree about what would be the simplest procedural way to give effect to everyone's desire for this committee referral to occur. So 8 June is important, I think, in that context. It is just four weeks away. It is a period of time that would enable the committee to interrogate the legislation in the way that members who have previously spoken have indicated they would like, but it also enables us to get on with resolving this issue, because there are very many people who are impacted and who need a resolution and to have certainty about the way forward for them.

I understand that the Liberal Party are having some difficulty in resolving their own position on questions of the levy and compensation, but we certainly made clear the government's proposed way forward on this question as far back as August last year. The economy and infrastructure committee has already undertaken an inquiry into some of the broader policy questions around this. A reference specifically on a bill is a narrower form of inquiry and will be a considered look at the effect of the legislation clause by clause. President, I am taking my cue from you in terms of explaining a little bit the strange processes of the place. It can be a very helpful way for members to resolve issues and to make progress on really complex areas of reform.

We are certainly committed to this reform. We are committed to providing certainty for people who have been so significantly impacted by new and emerging technology — by disruptive technology, as it gets referred to — and I look forward to seeing the results of the committee's work back in this chamber four weeks from now.

Mr DAVIS (Southern Metropolitan) — I welcome this motion that has been brought by my colleague Mr O'Donohue. The Liberal Party strongly supports the need for a proper inquiry into this bill. It is unfortunate that the government has stalled and opposed that in the lower house. That could have been occurring at an

earlier point. But this is clearly a deeply flawed bill. Not only does it have a tax without a sunset clause — a tax that will hit country Victoria, a tax that will hit every person who rides in a taxi or Uber or hire car — but it will have a very significant impact in terms of the collection and the issues around the administration of such a tax.

But importantly it is also a case that the government does not appear to have understood the legal position of many of these licences. It is very clear that the High Court of Australia has in fact dealt with this matter previously and made it clear that the High Court regards taxi licences as being property. It is also very clear that the government's approach to the removal of what appears to be a property right, according to the High Court, is not satisfactory. That was very clear from its responses to the Scrutiny of Acts and Regulations Committee (SARC) — and I might put on the record that I do not think SARC has done enough on this matter and it may be a matter that this committee needs to look at in greater detail — and I would encourage SARC to review and revisit some of the material here.

I was shocked to see the response of Jacinta Allan, the Minister for Public Transport, to SARC, dated 20 March, in which she dismisses many of the points made and appears not to understand clauses 31 and 34 of the Charter of Human Rights and Responsibilities and the matters that may surround them. It is pretty clear that the case she quotes, *Lough v. First Secretary of State* — a British case dealing with property law and planning matters in the United Kingdom — does not in any way touch the matters that surround these issues. These may all be areas that the committee may choose to look at in greater detail.

It does appear that at its heart the government — Daniel Andrews and his government, including Jacinta Allan as the Minister for Public Transport — has not understood the impacts that this bill will have, first on the sector with the complex collection arrangements and a new tax. As Mr O'Donohue has pointed out, the government promised prior to the last state election it would not introduce new taxes, levies and charges, but this is clearly a new impost on the whole sector and a significant cost that is not sunsetted and not even properly hypothecated, in my view.

The government's decisions on this bill appear to me to be harsh and there does seem to be a lack of understanding of the impact on families, small businesses and communities. Daniel Andrews needs to look more closely at some of his treatment of communities. This is a broader theme that is developing under this government. He has been prepared to treat individuals, businesses and communities with harshness and without proper process, and this is such a case.

Labor members, as I understand it — I was informed at the rally — now have gone to ground and will not talk to people who have taxi licences. They will not meet with them, they will not communicate with them. As members of Parliament, the members for Oakleigh and Bentleigh in the Legislative Assembly — all of those Labor backbenchers — have actually got an important role to hear what the community has to say and to engage with the community. They cannot put their heads in the sand on these matters. They need to understand that they are accountable to their communities. I must say that the Greens are also in this category and they need to — —

The PRESIDENT — Order! We actually have a very narrow debate. The debate is on the motion to refer this bill to a committee that will inquire into it, hear the submissions and indeed canvass many of the issues that have been raised by speakers. I have been fairly benevolent in my attitude to the debate in allowing people to make some of the points that they have made. However, when it comes to reflecting on members who may or may not have met with people I think, frankly, that that is going too far in the course of debate on this particular very narrow procedural motion.

Mr DAVIS — I do make the point very strongly that the charter matters and the matters of human rights that surround this bill need to be comprehensively dealt with before this chamber deals with the bill next. That may take some time. It may require significant legal support; it may actually require an understanding of what the Australian constitution and other matters deal with. I also believe that the referral will provide a democratic vent for those who want to make their points to do so to the parliamentary committee. If certain members of Parliament are not prepared to listen, this committee can listen and it can refer the matter back to the chamber with relevant contributions and recommendations.

Mr BOURMAN (Eastern Victoria) — I am going to be a little bit different from everyone else. I am actually a little ambivalent about this referral, in that whilst there are some definite questions that need to be asked — I only found out about this last night — particularly around compensation and the fee, there are a lot of people whose lives are on hold waiting for this bill. They have been on hold for quite a while and they have been waiting. Probably the only thing worse than bad news is knowing that bad news is coming.

I will obviously support the referral motion, but I am also glad we have a very short time line. We need to get on with this. We need to make sure that it is done and it is basically fair because as it is, the way the compensation has been explained to me, it is not going to be fair. Although this bill does not deal specifically with that, there are a lot of other issues that I think we can tease out from the original inquiry. So it will be interesting, but I hope we just get this done as soon as we can.

Mr MORRIS (Western Victoria) — I would like to join my colleagues in congratulating Mr O'Donohue on moving the motion that this bill be referred to the Standing Committee on the Economy and Infrastructure. As has been previously canvassed, there was a previous inquiry into ride sourcing more broadly in Victoria, looking at some of the models that have been used elsewhere throughout Australia and indeed the world.

When we have a look at this piece of legislation I think what we see here is that the government has chosen to pick the worst elements of the worst reforms that we have seen anywhere in Australia. The sheer fact that we see a $2 tax being imposed upon everybody who uses a taxi or like service in the state of Victoria is absurd. The tax will disproportionately impact those living in regional and rural Victoria, most of whom are unable to take advantage of Uber or the like. So we will have people in Warrnambool, people in Hamilton and people in Ballarat and Geelong paying an extra $2 tax on each and every one of their trips. However, they will not be able to avail themselves of the other services that are provided here in metropolitan Melbourne.

We also have a distinct lack of certainty about the multipurpose taxi program that facilitates those with disabilities to be transported at a reduced cost. How is this going to be impacted upon by ride sourcing services such as Uber and Lyft and the like? There is no clarity from the government about that.

We are also seeing that this legislation is expected to be introduced in two tranches. We are going to see one tranche of legislation that is going to impose the new tax, and we are going to see a second lot of legislation that is supposed to complete what the government says it is going to do with regard to this legislation. Why is the government being so disingenuous in saying there will be two tranches of legislation in the full knowledge that we may not even get to the second tranche of legislation? It may be that the tax will be imposed upon the people of Victoria and that the government's commitment to press forward with the second tranche of legislation is not fulfilled.

It took the government nearly two years to propose this piece of legislation. As Ms Patten said earlier, there was a commitment from the government to have this finalised last year. They are well and truly beyond their own time lines on this, and that is entirely unacceptable. The minister responsible has indeed wasted years — literally years — in trying to achieve an outcome on this, and for months upon months I and other members of the committee have been working off a media release to try to work out what in the world the government was trying to do with this legislation.

I encourage the members of the committee to look very closely at what has been done in other jurisdictions. I note that in Queensland they chose not to introduce a $1 tax on each trip because it was going to cost $1 to collect $1. This was how inefficient the taxation on the taxi industry, Uber and the ride-sourcing industry was going to be. So why is it that the government is proposing a $2 tax? Is it because the first dollar is going to be eaten up in the collection of the two? If so, it is a horribly inefficient tax that is not going to service the needs of our community.

This legislation, as it is, is exceptionally flawed, as others have said. The committee is going to have a significant task ahead of it to try to look at this legislation as it is and at how it may be amended to be more practical. As it sits now, it is a horribly flawed piece of legislation that would deliver a terrible outcome for Victorians.

Motion agreed to.

FAMILY VIOLENCE PROTECTION AMENDMENT BILL 2017

Second reading

Resumed from earlier this day; motion of Ms TIERNEY (Minister for Training and Skills).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The issue of family violence or domestic violence is one that has very much come to the fore in the community's thinking over the last five years or so. There has been a much stronger emphasis on the issue in the community broadly in terms of legislative responses from government, intervention responses from the courts and from Victoria Police, policy responses within government, policy responses within the private sector and indeed activities within the community sector. We really have seen a strong emphasis on the issue of family violence over that five-year time frame, the recognition of hidden violence in domestic situations and the need for that to be

identified and of course stopped or, desirably, prevented.

It is important in the debate and the discussion around domestic violence that we are mindful to include all violence in the domestic situation in our thoughts, in our policy responses and indeed in our legislative responses. We have of course seen that over recent years with very broad policy responses. We have also seen from time to time responses which tend to focus only on domestic violence as it is targeted towards women and targeted towards children. Of course women and children do make up the majority of people who are subject to domestic violence, but it is also a fact that they are not the only cohort of people subject to family violence or domestic violence. It is important that we ensure that all our policy responses and all our legislative responses are appropriate for all cohorts of the community who are the victims of domestic violence.

I was interested to note an email from the parliamentary organisation today talking about a program that it has signed up to within the organisational structure of the Parliament which focuses exclusively on violence towards women and violence towards children. I think it is unfortunate that the Parliament has adopted a program which is only focused on women and children and excludes violence against other members of the community, because we know for a fact that there are other forms of domestic violence in our community. We know that there is violence which occurs in same-sex relationships. We know that there is elder abuse from adult children towards their elderly parents. We know that there is violence from adolescent children towards their parents. None of these forms of violence in a domestic situation, or any situation, are acceptable, and we need to ensure when we are making policy responses that we are mindful of all these forms of violence and that we do not seek to diminish one form of violence — one cohort of victims — because we are focusing on a different cohort. That program that the Parliament has signed up to very much focuses only on women and children and, in doing so, excludes other victims of family violence, and I think that is unfortunate.

Out of interest I had a look this morning at the 1800RESPECT website, which is one of the key resources available to the victims of family violence or domestic violence. There is a hotline, and there are also website resources that talk about family violence. And again the emphasis is very much on women and children as victims, implicitly to the exclusion of other victims of domestic violence. There is a fact sheet on that website which highlights — correctly — that women and children are the majority victims of family violence and almost as an aside points out that there are other victims of family violence as well. If we have policy responses which diminish the significance of domestic violence against other cohorts of the community, we risk discouraging the reporting of that violence by those other cohorts of the community and we risk diminishing in the minds of the victims the significance of that violence.

If you have a same-sex relationship or indeed a situation where a male partner is subject to domestic violence, which is not necessarily only physical violence — we know that domestic violence is not necessarily only straight-out physical violence — and you have a range of support resources which are targeted at one cohort only and implicitly not at male victims, or if by virtue of the fact that male victims are not mentioned with the frequency of other victims the message is sent that males should absorb that violence and males should stand up to that violence, then they do not have access to the same resources that other members of the community do.

I think if we are sending that message because we are only focusing on one cohort of victims in our policy responses, that is very regrettable. I think we must be very mindful in all our policy responses and legislative responses that by targeting certain groups we are not seen as excluding other victims and that we do not send an implicit message to those other victims that the violence they are subject to is something that they should man up to or stand up to and take on the chin because it is not as important as domestic violence against other victims.

This bill makes a number of amendments to the legislative framework that exists for family violence, in particular in relation to the Family Violence Protection Act 2008 and the way in which orders under that and related legislation operate. There are half a dozen main provisions in the bill which I will run through briefly. Division 1 of the bill, clauses 4 to 16, establishes a presumption, which will be rebuttable, that if an applicant for a family violence intervention order has a child who has experienced family violence, that child will also be included in the applicant's family violence intervention order or in a separate order.

The coalition believe that is an appropriate measure. Where there is a child who is subject to family violence alongside an adult who is the applicant, including that child in the order or in a related order on a presumptive basis that they are also the victim of violence under the same circumstances is an appropriate way to streamline that judicial process and minimise the trauma that

would be experienced by those families seeking orders in respect of intervention. I note that it is something that would be subject to rebuttal if the order was contested, but establishing that baseline presumption is a positive step.

Clauses 25 to 30 of the bill provide that certain documents, such as family violence intervention orders, can be served by alternative service — that is, other than by serving those orders in person. The Parliament needs to be cautious about where these provisions are used and how they are used because one of the principles of our justice system generally — not talking specifically around family violence — is that where parties are engaged in the justice system, where applications are made in respect of them and where accusations are made against them they should have the opportunity to respond to those applications and they should have the opportunity to respond to allegations which are made against them. The traditional way in which the justice system has ensured that happens is by requiring generally the physical serving of an order or a document to an accused party indicating that proceedings will take place.

When you move away from that mechanism — and there can be very good reasons to move away from that mechanism — you increase the prospect that the counterparty to proceedings will not be aware of or engaged in those proceedings, and that is something we need to be very cautious of as a legislature in putting in place structures and mechanisms which allow proceedings to take place where there is a risk that one of the parties to the proceedings, the respondent to the proceedings, may not be fully engaged or fully knowledgeable of those proceedings. I note that this mechanism gives discretion to the court as to where it would come into operation, but as a policy principle this legislature needs to be mindful of ensuring that all parties to proceedings have knowledge of those proceedings and that we do not, in our haste to expedite proceedings and ensure that proceedings take place, unreasonably create a risk that respondents to proceedings may not be fully aware of or have the opportunity to be fully engaged in those proceedings.

The next major provision of the bill is in clause 32, which provides that the first mention date for family violence safety notices must be within 14 days of the respondent being served. The proposal here is to increase the current five-day period to 14 days. We believe again this is something that needs to be monitored carefully. Obviously orders around domestic violence — family violence — are things that are sensitive. They involve personal relationships and inevitably the breakdown of personal relationships — relationships between partners, relationships between children and their parents — and where intervention is required through the judicial process, ensuring that happens quickly is important. That was certainly the intention, I believe, of the original five-day time frame, which was set for first mention from the respondent being served, in recognition that these are sensitive and important issues and should be dealt with as expeditiously as possible.

Expanding that to 14 days does change that environment significantly. I can say I have had the good fortune of never having been in an environment like that and of never having had family members in an environment like that, but for a proportion of our community in Victoria that is not the case. To have an environment where orders for whatever reason need to be sought and for that to be dragged out over two weeks from when a respondent is served could be a very stressful time and a very difficult time. While it seems for us as legislators and as policymakers and to the courts administratively that one week versus two weeks effectively is not significant, if you are living in an environment where family violence is occurring, to have that minimum time period extended to two weeks is actually a significant change, and the way in which this operates is something that in practice we will need to be cautious about.

Clause 33 of the bill is another key provision, which gives the court the power to strike out an appeal under the Family Violence Protection Act 2008 where the appellant fails to appear at the mention date or the hearing of an appeal, and we believe that is a reasonable step. If somebody has lodged an appeal to an order and then fails to appear or fails to respond, getting that matter dismissed and off the books quickly is an appropriate step. Indeed it is a step, a measure, which would probably have a very positive application elsewhere in the judicial system, where appellants, having sought an appeal, are then not responsive in prosecuting an appeal. To be able to get those matters off the books quickly, I think, would be a good thing across the judicial system in its entirety, not only in this provision, which we will see inserted into the family violence framework.

Clauses 46 to 53 of the bill give the Koori Magistrates and County courts jurisdiction to deal with family violence matters. Clauses 54 and 55 provide that prosecution for the offence of failure to disclose a sexual offence committed against a child under the age of 16 under section 327 of the Crimes Act 1958 must not commence without the consent of the Director of Public Prosecutions (DPP). This is a provision which the coalition has some concern with. In government the

coalition inserted section 327 into the Crimes Act — and I well remember the debate at the time — to create for the first time the offence of failure to disclose a sexual offence committed against a child under the age of 16. Where an adult person is aware that a sexual offence has been committed against a child — a person under 16 — for the first time the coalition government created the positive responsibility for an adult to report that. If an adult is aware of a child being subject to child sexual abuse, there is a positive obligation for them to report that.

The amendments to the Crimes Act certainly recognised that an adult can be in difficult circumstances. They can be subject to domestic violence themselves or they could be at risk themselves, and in creating this new criminal provision, exemptions were also created to recognise the difficult circumstances that the adult person could find themselves in and recognise that it is often not going to be cut and dry for a person with knowledge of a child sexual offence. Appropriate provision was made for that. We believe that this provision in the bill in clauses 55 and 54, which prevent a prosecution even being commenced without the consent of the DPP, is too limiting in the way that provision can be used.

We believe that the appropriate safeguards were put in place for adults at risk — adults with knowledge of the child sexual offences who themselves are at risk — in the Crimes Act, and raising the bar over which of these prosecutions can commence by requiring the consent of the DPP rather than their being able to be commenced by Victoria Police is a step too far and makes it far too limiting and far too difficult for offences of this nature to be the subject of prosecution. For that reason we will be seeking to amend the bill in committee stage with nine amendments, the effect of which will be to omit clauses 54 and 55. There are consequential amendments around renumbering, but given the current absence of those amendments we will proceed with simply seeking the omission of clauses 54 and 55.

The other key provision of the bill is clause 61, which repeals uncommenced changes from the 2014 legislation, which was the coalition's legislation, allowing for self-executing orders. These are the finalisation orders which allow for an initial order which is not contested to become a final order so that the applicant does not need to return to court. We believe that was an appropriate step to take in streamlining the operation of family violence intervention orders where a matter is not contested. Requiring the parties to come back so that an interim order can be made into a final order does not make a lot of sense if it is not contested. It was the view of the coalition that having a mechanism which allowed for an interim order to become a final order if it was not contested was appropriate. The government has indicated through clause 61 that they do not intend to proceed with that prospective element which had not commenced at this point in time, and therefore clause 61 seeks to repeal that.

This bill is largely technical in what it does. We do have concerns about the provisions related to failure to disclose a child sex offence by an adult. We do not think that raising the threshold to require the Director of Public Prosecutions to commence a prosecution is appropriate, and we will be seeking to omit that from the legislation.

While sounding a note of caution about how some of the other provisions may work, the coalition does not oppose them. We think they will on the whole add some useful changes in streamlining the way in which family violence intervention orders work and should be an important contribution to the response to domestic violence in Victoria.

Ms SPRINGLE (South Eastern Metropolitan) — This bill seeks to implement 11.5 recommendations from the Royal Commission into Family Violence. The Greens strongly support efforts to implement the recommendations of the royal commission in full, in a timely manner, while adopting a robust approach to risk management.

The government has undertaken consultation with the sector in developing this bill, and we understand that over the course of that process significant contributions by organisations within the sector have been incorporated into the bill that we have before us today. This, along with the government's significant investment in preventing family violence contained in the 2017–18 budget, represents yet another step in the right direction.

Given the scope of the bill I will not be speaking in detail on each of the recommendations that it addresses. Suffice it to say that we are satisfied that this bill will implement the legislative components of the following recommendations. Recommendation 22 is that the government establish a rebuttable presumption that, if an applicant for a family violence intervention order has a child who has experienced family violence, that child should be included in the applicant's order or be protected by their own order. Recommendation 30(a) is that the government requires the Director of Public Prosecutions to approve a prosecution for the offence in cases where the alleged offender is a victim of family violence. Recommendation 57 is that the government

extends the ability of the Magistrates Court of Victoria and the Children's Court of Victoria to order service of applications for family violence intervention orders and orders in the first instance other than by personal service under certain circumstances.

Recommendation 72 is that the government permits the use of video and audio-recorded evidence in family violence-related criminal proceedings involving either adults or children. Recommendation 75 is that the government permits the County Court of Victoria to strike out an appeal in certain circumstances.

Recommendation 78 is that the government repeals the unproclaimed provisions of the Family Violence Protection Amendment Act 2014 providing for interim family violence intervention orders with an automatic finalisation condition — self-executing orders. Recommendation 79 is that the government empowers courts to make interim family violence intervention orders on their own motion at any point during criminal processes. Recommendation 80 is that the government amends bail processes in family violence matters.

Recommendation 132 is that the government provides clear and detailed legal explanations to involved parties. Recommendation 138 is that the government establish the Victorian Systemic Review of Family Violence Deaths unit.

Recommendation 150 is that the government extend the jurisdiction of the Koori Magistrates and County courts.

We do have concerns with the proposed amendment to section 31(3) of the Family Violence Protection Act 2008, which extends the period between the date on which a family violence safety notice is served and the first mention date. This period will be extended from 5 to 14 days. This amendment aims to fulfil recommendation 76 of the royal commission. To be clear, we support these changes, but we will be proposing an amendment to ensure that the effects of these changes are adequately monitored and evaluated.

The rationale behind the change from the royal commission's perspective is clear:

> The commission envisages that this extra time will be effectively used by police to ensure that the circumstances of the parties, and the status of parallel proceedings, are fully understood; and that, for their part, victims understand the nature of the process in which police are asking them to engage. This should mean that there are fewer adjournments due to relevant matters not being known, fewer requests for 'further and better particulars'; and that the initial mention in court is substantial, purposeful and effective. It should maximise the opportunity for the court to engage with the perpetrator and reduce the number of occasions that the victim will need to return to court to tell her story.

We note, however, that in making this recommendation the commission acknowledged the risks to victims involved in extending this period. A number of organisations working to support those experiencing family violence have put their concerns regarding increased risk on the public record. We understand that others have noted these risks in confidence as part of the government's consultation on the bill.

The Aboriginal Family Violence Prevention and Legal Service (FVPLS) Victoria stated:

> In the experience of FVPLS Victoria lawyers, victims/survivors who are the subject of a …

family violence safety notice —

> often do not engage a lawyer until the first mention date. Extending the time before the matter is heard by a court therefore means many victims/survivors will spend up to a fortnight following a critical family violence incident with no legal advice or representation. Drawing on our frontline experience representing Aboriginal victims/survivors of family violence, we understand that in the immediate period following a family violence incident, victims/survivors are particularly vulnerable to pressure from the perpetrator, his family and/or other community members to reconcile the relationship, recant allegations and/or ask police to drop the matter. Increasing the time frame between the incident and the first court appearance simply increases this period of vulnerability. The longer the victims/survivor is forced to wait the greater the chance that her resolve will weaken and expose her to a greater likelihood of being left without the protection of a family violence intervention order … despite being at risk of harm.

These risks are not exclusive to Aboriginal women, and other organisations have confirmed that these risks are typically present in a range of circumstances.

The royal commission in its final report emphasised the importance of evaluating the potentially negative impacts of an extended notice period. So while the commission did consider that, on balance, the extension should be implemented, it also stated:

> … we recommend that the increase from five to 14 days be subject to evaluation after a period of two years, with an emphasis on evaluating any unintended or adverse consequences including increased risk. This evaluation could be done by the independent family violence agency, which the commission has recommended be established.

We are of the view that this evaluation should be stipulated in the legislation. We understand that work is still underway to establish a family violence agency or a number of entities to undertake the recommended functions of a family violence agency. Given that this work is still underway, this responsibility should be held by the minister, with the ability to delegate to the relevant entity at a later date.

Noting the intent and the full recommendation of the commission and concerns from the family violence sector in regard to increased risk, the Greens are proposing an amendment to include the requirement for a review two years after this change comes into effect.

The commission and key stakeholders outlined further safeguards in terms of changes to practice and procedure that should be implemented within the referral system and by police. We understand that the government will continue to consult closely with relevant organisations on an ongoing basis, and we are very supportive of this collaborative approach. Indeed the effectiveness of this collaboration will be absolutely critical to tackling family violence and engendering the scope of cultural and behavioural change that we all acknowledge needs to happen.

We also note that the commission and leading family violence agencies have highlighted the need for changes to police protocol within the extended family violence safety notice period in order to minimise risk to victims and their families. On that issue, I would very much like to hear from the minister on any changes to police protocol and practice that are planned to happen in conjunction with introduction of this bill.

We appreciate the scope of the challenge that the government is addressing in relation to family violence, and we acknowledge its efforts to work with the sector to ensure that its approach is grounded in the experience of those working on the front line of domestic violence. Our amendment proposes to strengthen this bill by ensuring that recommendation 78, which entails increased risk to victims and their families, is implemented in line with the royal commission's full intent. This amendment is supported by key stakeholders, and I urge the government and coalition to add their support for this measure.

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

Mr MELHEM (Western Metropolitan) — I also rise to speak on the Family Violence Protection Amendment Bill 2017. In doing so I note that family violence is the number one law and order issue in Victoria, with more than 78 000 family incidents reported to Victoria Police in 2015–16, a figure which has increased by over 45.3 per cent since 2012. The Andrews Labor government has made a historic commitment to addressing family violence and helping ensure that victims of family violence are supported. The Royal Commission into Family Violence made 227 recommendations. This government will implement all of them, and the 2017–18 budget will invest an unprecedented $1.9 billion to implement recommendations from the royal commission. That is the biggest investment by any government in Australia to address family violence in our society. It is an investment that will help to save lives. It will help us to respond to the needs of victims, keep them and their children save and hold perpetrators to account.

The Family Violence Protection Amendment Bill 2017 responds to a number of recommendations by the commission which aim to improve the operation of the system of family violence safety notices and intervention orders and the response of the justice system to family violence. The system of family violence notices and family violence intervention orders will be improved by, firstly, creating a rebuttal presumption that children are included in family violence intervention orders to ensure that children who experience family violence receive appropriate protection, which is based on recommendation 22. Secondly, this legislation will allow courts to order applications and family violence intervention orders to be served by means other than personal service. This aims to ensure that orders come into force more quickly and to allow police to focus on high-value policing activities, which relates to recommendation 57.

The bill will also clarify the court's power to strike out family violence intervention orders appeals where the appellant fails to appear, which is based on recommendation 75. It will extend the maximum period of operation of family violence notices from five working days to 14 calendar days. This will give parties more time to prepare before the first court date, which was recommendation 76.

The bill seeks to repeal the system of self-executing orders that was introduced in the Family Violence Protection Amendment Act 2014 but which has not commenced, which was recommendation 78. Also, this legislation will require the courts to explain the interaction between a family violence intervention order and any family law child protection orders so that the effect of these is better understood, which is a response to recommendation 132.

The bill will require the Director of Public Prosecutions to approve prosecutions for the 'failure to protect' offence in section 327 of the Crimes Act 1958. This is an additional safeguard for accused who are themselves victims of family violence, which relates to recommendation 30 of the commission. This legislation will also expand the recorded evidence-in-chief

provisions for children and cognitively impaired persons to proceedings for family violence offences, which is a response to recommendation 72.

Also, the bill will establish the Victorian systemic review of family violence deaths (VSRFVD) unit in legislation. This unit will support coroners to formulate prevention-focused recommendations. That particular system was introduced back in 2009, and in accordance with the royal commission's recommendation 138 the bill will provide the legislative basis for the VSRFVD unit. The new provisions include a functions provision that clarifies the role of the unit. Its functions are to examine deaths suspected to have resulted from family violence; identify risk and contributing factors associated with death resulting from family violence; identify trends and patterns in deaths resulting from family violence; identify trends and patterns in response to family violence; and provide coroners with information obtained through the exercise of these functions. So the bill will basically make that unit part of legislation to make sure it is enforceable and can continue the work that was done previously.

Also, the bill talks about allowing the Koori Magistrates Court and County Court to deal with contraventions of family violence safety notices and family violence intervention orders, which is a response to recommendation 150.

The bill will also strengthen local leadership by requiring councils to include measures to prevent family violence and respond to victims' needs in their municipal public health and wellbeing plans and to provide information about those measures to the Secretary of the Department of Health and Human Services, which is a response to recommendation 94. It is important that local government is involved in this process to make sure that we are delivering on our commitment as a society to prevent family violence and to assist the people who are being subjected to family violence.

As we know, every four years councils prepare municipal public health and wellbeing plans which provide strategic leadership for prevention in local communities. These plan have regard to the *Victorian Public Health and Wellbeing Plan 2015–2019* and provide a line of sight that connects statewide policy to local actions. Prevention of violence and injury is one of six priorities of the *Victorian Public Health and Wellbeing Plan 2015–2019*. It is very important to involve local government, and this sort of approach makes sure that we deliver on our commitments. The bill also amends the Coroners Act 2008 to allow coroners to publish information about family violence intervention orders and proceedings.

I will conclude by saying this: when the Labor Party, led by Daniel Andrews, was campaigning before the 2014 elections, the now Premier made a solemn commitment to eliminate family violence, to address that chronic issue that we face as a state in relation to family violence, and he announced that a family violence royal commission would be established. The first thing Premier Andrews did when he came into office was establish that commission. The commission did a great job. There was tremendous work done by the commission and its staff, and all the recommendations coming out of the royal commission have been either implemented or are in the process of being implemented.

There is no point just establishing a royal commission into a matter if you are not prepared to invest in actually addressing the outcome, and this is why we have seen the investment of a further $1.9 billion in this year's budget. This will put us in a good position to make sure we deliver on our commitments, to make sure our families are safe — our partners, wives, children — from abuse by predominantly male offenders. I think we owe it to them to make sure that we address these issues, and we pride ourselves as a society on providing a safe haven for our families, for children, for our wives, for our sisters and for our mothers. I think it is important that we do that, and I am actually pleased that this has cross-party support. We can always have debate about whether it should be done this way or another way, but I think we all agree on the core approach that we are on the right track and we are doing the right thing to make sure family violence is addressed in our society and that we protect the most vulnerable people in our society. With those comments, I commend the bill to the house.

Ms CROZIER (Southern Metropolitan) — I am pleased to rise this afternoon and speak to the Family Violence Protection Amendment Bill 2017. As other members have already highlighted, there is multiparty support in relation to addressing the very issues of family violence and the various ways that it affects so many members of our community. As has been highlighted on many occasions, it is not any one demographic, it is not any one area within our society or our community that is affected by family violence; it can come in various forms. It can cross all age barriers and both genders. It can particularly affect some of the more vulnerable groups of our community, such as those from culturally and linguistically diverse environments, women with disabilities, people in same-sex marriages — this issue crosses all boundaries,

as has been highlighted on many, many occasions by many, many people.

Any serious violence against the person is a crime. I think that is fundamentally what we all agree on. Terrible violence occurs. There are no doubt some dreadful crimes — horrendous and horrific crimes — that are perpetrated against women and children, and we know the long-lasting effects on children who are subject to abuse. They can be very substantial indeed. Children who have witnessed or who have been subjected to abuse and neglect can have lifelong implications that can play out in different ways. One has to only see the many children who have been subjected to abuse to see how that plays out.

Very often and too often when those children grow up into their teenage years or into adulthood they can be affected by a whole range of issues. They might be subjected to mental health issues, they can have difficulty in engaging in their schooling and they can fall out with the law. They can start off engaging in petty crime, which can then escalate. We know that. We know the issues, and clearly the support and rehabilitation for many of these young children is critical. At a federal level the Royal Commission into Institutional Responses to Child Sexual Abuse and obviously the committee that I was involved with here in Victoria have seen and heard from many victims who are now into their adult years, and some of them into their very elderly years, who have lived their whole lives dealing with the implications of abuse. I think we are all in agreement in relation to abuse.

This bill does a number of things. The intention is to improve the safety of victims of family violence, including those children who are subjected to family violence. There is no question about that. My colleague Mr Rich-Phillips has very succinctly highlighted a number of clauses and the main provisions of the bill, and I will just go to those.

The bill amends a number of acts. It amends the Family Violence Protection Act 2008 and various other acts, including the Criminal Procedure Act 2009, the Magistrates' Court Act 1989, the County Court Act 1959 and the Coroners Act 2008, and it includes amendments to the Public Health and Wellbeing Act 2008, and nearly all of these amendments come out of the recommendations of the royal commission. The particular one in relation to the Public Health and Wellbeing Act is to assist in creating a stronger leadership role for local government in the prevention of and response to family violence.

I make particular note of that because I think governments at all levels are particularly focused on doing what they can in relation to family violence, and I want to commend all levels of government. Certainly the federal government has a very large focus in relation to addressing this issue and has invested in various initiatives, and that is also the case at a local government level.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Prison capacity

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Corrections. Minister, how many extra prison beds will be required on an annual basis as a result of the implementation of the Coghlan review recommendations?

Ms TIERNEY (Minister for Corrections) — In terms of the Coghlan report, as the member would be aware, the Attorney-General has been the lead minister in respect of this.

Honourable members interjecting.

Ms TIERNEY — He is the lead minister, and we will have a whole-of-government approach to the response to the Coghlan report. A power of work is being done. You would have heard that there is a tranche of two pieces of legislation that will come before this Parliament. In terms of the consequences of the recommendations of the Coghlan report, that is being worked through in terms of what our expectations and our planning will be. It also has to be taken into account and be consistent with the expenditure that was highlighted, the investment that was highlighted, in last week's budget that will go to the very heart of the question that Mr O'Donohue is asking — and that is, the current and future planning of the prison system in this state.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for referring to the state budget, because the state budget actually did not deliver any new beds in the male prison system for remand or sentenced prisoners. I therefore ask: Minister, given you have had the Coghlan review for months, why does the state budget not deliver in 2017–18 and across the forward estimates any new prison bed capacity to accommodate the changes as a result of Coghlan?

Ms TIERNEY (Minister for Corrections) — I thank the member for his question. I simply put to the member: he clearly has not looked at the budget papers in any thorough way. There is significant investment in terms of future planning for the prison system and indeed the current system, so read the budget papers, Mr O'Donohue.

The PRESIDENT — Order! As a matter of observation, I indicate that I do not think it is entirely helpful to the house if ministers refer members to other places for information when in fact they would have that information available themselves to provide to the house at the time that the question is asked. I think that it is an expectation that is well placed in terms of the house's operations.

An honourable member — We will just refer to the budget papers then.

The PRESIDENT — Order! I actually said that was not acceptable, effectively. I tried to say it nicely.

Ms Shing — I would say you were referring to another place.

The PRESIDENT — Order! No. When I said 'other places' I meant referring members off to obscure websites and budget papers and so forth. When information is actually available at hand to a minister, my expectation is that there will be an answer.

TAFE funding

Mrs PEULICH (South Eastern Metropolitan) — My question is to the Minister for Training and Skills. Minister, of the 10 TAFEs which have provided their annual reports, six needed extra cash from the government last year just to keep them out of deficit. Minister, is it not a fact that these TAFEs are running operational deficits and that the Andrews Labor government is simply putting in extra cash to hide that fact?

Ms TIERNEY (Minister for Training and Skills) — Wow! I do thank the member very much for her question, because it comes from a political party that did nothing but trash the TAFE system. If you look at the TAFE system — —

Honourable members interjecting.

The PRESIDENT — Order! The minister without assistance!

Ms TIERNEY — If you look at the 12 TAFE institutes and the reports that were tabled last week, you will find — —

Ms Wooldridge — There were 10 actually.

Ms TIERNEY — Yes, it was 10 out of the 12; you are quite right. You will find the sector has recorded a surplus of $44.7 billion, Mrs Peulich. That is a $19.5 million improvement. Unlike those opposite, we continue to support the TAFE system — unlike you. You trashed it, and there is not one positive thing that I have actually heard from any of your MPs for the last six or seven years. We promised to rebuild the TAFE sector, and we will not walk away from the TAFE sector.

In terms of the funding that we have provided, it is to do with making sure that there was stability in the system — a system that you trashed, a system that went through a rollercoaster ride time after time, and it was not even at six-month intervals. You cut subsidies for courses time and time again to the point where TAFEs found it incredibly difficult to manage anything. You left us to pick up a TAFE system that was down not just on its knees but on its ankles, and we are very proud to be able to provide supplementary funding that ensures that there is stability in the system.

We do not shirk away from that responsibility; we are absolutely supportive of it. Indeed when we went to the election it was supported by the Victorian public. If there was one thing of the many things that we offered the Victorian public at the last election it was a stronger TAFE system. We have got a market-driven system where not one Victorian has not been able to fulfil their dream of being able to undertake and enrol in a high-quality training course in this state, something drastically different to what was on the plate, on the agenda, of the previous government.

Supplementary question

Mrs PEULICH (South Eastern Metropolitan) — Notwithstanding the fact that it was the Labor government that deregulated the vocational and education training system under Jacinta Allan in 2009, my supplementary is: Box Hill Institute, the Gordon and Melbourne Polytechnic are now receiving more from the government in cash grants than in funding to train students. Will you now concede that after two and a half years your TAFE plan has absolutely failed?

Ms TIERNEY (Minister for Training and Skills) — I will take the last comment first. Quite the contrary, Mrs Peulich: our system is working. Market share in TAFE has grown significantly. When that is coupled

with the dual sector, it has improved markedly. The pie graph that we have got means that the public sector is coming through and people recognise it as a good quality option in the suite of options in the skills and training sector.

The Skills First funding formula now directs TAFEs to bring closer relationships between themselves and industry, so now we have the Workforce Training Innovation Fund, we have the Reconnect fund and a number of other funds that are tailor-driven to make sure that vulnerable students are given opportunities. There are genuine partnerships between industry and TAFEs to ensure that there are courses that are offered and undertaken where kids and retrenched workers can now actually get jobs. You presided over an overinflated system — —

The PRESIDENT — Order! Thank you.

Ordered that answers be considered next day on motion of Mrs PEULICH (South Eastern Metropolitan).

The Bubble student support centre

Ms BATH (Eastern Victoria) — My question is to the Minister for Training and Skills. In May 2015 former Minister Herbert launched the Bubble, Federation Training's student advice centre, with great fanfare, saying it would 'help students stay on track with their training and reduces the need for further staff lay-offs'. Minister, why has the Bubble been abandoned after operating for less than two years and receiving $2.5 million in fast-tracked funding?

Ms TIERNEY (Minister for Training and Skills) — I thank the member for her question. Federation Training is a very, very interesting institution. It was brought about by an ill-thought-out forced merger between two TAFEs. It has inherited significant issues, one of which has left it with a range of campuses that are not fit for purpose. Indeed I have had an opportunity to visit probably 95 per cent of them or more in recent times, starting at Lakes Entrance and moving all the way through to Traralgon and Morwell, to give myself a true appreciation of the challenges that are faced by that institution. What really does concern me about Federation Training is the lack of support that local MPs, apart from Ms Shing and Mr Mulino, give that fine institution. The new leadership at Federation Training are working 24 hours a day to turn that institution around. I think that they have done a fabulous job given that they inherited an inflated middle management that was overpaid, I would argue, and was doing very little.

We are now seeing a new executive and a council that are absolutely committed to the local communities in which they sit and have campuses. There is now open dialogue about how to go forward and how to align the courses that are offered with the industry needs and the expectations of the local communities. I have been heartened in recent times that that message is getting through, and indeed local councils are wanting to have that discussion with us, as well as other stakeholders. I think there are so many opportunities that can be seized in terms of Federation Training, and I look forward, as do my office and the department, to working very, very closely with Federation Training. At a time when that area needs so much support the very least we can do is make sure that there is genuine dialogue and a strategy that will fit the needs of the local communities it serves.

Supplementary question

Ms BATH (Eastern Victoria) — I thank the minister for her answer. Shelley Pasquill is studying division II nursing at Federation Training's Morwell campus. Shelley has an exam tomorrow which she is concerned she will fail, and she is worried that she will not be able to complete her qualification without the maths tutoring she was receiving from the Bubble. Minister, you axed this program, putting students' qualifications at risk, you wasted taxpayer funding on something you have now walked away from and you are continuing Labor's war with the Valley. Will you reinstate the Bubble to support students and families in Gippsland and the Latrobe Valley at a time when this community has never needed this support more?

The PRESIDENT — Order! I call the minister.

Ms TIERNEY (Minister for Training and Skills) — President — —

Mrs Peulich — Shelley is listening.

Ms TIERNEY — And what I would say to Shelley is: if this politician was serious about your future, she would have raised this issue with me way before today. To be used in this fashion is very, very inappropriate to say the least.

Ms Bath — On a point of order, President, the minister has inadvertently misled the house, because I raised this in December last year in an adjournment debate.

Honourable members interjecting.

The PRESIDENT — Order! Thanks, Mr Leane, if you have finished. I think I might make sure that we do not have red cordial available at lunchtime.

Ararat correctional facility

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Corrections. Minister, it was recently reported that there are likely to be 197 serious violent offenders who may be eligible for the post-sentence scheme in 2018–19. Given that there are approximately 200 eligible prisoners who may be ordered to reside at the new 20-bed Ararat facility, how do you guarantee that the 20 beds will be enough?

Ms TIERNEY (Minister for Corrections) — This is sort of back to the future. This was an issue raised in the media several weeks ago, so there is nothing particularly new about it. I would have thought that Mr O'Donohue would have done a bit closer tracking in terms of responses. The response I gave then is the response I will give now: the issue of the definition will be contained in the bill that comes before the house. That is a matter that has yet to go before cabinet. It shortly will, and I look forward to having that discussion with you, but obviously we would not just pluck the proposal of 20 beds out of thin air if there was not rigour around it, Mr O'Donohue.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — I thank the minister for her answer. I am reassured, Minister, that there is so much rigour around the test and the assessment that has led the government to invest in this 20-bed facility to accommodate the potential 200 eligible prisoners. So I ask the minister: what is the test to determine whether a serious violent offender will be subject to a post-sentence accommodation order or simply walk free from jail into the Victorian community?

Ms TIERNEY (Minister for Corrections) — You may well wish to try and create a situation where this issue is the front page of the *Herald Sun*, Mr O'Donohue, but the answer remains: in terms of the criteria and the definition, that will be subject to a cabinet meeting in the future, and I look forward to discussing the bill with you when it comes before the house.

Bendigo Kangan Institute

Mr O'SULLIVAN (Northern Victoria) — My question is to the Minister for Training and Skills. Minister, you slashed Bendigo Kangan's operating funding by $17.5 million last year, including $8.5 million as a result of plummeting student numbers. As you will be aware, Bendigo Kangan is one of the only TAFEs in Victoria that does not publish any information about its training activities, including the number of students enrolled or the student contact hours it delivers. Will you put an end to this secrecy by instructing the institute to publish this information now and in the future so we can see the impact of your cuts?

Ms TIERNEY (Minister for Training and Skills) — I have just got to say: what have the opposition got against TAFE? The fact of the matter is that the Bendigo Kangan Institute's annual report shows an operating surplus of $3.6 million in 2016 and an operating surplus of $3.8 million in 2015. That is a $200 000 difference. In 2016 this government's contributions were — —

Mr O'Donohue — On a point of order, President, the minister is slavishly reading a document. I ask that she table it.

Ms TIERNEY — On the point of order, President, I am looking down because there is a series of facts and figures that need to be referred to.

The PRESIDENT — Order! Mr O'Donohue, I do not intend to ask the minister to table the document. During question time the minister has not been referring to notes as a matter of practice. She is dealing with some figures at this point and wants to ensure that the house is properly informed. I am satisfied that she is referring to certain notes to ensure the accuracy of those figures. I do not intend to ask her to table the document.

Ms TIERNEY — In terms of returning to the figures, in 2016 Kangan Institute held $77.5 million in cash and investments compared to $74.8 million at the end of 2015. We have been rolling out Skills First since the beginning of the year, and I can report that we are delivering a stable and trusted training system that industry and students have confidence in, with the TAFE network at the centre. I have had the opportunity to visit the Bendigo campus on at least two occasions, one of which was in respect of the new capital works that are being undertaken. We believe that TAFE does play a critical role in the Bendigo community but of course wider than that too. We really do believe that it is playing a successful role in all of the communities it serves.

Returning to the moneys that have been allocated, $37.8 million has been publicly announced for the funding of that particular TAFE. That is in addition to the Victorian training guarantee. This includes $14.5 million from the TAFE Rescue Fund, comprised of $7.8 million in asset funding to expand the agricultural training at its Charleston Road campus — which I would have thought you would be supportive

of, Mr O'Sullivan; $2.2 million to support the integration of its current workforce into the new integrated model; $2.8 million in community service funding; and $1.7 million in detailed planning for the Bendigo McCrae Street precinct. There is $5.8 million from the TAFE Back to Work Fund for two innovative programs. One will be about pre-apprenticeship programs and the other deals with automotive pre-apprenticeships with automotive dealerships. We also have the delivery of skilled health support workers. Again, Mr O'Sullivan, I thought that you would have been supportive of that, because all of those hopefully will get employment at the new Bendigo Hospital redevelopment. We also have had $2 million in 2015 — —

Ms Wooldridge — On a point of order, President, the minister has had over 3 minutes. The question was in relation to the information about student enrolment numbers and student contact hours, with the specific question: will the minister require this information to be published? I ask you, given the minister has had a lot of time to put the context into place, whether you will now bring her to answering the question.

The PRESIDENT — Order! I am satisfied for the minister to continue at this stage. You are right in saying that she has not referred to the number of students enrolled, but certainly she has been providing a lot of other information in terms of funding, and to that extent I think she has been responsive to the question. Minister, you might actually consider that component of enrolment.

Ms TIERNEY — The context I think quite clearly lays it out that there is not just political support but serious financial support for the TAFE system, and in particular on this occasion Bendigo Kangan TAFE. We do not walk away from that; we are very supportive of it. But at the end of the day we also know that that is taxpayers money, and we do know that we are leading a market-driven education system and that enrolments are important and contact hours are important. At this particular point in time I do not have the March figures on me, but I am prepared to provide them.

Supplementary question

Mr O'SULLIVAN (Northern Victoria) — Thank you, Minister, for giving a commitment to provide that information. My supplementary is: to ensure transparency, would you also be able to provide information in relation to some of Kangan's other campuses, such as Bendigo, Echuca, Castlemaine, Broadmeadows, Docklands, Essendon, Moonee Ponds and Richmond, in terms of the 2016 enrolments — and also for 2015, please?

Ms Tierney — On a point of order, President, I am struggling to find how the supplementary is connected to the substantive, and I ask you for some clarification around that.

The PRESIDENT — Order! Ms Tierney, what was the clarification you sought?

Ms TIERNEY — It seems to me that this is just an extrapolation from the substantive question and is not necessarily key to the substantive.

The PRESIDENT — Order! Certainly you have seen it as being apposite to the substantive question. I thought that it was actually pushing it out a bit further than that. Nonetheless, in the context in which you have interpreted it, it is a valid question and it does work off your previous answer in terms of the number of enrolments. Given that you have offered to find that information, I think this will probably fall into the same category in terms of a response, but I do see it as apposite.

Ms TIERNEY (Minister for Training and Skills) — I will endeavour to see whether those figures are available.

TAFE funding

Mr FINN (Western Metropolitan) — My question is to the Minister for Training and Skills. The Andrews Labor government's recent budget shows funding for government-subsidised training has been cut and the number of students in training has plummeted by almost 123 000 students. Does the minister admit that the Andrew government has broken its unequivocal election promise to grow enrolments?

Ms TIERNEY (Minister for Training and Skills) — I do thank the member for his question, because it provides the government an opportunity to explain once again our support for the TAFE system, but not only that but also to explain to you what the ramifications have been as a result of your government's policies. You do not turn around a decimated area in two years. This budget reflects that the TAFE and training system in Victoria is entitlement based and demand driven. Not one eligible student, as I have said in my previous answers, has missed out on training. They have been enrolled in courses that lead to real jobs.

The Andrews government is actually providing high-level, high-quality training in this state — something that just was not the case under you. We

have supported our public TAFEs and our Learn Local providers to exempt students in the most need from the ridiculous eligibility settings introduced by the previous government to manage its budget blowout caused by the overinflated numbers that you had. You actually governed over a whole range of unscrupulous providers, you presided over overinflated student numbers, you allowed the overdelivery of courses and you allowed the underperformers. What we have seen over the last two years and indeed under the blitz has been a shakeout of those providers that were not doing the right thing. So in terms of the student numbers that are there, yes, they are reduced, but they were the fake numbers that you presided over in the private sector.

Supplementary question

Mr FINN (Western Metropolitan) — I thank the minister for her response of sorts. Considering almost 123 000 fewer students accessed government-subsidised training in the last two years, clearly your election promise to grow enrolments is a broken one. Minister, can you guarantee there will be no further decline in government-subsidised student enrolments under the Andrews Labor government?

Ms TIERNEY (Minister for Training and Skills) — I again thank Mr Finn for providing me with an opportunity to again indicate that we are very, very pleased with the way TAFE is tracking. Anyone associated with TAFE, whether they be students, parents, teachers or leaders, is very, very happy. We had a stakeholders group after the budget announcement here in Parliament last Tuesday night and there was resounding support for the direction that this government is taking, whether it be in TAFE, the community sector, early childhood or indeed our school system, which Mr Merlino looks after. We are seeing the J curve move and we know that this policy is working. Unlike your policies, that only took the system down, down, down, we now have a TAFE system where there is confidence. We have a TAFE system that we are proud of.

Energy Saver Incentive scheme

Mr PURCELL (Western Victoria) — My question is to the Leader of the Government, representing the Minister for Energy, Environment and Climate Change. The government's program to upgrade downlights to LED through the Energy Saver Incentive scheme is a positive one. However, Lynette Collie, near Dartmoor in the far west of Victoria, has been trying to have her downlights upgraded to LED for more than 12 months. Rather than use a local electrician, she has just been told that the Melbourne contractor will not come down until there are others from her area wishing to have upgrades. I therefore ask the minister: are rural Victorians being treated differently from metropolitan residents in regard to the rollout of this program?

Mr JENNINGS (Special Minister of State) — I thank Mr Purcell for his question. He is concerned about Ms Collie's opportunity to have her lights refitted in accordance with one of our great ambitions and the delivery of our program in terms of the Victorian energy efficiency target (VEET) scheme to support residences and indeed businesses throughout Victoria to try to make sure that they are more energy efficient and to reduce their energy consumption.

I think Ms Collie has been a little bit unlucky from what I understand, and I will talk to my colleague the Minister for Energy, Environment and Climate Change to see whether she can actually take some action to try to remedy this situation. As a starting point, can I say that what I am aware of is that of 106 businesses that are registered to provide this service throughout Victoria, 85 or 86 — somewhere in that order of magnitude — are registered and can actually support communities in south-west Victoria. So as a starting point of investing in one supplier, there are many businesses that actually do provide services to south-west Victoria. That is the first aspect of her misfortune.

As for the second aspect of her misfortune, within a few minutes I was able to be provided with some information to actually say that in 2016 about 100 of her neighbours received support, within the Dartmoor postcode. About 100 residents in that postcode did actually receive support through this very program, so she has been a bit unlucky on that front too.

The Australian Bureau of Statistics has actually done an examination, a survey, of the effectiveness of this program, and it says that the take-up rate for residences and businesses across Victoria is pretty equal in terms of how it applies on a per capita basis between regional areas and metropolitan areas. In terms again of the concern Mr Purcell is expressing on his community's behalf — that is, is there any structural reason this should be occurring to disadvantage his residents — the answer is no.

The one issue that I have been made aware of that may be creating difficulty is that there has been a great take-up rate among businesses in the last year, so a lot of the work is actually being concentrated at a commercial scale rather than a residential scale. I am certain that my colleague Minister D'Ambrosio, being reminded of Ms Collie's circumstances, will be mindful

of the way in which we can perhaps recalibrate that to make sure that residents who want to participate in this scheme — —

Mr Barber — Boost the size of the scheme. Make it bigger. It's a good news story.

Mr JENNINGS — It is a good news story, Mr Barber, as you know.

Mr Barber — Double the size of the VEET target.

Mr JENNINGS — You have come and supported us here. Not necessarily have we always received universal support from this chamber in relation to this scheme, but indeed if you are supportive in the future, if Mr Purcell is interested in this scheme in the future, we will try to find a way to provide greater support to Victorian households, including Ms Collie's. I just think at the moment her experience is that she has been a little bit unlucky in the last 12 months, and I will encourage my colleague to see whether there is any remedy that can be provided to provide a more timely delivery of more energy-efficient light fittings to Ms Collie and her neighbours in the Dartmoor area.

Supplementary question

Mr PURCELL (Western Victoria) — I thank the minister for his reply. Would the minister also be in a position to supply any other details of regional Victorian applications that have been made and that are still waiting for this program to be upgraded?

Mr JENNINGS (Special Minister of State) — As I was just sitting down my colleague Mr Leane, who has a ticket in this area, is well versed in this area — —

Ms Shing — He is the most qualified person amongst us.

Mr JENNINGS — He is qualified to actually do this light fitting. He is almost volunteering to do this light fitting himself. However, I understand that the program itself has obligations and, without necessarily relying on Mr Leane's intervention, we will see whether we can actually deliver the outcome that you are seeking and the information you are seeking from my colleague in relation to what might be the profile beyond what I have described to you in the chamber today.

Firearm regulation

Mr BOURMAN (Eastern Victoria) — My question is for the Minister for Corrections, who is getting quite a workout today, representing the Minister for Police in the other place. Firearms regulation is an important part of government activities, regardless of its efficiency. With the complex regulation we have in this state and country and the large amount of information regarding firearms, parts and accessories, it is rare to find someone that intimately knows both the regulation and the firearms. That is why we have consultative committees of various sorts.

I read with some concern that the classification review committee, which reviews the classifications of firearms, consists of an operational member of police — no problem; two people with extensive technical knowledge, one of which is independent of licensing and regulation, which is good; a person with extensive knowledge of import permits; and a person with no expertise in regard to firearms. Notably there is no stakeholder representation. My substantive question is: with the regulation of firearms being so important, why is someone with no expertise in regard to firearms included in the committee?

Ms TIERNEY (Minister for Corrections) — Obviously this is the province of the Minister for Police, and I am more than happy to convey the question and seek an answer for you, Mr Bourman.

Supplementary question

Mr BOURMAN (Eastern Victoria) — I thank the minister and look forward to the answer. The supplementary question is: given this person does not require expertise in firearms, what criteria are applied to an applicant for that position?

Ms TIERNEY (Minister for Corrections) — I will seek clarification on the criteria. Thank you.

Hyde Street, Yarraville

Ms HARTLAND (Western Metropolitan) — My question is to Minister Pulford on behalf of the Minister for Roads and Road Safety, Mr Donnellan. On 7 March I received a response to a question without notice in relation to residents of Hyde Street, Yarraville. Their homes are affected by the West Gate tunnel, the Mobil tank farm and contamination from a former State Electricity Commission substation. These homes already have VicRoads overlays because of other projects. I understood from the CEO of VicRoads that there is a process for buying these homes. Minister Donnellan in his response said that in the coming weeks VicRoads would be meeting with residents. Two months later there has been a phone call but no meeting. My question is: when will VicRoads

meet with these residents to start the negotiations with them on the issue of acquiring their homes?

Ms PULFORD (Minister for Agriculture) — I thank Ms Hartland for her further question and interest in this matter directed to my colleague Minister Donnellan. I will seek an update on that engagement with the community and provide that at the earliest opportunity.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have answers to the following questions on notice: 10 496–8, 10 560, 10 910, 10 983.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! In respect of the questions today, Mr O'Donohue's first substantive and supplementary questions to Ms Tierney, Mrs Peulich's supplementary question to Ms Tierney, Ms Bath's substantive and supplementary questions to Ms Tierney, Mr O'Donohue's substantive and supplementary questions to Ms Tierney and Mr O'Sullivan's substantive and supplementary questions to Ms Tierney are all one day. Mr Purcell's supplementary question to Mr Jennings is two days. Mr Bourman's supplementary and substantive questions to Ms Tierney are two days. Ms Hartland's substantive question to Ms Pulford is two days.

Mr Finn — On a point of order, President, in my supplementary question I did ask the minister for a guarantee that there would be no further decline in government-subsidised student enrolments, and the minister has failed to respond to that. I am just wondering if you could also include that on the list of questions for her to respond to tomorrow.

The PRESIDENT — Order! I gave some consideration to that, as it was lineball. I felt that the fact that the minister did not provide the guarantee was probably your answer to your question.

CONSTITUENCY QUESTIONS

Eastern Metropolitan Region

Ms WOOLDRIDGE (Eastern Metropolitan) — My constituency question is for the Minister for Local Government in the other place and relates to the halving of the Growing Suburbs Fund in this year's budget. I ask: why has the government slashed $25 million per year to 10 outer suburban councils for community-based projects? These communities, which include Nillumbik Shire Council, have received $50 million a year in the first two Andrews government budgets for parks, playgrounds, sporting facilities and community centres, and this is now a 50 per cent reduction. Councils are trying to do the right thing. The government has imposed rate caps, and the fund was to assist councils in times of limited rate rises. This is a slap in the face for councils when they are trying to do the right thing.

It is interesting to note that rate rises in Nillumbik have been condemned by residents in the past, but now after making efficiencies and careful planning, the shire under the leadership and the mayoralty of Peter Clarke is actually producing a budget with no rate rise — zero per cent. This achievement is a first in the shire's history. Council is also looking to repay all of its $13.8 million debt over the next four years while making significant investments, yet what is this government doing in response? It is cutting vital funding for community projects that flies in the face of the good work at local levels. Word is the minister was rolled in cabinet.

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My question is for the Minister for Energy, Environment and Climate Change, and it is regarding the tree felling along the Telstra track in the Whroo forest earlier this year. Over the Easter break I was contacted about the tree felling by a constituent who advised that the Department of Environment, Land, Water and Planning had failed to clean up the trees that were felled, which has caused the closure of the cycling, walking and riding track. On 21 February I raised this matter on the adjournment, part of which included a request that the track be restored and reopened. The minister's response on 21 March was that the track is now closed to be rehabilitated. This work is not yet done. Further, a departmental letter written to the constituent stated that the statewide policy for track closure is being reviewed and will be provided to the minister during March 2017.

My question to the minister is: when will the rehabilitation works be completed and the track reopened for cycling, walking and riding; has she received the response to the policy review, and what was the outcome of the review; and with respect specifically to the Telstra track in the Whroo forest, what policy will she adopt going forward to ensure that

tracks in the Whroo forest are protected from future destruction?

The PRESIDENT — Order! A constituency question is a single question, not a multipart search. What is the actual question?

Ms LOVELL — When will the rehabilitation works be completed and the track reopened for cycling, walking and riding?

The PRESIDENT — Order! Thank you. Good try.

Eastern Victoria Region

Mr MULINO (Eastern Victoria) — My constituency question is for the Minister for Roads and Road Safety. The budget that has just been announced contains significant investment in all forms of transport, but roads received a substantial amount. The Mornington Peninsula within my electorate is an area where the community is seeking significant road investment. It is a community that is growing, but it is also a community where there are significant increases in population during certain seasons. My specific question to the minister is: could he please provide information in relation to what particular safety initiatives are going to be delivered for the road network on the peninsula over the upcoming six months?

Southern Metropolitan Region

Mr DAVIS (Southern Metropolitan) — My constituency question is for the attention of the Treasurer, and it concerns land tax in the City of Glen Eira. I am in receipt of details from a Mr Jackson, a property owner in the City of Glen Eira whose land tax has increased from $805 in September 2016 to $1300 for the current financial year, so that is the difference between 2015–16 and 2016–17. That is a 60 per cent increase — a very significant increase — in land tax. My question is: how much are the total collections of land tax in the City of Glen Eira, and is it correct that they have increased — this is a typical property — by 60 per cent in that 12-month period between 2015–16 and 2016–17? And if it is not 60 per cent, what is the increase?

Western Metropolitan Region

Mr MELHEM (Western Metropolitan) — My constituency question is addressed to the Minister for Industrial Relations, Minister for Aboriginal Affairs and Minister for Local Government. Victoria celebrated International Women's Day just under two months ago. While it was a very successful day, inequality and sexism and violence against women continue to remain prevalent issues. The Royal Commission into Family Violence found that gender inequality is one of the key drivers behind family violence. Family violence in turn costs the Victorian economy more than $3.4 billion per year. Since research done has found that closing Australia's gender employment gap would boost gross domestic product by 11 per cent, the question I ask the minister is: what is the Andrews Labor government doing to ensure equality for women workers in my electorate of Western Metropolitan Region?

Western Victoria Region

Mr MORRIS (Western Victoria) — My constituency question is directed to the Minister for Health. I was very pleased to be once again joined by my colleague Margaret Fitzherbert, the shadow parliamentary secretary for regional and rural health — —

Mr Finn interjected.

Mr MORRIS — She does a wonderful job, Mr Finn, absolutely — as does Mr Guy in the other place and Ms Wooldridge in this place. These are the colleagues I have had with me at the Ballarat Base Hospital calling upon the government to fund the urgently needed two additional operating theatres in the ghost wing that exists there at the moment. Under Daniel Andrews we have seen a 59 per cent increase in the elective surgery waiting list and we have seen a year of quarterly reductions in the number of people being treated at the Ballarat Base Hospital. This is as well as a 129 per cent increase in the number of people waiting over a year for surgery. So the question I ask the minister is: when will funding be made available to fit out the ghost wing at the Ballarat Base Hospital?

Western Metropolitan Region

Mr EIDEH (Western Metropolitan) — My question today is for the Minister for Industry and Employment, the Honourable Wade Noonan. There have recently been numerous media reports about the increasing level of unemployment in Melbourne's west. Terms such as 'unemployment is rife' and 'unemployment is rampant' have often been used both in the media and in direct contact I have had with my constituents. The Brimbank municipality, which is within my electorate of Western Metropolitan Region, is reported to have the second highest unemployment rate in metropolitan Melbourne, with almost one in 10 residents out of work. There is no doubt that this situation is in need of urgent attention and resolution. My question to the minister is: what strategies does the state government have in place to deal with this ever-increasing problem within my electorate?

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Public Transport. The minister is undoubtedly aware of strong community opposition in the Essendon area to the Andrews government's plan to replace the Buckley Street level crossing with a dirty great trench under the railway line. This plan, if implemented, would create traffic chaos in Buckley Street, Rose Street and the education precinct of Essendon on a permanent basis. Will the minister confirm that with full knowledge of this community outrage, the government, rather than consulting, has gone ahead and signed the contract for this trench to be dug?

Eastern Victoria Region

Ms BATH (Eastern Victoria) — My constituency question is to the Treasurer, and it relates to the negative impact in my electorate of a budget increase on stamp duty on new car sales. The repercussions of the sudden shutdown of the Hazelwood power station are beginning to bite. A constituent of mine in the motor vehicle market has informed me that compared to the same period last year car sales are down a distressing 17.9 per cent, and in the month of March they were down a staggering 18.2 per cent. In contrast to that new car sale registrations across Victoria have increased by 2.3 per cent compared to March 2016. The decline in car sales echoes a growing caution and lack of confidence in purchasing within the Latrobe Valley. The loss of new car sales will ultimately affect employment in the car sale industry in central Gippsland, and job losses will follow. The state budget has increased stamp duty on new car sales from 1 July 2017. I ask the Treasurer if those customers who have already negotiated a price on a new car but who will not have it delivered until after 1 July will be exempt from the new higher stamp duty.

Southern Metropolitan Region

Ms CROZIER (Southern Metropolitan) — My constituency question is to the Minister for Education, and it relates to an announcement made by the member for Bentleigh in the Legislative Assembly, Mr Nick Staikos, with great fanfare, about a secondary campus for McKinnon Secondary College going to the Virginia Park site. I have asked the Minister for Education a number of questions in relation to projected enrolments, but I would like to know from the minister, if he can provide it for me, what the impact will be on both current and projected student numbers in Bentleigh Secondary College. The Virginia Park site is currently in the Bentleigh Secondary College zone, but it will be rezoned, I am led to believe, in future years, because apparently that is where McKinnon Secondary College is going to go. That is according to Mr Staikos, who as I said, has made great fanfare about this. Although the minister says:

> The planning for the Bentleigh East industrial precinct is still in its early stages, and housing numbers are yet to be determined. This information, when available, will help inform the department's advice around the scale and type of facilities that could be delivered.

So I think Mr Staikos is rather premature, but my question still stands and goes to the Minister for Education.

FAMILY VIOLENCE PROTECTION AMENDMENT BILL 2017

Second reading

Debate resumed.

Ms CROZIER (Southern Metropolitan) — As I was saying before question time, the Family Violence Protection Amendment Bill 2017 amends the Public Health and Wellbeing Act 2008 to give greater leadership roles to local government. I made the point before question time that governments of all levels are doing an enormous amount in committing to ridding our communities of family violence or domestic violence. As we know, it goes across various demographics. There are contributing factors, such as mental health, drugs and alcohol, and financial barriers — these can all be causes of family violence — and I think that these issues need to be addressed as well as the other ones that have already been highlighted.

In relation to this particular bill I just want to go to certain aspects. The Royal Commission into Family Violence did speak about children and young people — and I have spoken about the impact family violence can have on those individuals — and I take note of the report and the recommendations. In relation to some of the statistics, they are, as we know, very alarming. Page 58 of volume 1 of the royal commission's report says:

> In 34 per cent … of all family incidents recorded by Victoria Police in 2013–14 there was at least one child present. This proportion remained relatively stable in the period 2009–10 to 2013–14.
>
> In the five years from July 2009 to June 2014 the number of affected family members aged 17 and under listed on FVIO applications in the Magistrates Court increased by just over 20 per cent — from 19 353 in 2009–10 to 23 332 in 2013–14.

That was a split of around 50 per cent male and 50 per cent female in those statistics, but they are large numbers and, as we know, they have large ongoing implications and impacts for those children that have been subject to family violence.

In his contribution Mr Rich-Phillips spoke about a number of the main clauses of this bill. He went through and articulated in his debate very clearly certain provisions around those clauses and the impacts. I have not got time unfortunately to go into the detail that he went into, but I do want to make a couple of points firstly in relation to clause 32, which provides that the first mention date for family violence safety notices must be within 14 days. It is currently five working days of the respondent being served. As has been highlighted, I think there are some concerns about the volatile nature of some of these perpetrators, and Mr Rich-Phillips raised some concerns in relation to dragging that out. We all want this to be dealt with. A safety notice is a temporary notice given by the police to protect a person. I know that the former government amended the Family Violence Protection Act 2008 to ensure that those safety notices were dealt with far more expeditiously.

I now want to mention clauses 54 and 55 of the bill. Mr Rich-Phillips has already indicated that the opposition will be moving amendments to these clauses. They really go to some issues that were raised in the child abuse inquiry that I chaired and the *Betrayal of Trust* report. I just wanted to go back to this bit because I think there was a lot of discussion at the time in terms of how certain members of the community might respond to this. Certainly there was the concern about mothers not reporting abuse of their children. In our report we make it very clear. As Mr Rich-Phillips said, clauses 54 and 55 provide that a prosecution for the offence of failure to disclose a sexual offence committed against a child under the age of 16 years in section 327 of the Crimes Act 1958 must not be commenced without the consent of the Director of Public Prosecutions, the DPP.

As I said, in our inquiry we addressed this issue, but I want to make it very clear that in the report we did spell this out on page 496 of volume 2 of the report, under the heading 'Universal responsibility to report a serious crime':

> The committee takes the view that every member of society has a moral and ethical responsibility to report to police any knowledge they have about serious crimes committed against children.

Of course sexual abuse certainly fits that bill. Our report goes on to say:

> As discussed below, the committee considers that it is necessary to amend the Crimes Act 1958 (Vic.) to make it a crime for any person who knows or believes that a serious offence has been committed by another person against a child, and has information that they believe might be of material assistance, to fail to report that information to police … The committee considers that this is the most effective way of addressing the criminal abuse of children in organisational settings.

I am emphasising 'organisational settings' because that is why the then government, the coalition government, did amend the Crimes Act 1958 and put in section 327. That really was to give protection to children. It further protected children by placing the onus on those people in positions of responsibility or anyone knowing that a crime had been committed against a child to report it to the police. If you look at section 327 of the Victorian Crimes Act, it says:

> (2) Subject to subsections (5) and (7), a person of or over the age of 18 years (whether in Victoria or elsewhere) who has information that leads the person to form a reasonable belief that a sexual offence has been committed in Victoria against a child under the age of 16 years by another person of or over the age of 18 years must disclose that information to a police officer as soon as it is practicable to do so, unless the person has a reasonable excuse for not doing so.

This is the point, because of course a mother who feared for her safety or feared for her child's safety would be covered by this provision in this act. That is a reasonable excuse for not reporting — if her child had been abused in a criminal fashion and she feared for her safety or her child's safety. That is why the opposition is concerned about these clauses in this current bill that we are discussing today. We feel that removing those two clauses will potentially provide greater protection for those children that need it. It is not by any means targeting women, mothers or anyone who is responsible for caring for a child and it comes to their notice that that child is being abused or having criminal behaviour perpetrated against them. There has got to be some common sense around this.

I think the government has failed to acknowledge that the Crimes Act actually does cover this and it is unnecessary to go to this extent. The shadow Attorney-General pointed this out very clearly in his contribution to the debate in the other place. It is not that the opposition has an objection to this bill — quite the contrary; we are trying to improve and are doing what we can to further enhance the safety of any victims of family or domestic violence. It is not that. It

is just that it is deemed to be unnecessary. To have that made clear I think is an important point to make.

I wanted to make the point about why the Crimes Act was amended in 2014 following the Betrayal of Trust inquiry, because it is very clear what the intent of the committee I was involved with was. It was very clear that it was about those individuals who knew that organisations or individuals within organisations had an obligation, therefore that was to enhance the ability to further protect children.

There are other elements of the bill in relation to various other clauses that have been highlighted, but can I say that I am pleased that governments at all levels are taking the issue of family violence or domestic violence very seriously. I think the community has had the issue highlighted. I went to the candlelight vigil that Safe Steps ran last Wednesday. I was with members of the community who were there. The list of women and children who have sadly and tragically died at the hands of perpetrators is a growing list each year. I think all of us want to see those numbers reduced and all of us want to work toward doing whatever we can to ensure that that occurs.

Mr EIDEH (Western Metropolitan) — I rise to speak on the Family Violence Protection Amendment Bill 2017. Many Victorians may not be aware that family violence is the number one law and order issue in Victoria. Some 78 012 family incidents were reported to Victoria Police in 2015–16, a figure which has increased by over 45.3 per cent since 2012. As disturbing as these figures are, they do not include the wider number of people affected by family violence or the number of unreported incidents. I shudder to think what those figures might reveal about the insidious scourge of family violence in Victoria.

As a result, the Andrews Labor government has made a historic commitment to addressing family violence and to helping ensure that victims of family violence are supported.

The Royal Commission into Family Violence made 227 recommendations. The Andrews Labor government will implement every single one of those recommendations. *Ending Family Violence: Victoria's Plan for Change* details how the government will deliver on these recommendations and build a new system that protects victims, holds perpetrators to account and changes community attitudes. To begin implementing the recommendations the government has made a significant initial investment of $572 million in our family violence system.

The Family Violence Protection Amendment Bill 2017 responds to a number of royal commission recommendations which aim to improve the operation of the system of family violence safety notices and intervention orders and the response of the justice system to family violence. My electorate of Western Metropolitan Region is not immune to the scourge of family violence, and my electorate office has unfortunately dealt with numerous constituents who have been subjected to this insidious scourge.

The system of family violence safety notices and family violence intervention orders will be improved by, one, creating a rebuttable presumption that children are included in family violence intervention orders to ensure that children who experience family violence receive appropriate protection, and this relates to recommendation 22; two, allowing courts to order applications and family violence intervention orders be served by means other than personal service, and this aims to ensure that orders are enforced more quickly and allows police to focus on higher value policing activities; three, clarifying the court's power to strike out family violence intervention order appeals where the appellant fails to appear; four, extending the maximum period of the operation of family violence safety notices from five working days to 14 calendar days, giving parties more time to prepare before the first court date; five, repealing the system of self-executing orders that was introduced in the Family Violence Protection Amendment Act 2014 but has not commenced; and six, requiring the courts to explain the interaction between a family violence intervention order and any family law or child protection orders so that the effect of these is better understood.

The response of the justice system to family violence will be improved by the bill requiring the Director of Public Prosecutions to approve prosecutions for the 'failure to protect' offence in section 327 of the Crimes Act 1958 as an additional safeguard for accused who are victims of family violence. There will be an expanded system for the recorded evidence-in-chief provisions for children and cognitively impaired persons in proceedings for family violence offences. The Victorian systemic review of family violence deaths unit will be established in legislation. This unit will support coroners to formulate prevention-focused recommendations that aim to reduce family violence. Koori Magistrates and County courts will now be allowed to deal with contraventions of family violence safety notices and family violence intervention orders.

This important bill will also strengthen local leadership by requiring councils to include measures to prevent family violence and respond to victims' needs in their

municipal public health and wellbeing plans and to provide information about those measures to the Secretary of the Department of Health and Human Services in line with recommendation 94. The bill will amend the Family Violence Protection Act 2008 to allow the chief executive officer of Court Services Victoria to approve counselling providers and it will amend the Coroners Act 2008 to allow coroners to publish information about family violence intervention orders and proceedings.

The Andrews Labor government is committed to working towards a future where Victorians live free from family violence and where women and men are treated equally and respectfully. This bill is in an important part of the government's landmark reforms to build a new system that protects family violence victims, holds perpetrators to account and changes community attitudes. I know that many of my constituents have been waiting some time for this legislation, and I am proud to be a member of a government that is willing to implement this historic bill. I commend the bill to the house.

Ms FITZHERBERT (Southern Metropolitan) — There have been a number of contributions on this bill that have gone into detail and I do not plan to revisit those now; I think they have been dealt with sufficiently. Similarly, I am not going to make comments about the amendments that have been put forward. I want to make some general comments about the bill and also about a couple of specific inclusions in the bill.

I am struck, when looking at the content of this bill, by the fact that in my lifetime family violence has gone from being something that was very much hidden and perhaps whispered about behind closed doors, literally and metaphorically, to being something that is a major issue for government and for police. That is as it should be. It is also a policy challenge. It seems almost trite to use that expression, but that is what it is. It is a policy, legal and criminal challenge that is very much at the heart of government. I am glad to see that change in my lifetime.

This bill is another step forward in dealing with some of the legal framework, practices and processes that we need to change to ensure we are putting appropriate emphasis on the structures that need to change so that people can get a fair hearing and get justice when there is a family violence issue. It is of course part of the implementation of the Royal Commission into Family Violence's recommendations, in particular those relating to family violence safety orders and intervention orders. The bill promotes the protection of children and allows recorded evidence to be used in some proceedings. In particular it amends the Family Violence Protection Act 2008 to streamline administrative arrangements for counselling and the Coroners Act 2008 such that the Coroners Court is able to publish information about family violence intervention orders and proceedings. It seems to me that these are constructive changes.

I want to refer briefly to a couple of amendments in the bill, and the first is headed 'Part 4 — Amendment of the County Court Act 1958 and Magistrates' Court Act 1989'. This amends the County Court Act to extend the jurisdiction of the Koori division of the County Court to include certain family violence matters previously excluded from its jurisdiction. I refer to that expansion simply to make the point that it is good to see this extend throughout our legal system and into different parts of courts that have not been previously obliged to deal with family violence issues explicitly. This amendment relates to the jurisdiction of the Koori Court division to deal with contraventions of sentences imposed by it or by another division of the County Court and variations of those sentences, so that this explicitly refers to a family violence intervention order or family violence safety notice under the Family Violence Protection Act 2008. I see that as a very constructive administrative change and, as I said, it expands explicitly the reach of consideration of breaches of family violence provisions into other courts and subsets of those courts.

Similarly I refer to an amendment headed 'Part 6 — Amendment of the Criminal Procedure Act 2009'. This too is another small but I think highly constructive, change, which is to amend the Criminal Procedure Act 2009 to add family violence to the offences and matters where recorded evidence-in-chief of children and cognitively impaired witnesses can be used. Again, I think that is a change that expands the reach of awareness and provision for family violence within our legal system. It is also going to make it easier and fairer for children and cognitively impaired witnesses to be able to have their say, to have their day in court literally.

The changes within this bill are largely practical in nature. Many of them are quite small. There are a range of acts that are affected, and I think at their heart the changes are about helping our police and courts to be better equipped to navigate family violence in all of its appalling forms throughout our legal system. Family violence has no place in our community but it needs to be at the heart of our legal process and our legal system to ensure that when people are unfortunately subjected to family violence they have the right processes,

equipment and forums to enable them to have their say and to seek justice and to minimise the hurt and the heartache that arises as a consequence of family violence.

Mr Rich-Phillips in particular spoke earlier about how family violence affects all sorts of people in a variety of different sorts of relationships and families. It affects men and women, and this bill applies to all those people who may potentially need to use this legislation. With those brief comments, I commend the bill to the house.

Ms PATTEN (Northern Metropolitan) — I would like to rise to briefly speak about the Family Violence Protection Amendment Bill 2017. As many of the other speakers have quite rightly pointed out, the statistics regarding family violence are just simply staggering. The increase in reports of family violence I hope is the reason, as Ms Fitzherbert touched upon, that the stigma around family violence is finally coming off our shoulders. We can speak more openly about family violence. We understand that we are not alone — women, predominantly, are not alone — in family violence. The light that the royal commission was able to shine on family violence has made a real difference, as has the work that so many community organisations around this state have done to expose family violence, to inform the community about family violence, to educate the community that it is not part of a normal family life, that it is not okay. This bill yet again helps us to address this, and I am very pleased to be supporting this bill. I am very pleased that we are moving down this path of adopting the royal commission's recommendations in a very quick and punctual way.

The Lookout, a forum for Victorian family violence workers and other professionals, notes there were 76 529 family violence incidents reported by Victoria Police for the year ending March 2016. As I was saying, that is a rise of 10 per cent on previous years, and again those were only the cases where the police attended.

Family violence sadly is still largely hidden, but I hope that is changing, and I hope this bill enables us to speak up about family violence. It enables us to help those victims to not feel shame or feel that they have nowhere to turn and not to worry about that stigma or to worry when people say, 'Why didn't you just leave? Why didn't you just get out of there?'. These are questions that quite often victims of family violence are faced with, and this bill goes a long way to helping them in those areas, to streamlining the court process, to streamlining all of the processes for families escaping violence in Victoria. I think this legislation will enable some of the specialist family courts and the Koori Court to better respond to the specific needs of family violence victims, which is certainly a positive point.

Of the 2337 applicants who accessed a support worker from the specialist family courts in the year 2015, I am sad to say that 44 per cent of them lived in northern and western metropolitan regions. This is also where we need to address this, because family violence is obviously found in far more significant proportions in our most disadvantaged areas. The *Dropping Off the Edge 2015* report found that complex and entrenched disadvantage continues to be experienced in specific locations across the state, with the northern and western metropolitan areas highlighted as some of the most disadvantaged.

This has also been highlighted in the current juvenile justice inquiry. It has found that most of the children in juvenile justice have come from just six postcodes in Victoria. It has been shown that this disadvantage, which leads to family violence, is actually pocketed into geographical areas. Looking at these inquiries you realise that often family violence is at the core of the reason these children are in juvenile justice.

With the Drugs, Poisons and Controlled Substances Amendment (Pilot Medically Supervised Injecting Centre) Bill 2017, which I put up some weeks ago and is now the subject of a committee inquiry, we have found that so many people overdosing in North Richmond have backgrounds of family violence and neglect. When you look at the parliamentary drug law reform inquiry and at the number of people accessing drug treatment services, family violence, neglect and family disruption come up again as historical precursors to the reasons these people are seeking access to treatment, have come into our juvenile justice system or, sadly, are part of the incredibly increasing overdose statistics in Victoria. So addressing family violence goes a long way to addressing the issues of drug abuse and addressing the issues of juvenile justice. This is one of the core issues in this area.

This bill makes a significant number of changes, and I welcome them. Again, as many have said, we obviously need to do more. We need to create that transparency. We need to get rid of the stigma that people escaping family violence are still experiencing. I am one of the very fortunate ones who have not experienced family violence, but many of my constituents certainly have. I am pleased to be here to support this bill, which is taking significant steps in getting rid of family violence in our society.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

The DEPUTY PRESIDENT — Order! I call on Mr Rich-Phillips to move his amendment 1, which is a test for his remaining amendments 2 through to 9.

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

1. Clause 1, page 2, lines 25 to 28, omit all words and expressions on these lines.

This set of amendments is identical to the amendments that were proposed in the other place, so they should be familiar to the government. As you indicated, Deputy President, the first amendment is a test for my amendments 5 and 6, which seek the omission of clauses 54 and 55. As I indicated in the second-reading debate, the coalition does not believe that restricting the offence of failure to disclose a sexual offence committed against a child to being a prosecution that can only be commenced by the Director of Public Prosecutions (DPP) is an appropriate step. I guess I would ask the minister: why is the government seeking to restrict the basis on which charges for that offence can be brought to only cases initiated by the DPP?

Ms TIERNEY (Minister for Training and Skills) — The amendment we are dealing with in clause 1 is a test for some consequential amendments which go to clauses 54 and 55. Like the member said, this series of amendments is similar to — in fact I think the same as — those that were placed before the Legislative Assembly. So there is nothing new about them. Therefore my response is essentially not going to be new either. I think in dealing with this amendment we are really dealing up-front with clauses 54 and 55 in substance.

The government does not support the opposition's proposed amendments to remove the provisions implementing recommendation 30 of the Royal Commission into Family Violence. We made a commitment to implement all recommendations of the royal commission. Recommendation 30 is that the government amend section 327 of the Crimes Act 1958 to require the DPP to approve a prosecution for what is termed the 'failure to protect' offence in cases where an alleged offender is a victim of family violence. The full title of this offence is 'failure to disclose a sexual offence committed against a child under the age of 16 years'.

Clauses 54 and 55 respond to recommendation 30, we believe. The opposition has argued that the provisions are unnecessary due to the existing defence in section 327(3)(a) of the Crimes Act 1958 and that the provisions may defeat the purpose of the offence: to protect children from sexual abuse. This defence in section 327(3)(a) of the Crimes Act provides that a person has a reasonable excuse for failing to report a sexual offence if they fear on reasonable grounds for the safety of any person — other than the person of course believed to have committed the offence — were they to disclose the information to police and the failure to disclose is a reasonable response in the circumstances. However, the royal commission had concerns about the application of section 327, including the defence.

In cases where the alleged offender has been subjected to family violence, it heard that the defence was an inadequate safeguard, and it noted two things. The first is that a family violence victim may be charged, even though they may not ultimately be convicted, which may be unfair to victims who cannot protect themselves and their children. The second aspect was that the court must decide whether a person's failure to disclose is a reasonable response in the circumstances, which could expose victims of family violence to the risk that insufficient weight is given to the dynamics of family violence and that an unrealistic expectation is imposed upon them. Further, the royal commission said that the understanding of the nature and dynamics of family violence within the courts, within the police and in the community in general has not yet reached a point where we can be confident that the defence will operate as intended. The Director of Public Prosecutions will ensure consistency of decision-making when considering prosecution of the offence, having due regard to the nature and the dynamics of family violence.

We believe that the bill does not change the starting point of the offence — that people should be legally required to disclose information about child sexual abuse — or the defence. In line with recommendation 30 of the Royal Commission into Family Violence the bill simply puts an additional safeguard in place to ensure that the offence is used appropriately. It is a sensible refinement of the existing offence. Can I say that during the consultation on the bill, there was widespread stakeholder support for provisions around implementing recommendation 30 of the royal commission. That essentially summarises the government's position in relation to the opposition's amendments.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. Can you indicate, just in relation to your response: is there any history of the offence being used inappropriately by police in prosecuting?

Ms TIERNEY (Minister for Training and Skills) — Clearly this is a relatively new offence — 2014 — and my advice is that essentially it is too early to tell and that this is a safeguard.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. Is there any record of this offence being used at all since it was introduced in 2014?

Ms TIERNEY (Minister for Training and Skills) — The advice that we have received from key stakeholders is that it is too early to repeal. We do not believe that there have been any prosecutions from the OPP, but there have been a number of summonses issued by police.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, are those matters still on foot, where the summonses have been issued? I am interested to understand what conclusion has been reached with those matters.

Ms TIERNEY (Minister for Training and Skills) — Unfortunately we do not have that data.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — That makes it difficult to proceed, Minister. Are your officers able to obtain the data? It is fairly central to this question.

Ms TIERNEY (Minister for Training and Skills) — We understand that Victoria Police prosecutions have got that information. We would have to seek that information from them.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Are you able to do that now, Minister? It would be helpful to have an understanding of the extent of this perceived problem, given that it is the focus of the government's legislative change.

Ms TIERNEY (Minister for Training and Skills) — We would need to take that on notice, but it does not change the fact that the royal commission did consider this and that that was their view on the matter.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, in referring to the royal commission's comments you spoke about the courts, the police and the community in general having insufficient understanding, to paraphrase, of the issue. How does this legislative change address that understanding, particularly in respect of the courts, which are obviously central to the way in which this offence will be handled?

Ms TIERNEY (Minister for Training and Skills) — I said that in a general sense and I think a well-accepted sense. I think what we have before us today is something that just adds clarity and some guidance in respect of those matters before the courts.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, I am not sure how this change will assist the courts in their consideration of this offence. Are you able to elaborate on what you mean by that?

Ms TIERNEY (Minister for Training and Skills) — It is a general comment, Mr Rich-Phillips — and I know that you do have an interest in this area — but it is also about making sure that not just the courts but those that interact with the courts have some framework and some clarity around how it would operate.

Ms SPRINGLE (South Eastern Metropolitan) — The Greens will not be supporting this particular amendment from the Liberal Party. I have listened carefully to the minister's explanation as to why this particular reform has gone ahead, and we are satisfied with her contribution.

Amendment negatived; clause agreed to; clauses 2 to 29 agreed to.

Clause 30

Ms SPRINGLE (South Eastern Metropolitan) — I move:

1. Clause 30, line 7, omit "230" and insert "230A".

It is a test for my further amendments. The Royal Commission into Family Violence recommended these changes in order to provide some time to prepare for court hearings and to ensure that they are purposeful and useful. However, the commission also noted in its final report that this change involves substantial risks to women and their children. This could include lack of legal representation for victims for a longer period, increased uncertainty for victims and family members and increased risk of victims being subject to coercion. As a result the commission also recommended that the impact of this change be evaluated after two years, and this is what our amendment is proposing, with an emphasis on evaluating any unintended or adverse consequences, including increased risk.

We support implementation of this recommendation in full and are of the view that the requirement for a review should be included in the bill as opposed to in regulation. A number of leading family violence prevention organisations have also emphasised the importance of a review of this particular change in light of the risks involved. Our amendment would require the minister to cause a review of these changes after two years in operation and to table a report of the review before each house of Parliament within six months. The review would comprise an independent evaluation with a focus on unintended or adverse consequences, including increased risk, as recommended by the commission.

Ms TIERNEY (Minister for Training and Skills) — I wish to indicate that the government will support this amendment.

Amendment agreed to; amended clause agreed to; clauses 31 to 39 agreed to.

Clause 40

Ms SPRINGLE (South Eastern Metropolitan) — I move:

2. Clause 40, page 31, line 9, omit 'Officer.".' and insert "Officer.".

3. Clause 40, page 31, after line 9 insert—

'230A Review of amendments to first mention date for family violence safety notices

(1) The Minister must cause an independent review to be conducted into the operation of section 31(3) as amended by section 32 of the amending Act for the period commencing on the day on which section 32 of the amending Act comes into operation and ending on the day that is 2 years later.

(2) The Minister must cause a copy of the review to be laid before each House of the Parliament within 6 months after the end of the 2 year period.

(3) The review must give particular consideration to any unintended or adverse effects of the amendments made to section 31(3) by section 32 of the amending Act, including any increased risk to affected family members.".'.

These are consequential amendments about which I have already spoken.

Amendments agreed to; amended clause agreed to; clauses 41 to 53 agreed to.

Clause 54

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I will be seeking the omission of clauses 54 and 55. These are the clauses that give effect to the change in relation to the reporting offence in that these two clauses insert the constraint that a prosecution can only be commenced by the Director of Public Prosecutions. We believe that is an inappropriate threshold to set for prosecuting this particular offence so we will seek the omission of this clause and the following clause.

Ms TIERNEY (Minister for Training and Skills) — As I have indicated when we dealt with the first consequential amendment of clause 1, the government will be opposing the opposition's move to omit clauses 54 and 55.

Committee divided on clause:

Ayes, 20

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

Noes, 18

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

Pairs

ALP vacancy	Atkinson, Mr

Clause agreed to.

Clause 55

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Clause 55 is the second clause that gives effect to the government's intention to restrict the prosecution of the offence of not reporting child sex abuse to only proceedings initiated by the Director of Public Prosecutions. We believe that it is not appropriate that this restriction be placed on this offence. Protection of children should be paramount.

This is an unreasonable restriction on the use of that offence, and therefore we will vote against this clause.

Ms TIERNEY (Minister for Training and Skills) — As I indicated when we dealt with this issue when considering the previous clause and clause 1, the government is opposed to the member's proposal to amend the bill in this way.

Committee divided on clause:

Ayes, 20

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

Noes, 18

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

Pairs

ALP vacancy	Davis, Mr

Clause agreed to.

Clauses 56 to 66 agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

FREEDOM OF INFORMATION AMENDMENT (OFFICE OF THE VICTORIAN INFORMATION COMMISSIONER) BILL 2016

Committed.

Committee

Clause 1

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I want to start by referring to a couple of matters in the second-reading speech to understand the policy basis for the legislation the minister has brought forward this afternoon. One of the issues canvassed in the second-reading speech is the integration of the FOI functions of the current Freedom of Information Commissioner and the privacy and data protection functions of the current commissioner for privacy and data protection. What I am grappling with, Minister, is what that means from a practical perspective. What are you seeking to do by integrating those FOI and privacy and data protection functions? What is the outcome you are looking for?

Mr JENNINGS (Special Minister of State) — Thank you, Mr Rich-Phillips, for opening with the first-principles approach. To simplify the ambition of the government in an era where this Parliament has just considered determinations in relation to family violence, I would say that this is an excellent example of why the legislative framework in the state of Victoria needs to be modernised along with our ability to be able to appropriately share information in the spirit of the intent of the freedom of information legislation that goes back to the 1980s in terms of a person's right to know information about themselves in terms of their interaction with government and in terms of their having a degree of confidence about the decision-making within government.

Sometimes that may relate to information that may or may not impact upon the privacy consideration of others, and the sharing of this information may be inappropriate both internally within government or when it is released in terms of its external communication. There have been, over time, approaches to the way in which in practice you can reconcile as a government, through statute and through practice, the way in which the release of timely and appropriate information is balanced and moderated by the appropriate degree of security around our citizens' individual data and information sources, while trying to make sure that there are decisive and appropriate

protocols around this. And so in the other chamber of the Victorian Parliament today there is a bill about information sharing and family violence.

The policy intent of the government is to create a regime where currently disparate information sources are brought together in an appropriate fashion to support women and children at a time of urgent and acute need in terms of family violence, to make sure that victims do not have to share their story on an inordinate number of occasions but that there is a compilation of relevant facts in relation to that family's circumstances and their intersection with the service sector, and to make sure that the relevant information is gathered in relation to the perpetrators of those crimes to ensure that the victim is kept at arms length and safe in terms of the services that are provided by the police, family services, court services or other agencies that may be impacting upon that family's life.

The reason I give this example is — as you would appreciate, as this is a philosophy that underpins the statute — there is a need for us to get the appropriate balance between information sharing, the release of information and the appropriate regime of protecting the interests of our citizens from unwanted sharing of their personal details in circumstances where it may not be warranted and in fact may jeopardise their interests. The example that I have given is a practical demonstration of why the disciplines of freedom of information — access and release of information — should be counterbalanced and always moderated with privacy concerns and the safety and security of our citizens and their wellbeing.

That is one of the reasons those two statutory functions of government have been united in this legislative framework — to look at the way in which administratively and in practice we can build capacity across the Victorian public sector to achieve the maintenance of a statutory obligation in terms of the importance of both of those streams of endeavour and a practice that enables us to work out how that can be reconciled each and every day in the release of countless pieces of information about our citizens that will be made available now and into the future and to make sure that there is a harmonised approach to that work.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — The minister raised a very interesting example of the family violence information-sharing legislation which is in the other place and will come here in due course. I am interested, in the context of this legislation, Minister, to understand what the policy development process was that led to the development of the Family Violence Protection Amendment (Information Sharing) Bill 2017, and I ask the question in the context that the government produced that legislation — presumably it is good legislation; I have not seen it — and was able to undertake that policy development process without having FOI and privacy and data protection integrated in one entity. You were able to do that through the existing policy processes, presumably quite successfully, without this body you are seeking to set up now.

Mr JENNINGS (Special Minister of State) — In fact in terms of our ability to do this work appropriately, this piece of legislation we are considering today has been in the Parliament for the best part of a year. So in fact the bill was produced in anticipation of the need for us to look at the way in which information should be shared. We are looking at the way in which by statute and by practice we can reconcile the appropriate sharing and release of information with appropriate protocols and privacy protections. They are part of a consistent and cogent approach to policy development that underpins these statutes. Certain matters that occurred in the Parliament in 2016 probably changed what might have been the original trajectory, timing and passage of this piece of legislation, and I hope that we do not necessarily spend a lot of our time on those circumstances, but this bill has taken a lot longer to come out of the Parliament than we would have originally anticipated.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, does the development of the Family Violence Protection Amendment (Information Sharing) Bill 2017 not demonstrate that this structure is not necessary to get those outcomes?

Mr JENNINGS (Special Minister of State) — I think on one level Mr Rich-Phillips may feel comforted by the fact that in theory I could say yes. In practice I believe these are mutually reinforcing pieces of legislation that will assist in public servants' and indeed the general public sector's understanding — by creating philosophical, legislative and cultural change in terms of the way information is gathered and shared into the future — that we have a consistent legislative framework that will augment the effectiveness of the value of any individual piece of legislation.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. During the course of the public hearings which accompanied the standing committee's consideration of this legislation the committee received evidence from in particular the

commissioner for privacy and data protection that indicated there was essentially no interaction required between the office of the FOI commissioner and the office of the commissioner for privacy and data protection in their day-to-day work, which suggested this integration of the two offices was not a primary need in them being able to undertake policy coordination. Policy coordination can be achieved through the ordinary functions of government, as it is between the Department of Treasury and Finance and the Department of Premier and Cabinet and between other departments and agencies on a day-to-day basis. The practical operations of both those two offices were essentially mutually exclusive and certainly there is currently no integration or overlap of those operations.

Mr JENNINGS (Special Minister of State) — The privacy commissioner may have formed the view himself that they were mutually exclusive. The government does not share that view, and it continues to not share that view. I think the member's point about the way various statutes are reconciled in practice by the Victorian public sector and the way they can most effectively be implemented would be something that perhaps the privacy commissioner and the government may have a different view about, particularly regarding the effectiveness of the outcomes as a result of the government's intervention. I think the government has confidence that in terms of an ability to build a culture across the Victorian public service — the organisational capacity and the culture — to reinforce those sometimes competing objectives in statute will provide us with a preferable administrative arrangement to achieve those outcomes.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. The minister referred to cultural change and indeed the second-reading speech refers to cultural change. Exactly what type of cultural shift is the government seeking to achieve across the public service in the area of FOI and privacy data protection?

Mr JENNINGS (Special Minister of State) — Certainly there are a variety of objectives we seek to achieve, and in my answers I have already indicated the need to reconcile the appropriate way that information is gathered, collected and shared with our citizens to enable timely and appropriate responses, whether it be through FOI applications in their own right in relation to the release of information to citizens, through the way government is seen to be accountable to our citizens for administrative actions or through complex policy considerations like the one I have outlined in terms of information sharing between agencies in responding to particular needs such as in the circumstances of victims of family violence. There are a number of examples where the government believes public servants and the public sector generally need to understand what is best practice in terms of how to achieve those outcomes.

I think if any witness to the standing committee gave evidence that the function and operation of data collation and its release operates in Victoria under best practice, I would be very surprised. It would be an overreach of anybody to indicate that best practice has been achieved in Victoria in relation to the collection and dissemination of information. It is the government's intention to drive best practice, and it believes that an appreciation of the statutory obligations of the administrative culture that underpins the satisfaction of the statute to recognise the technical requirements of information collection and distribution is a first principle. There is a need to have a root-and-branch assessment about the effectiveness by which that culture and that capacity is driven across the public service, and we think this statute will assist in that endeavour.

Certainly I think the ability of the Freedom of Information Act 1982 to live up to the original expectation of how it was envisaged when it first appeared on the statute book in Victoria has probably diminished over time, and this is one of the reasons there are a number of reforms in this legislation to try to lift the performance and timeliness of the freedom of information response. That is a clear message the government is trying to send through the statute. There is also a clear message as to the expectations in relation to compliance with privacy provisions and data security provisions in circumstances where the influence and the culture being driven by the current administrative arrangements may fall short of best practice and would warrant, in this case, legislative reform, ongoing organisational support and other activity of government to give life to best practice in this field.

They are the reasons why we think it is important to have this bill passed and establish new administrative arrangements to support those endeavours. Indeed I have already used this example a couple of times, and I may not have exhausted the number of times I have returned to family violence information sharing as a very tangible example of the way in which we need to get the balance right in how we gather information and how we share it appropriately to protect the safety of our citizens. Also the privacy of our citizens is a very important discipline. It will be a feature of modern

administration in a way that the current practice has actually not necessarily been seen to be on top of.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank you, Minister. One of your references you made there was to the root-and-branch review. Indeed the second-reading speech also referred to the root-and-branch review of the FOI framework you are undertaking. Can you outline what the terms of reference of that review are please?

Mr JENNINGS (Special Minister of State) — When the government was elected we made undertakings to look at the way freedom of information was complied with. Certainly they were undertakings that we made at the time of the election.

We also made commitments in relation to what we described at that time as the public access to information commission. On coming to government we decided that the limited brief that was originally established by those commitments we should take further. At that time the election commitment had been to make some refinement to time frames and the accountability and scope of freedom of information in terms of which administrative units apply to the time frames by which it should be responded to and public access being a first principle that is actually provided within the terms of reference of the update of freedom of information.

We then recognised the practical limitation of compliance and reconciliation of one agency after another in terms of their appreciation of their privacy obligations and their technical ability to comply with privacy. We actually realised that there was an open access question across government in relation to understanding how those matters should be complied with. We then looked at the way in which we could then bring those two elements together.

Then a piece of work was commissioned within my department to undertake what would be the review of those institutional arrangements to find a way in which we can acquit the election commitment and indeed to try to build on the spirit of public access to information that is compliant with privacy concerns and capable of integrating the discipline of information collation, the security of data being held and its appropriate release and its timely release. Then we engaged in conversations within government, with the stakeholders, such as the Accountability Round Table that had been well versed in this matter, and with other relevant stakeholders and came up with the model by and large that is in the Parliament today and has been in the Parliament for the best part of a year. Pretty much that is the genesis and the product of our considerations.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. I just wanted to clarify that. I will come back to what you have said about the policy development work and consultation around institutional structural work, but my question was going to the subsequent review of FOI that you announced and that was referred to in the second-reading speech. To refresh your memory, it states:

> As such, the government is commissioning an independent root and branch review of Victoria's FOI and public records legislation. The review will consult broadly across the public, private and non-government sectors to develop a revised framework for FOI and public records legislation, and the review is expected to be completed in March 2017.

It is that review rather than the institutional structural review that I am interested in. Are you able to outline what were the terms of reference for the review in relation to the existing legislation, who undertook it and who was consulted in relation to it?

Mr JENNINGS (Special Minister of State) — I am not certain whether you asked me two different questions there. Did you absolutely clarify that in fact you were referring to a second piece of work?

Mr Rich-Phillips — Yes, I did.

Mr JENNINGS — Okay. The second piece of work has not been concluded in the time frame that originally was envisaged. At one level can I actually take it as an apology that that has not occurred on the basis of us bedding down this work in the first instance and other reforms that the government has embarked upon which have taken precedence over that work. That is not to say that the work has disappeared forever. Even though we have actually undertaken the scoping of that work privately, we have not achieved the time frame that I originally committed to.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thanks, Minister. Has that work actually commenced beyond the scoping? Have you appointed someone to the review, and has that review actually commenced in terms of the consultation with third parties?

Mr JENNINGS (Special Minister of State) — The external communications and the external engagement of the review have not commenced beyond this scoping and consideration of material that would actually drive the review.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Who is going to undertake that review, Minister, when it gets underway beyond the scoping?

Mr JENNINGS (Special Minister of State) — That is a matter that my colleagues and I will consider, although I am not in a position to be able to tell you the answer to that question.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you. Are you able to outline the expected time frame for that now, given it was meant to be finished three months ago?

Mr JENNINGS (Special Minister of State) — Well, in the first instance can I actually say after this statute hopefully passes, then this will create a solid foundation for knowing what the next iteration of the work may be. This is not a chicken-and-egg situation. I have already made a false promise about what the time frame is, and I am reluctant to do it again.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — As usual, disarming honesty from the minister at the table. Minister, I would like to go back to the other piece of work you referred to, which was the work you said was done within the Department of Premier and Cabinet to review institutional structures and which led you to the structure we are considering today. What consultation was undertaken within government? You referred to the Accountability Round Table, which members of the house are no doubt aware is made up of a number of external people with an interest in accountability matters. Were the existing institutional heads consulted on the policy development work that led to this structure?

Mr JENNINGS (Special Minister of State) — I would prefer for this part of the committee stage to be quicker rather than slower, so I am happy for you to ask me a more specific question if you would like. What I can suggest to you is that in the government's view the relevant components of government and institutional considerations were made. There may be some dispute in terms of how mature the work was and what time it was shared with some of the institutional players, but I can assure you that conversations took place prior to the introduction of the bill. You may want to tease out one or two instances in relation to that, but I can assure you that they took place prior to that occurring.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I do not think there is any dispute, Minister, about — I may not use the word 'consultation' — the agency heads being notified of the legislation prior to its introduction into Parliament. What is in contention is whether they were engaged in the policy development process. As you would appreciate and perhaps other members of the chamber would appreciate, the process in developing legislation involves the policy development process before you go to drafting instructions leading up to a draft bill. So the question is: were the FOI commissioner and the commissioner for privacy and data protection engaged in the process, in that policy development stage, before the legislation was drafted — essentially before you went to approval in principle (AIP) in a cabinet sense?

Mr JENNINGS (Special Minister of State) — The reason I am not quick to answer the question — I am not avoiding the question — is that I do not want to be coy in relation to this. There would have been discussions with the relevant office-holders in relation to these matters. As to how specific that was, how definitive that was, how deliberative it was prior to the approval in principle, I would suggest there were no discussions with those statutory office-holders that would have actually said, 'This is what a draft AIP looks like. What's your view of it?'. The discussions would not have occurred in that fashion. In fact there were conversations that took place prior to that occurring, and by the time the bill was established there were more linear conversations about what the structure and the intent of the policy considerations were.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister; that is very helpful. Why would you not have undertaken that consultation with Mr Watts, the commissioner for privacy and data protection, and Mr Ison as acting FOI commissioner as you were preparing that AIP? Essentially the AIP is for members not familiar with the cabinet process. You are going to cabinet saying, 'We've got a policy proposal to take the FOI commissioner and the commissioner for privacy and data protection and amalgamate them in a new structure and we now want to proceed to drafting legislation'. Why would you or your office not have consulted those two commissioners about your policy proposal to put the two offices together before you started the legislative drafting process?

Mr JENNINGS (Special Minister of State) — Ultimately, given what you have already referred to as Mr Watts's testimony before the committee, it sounds as if he had predetermined his position. I am taking at face value basically your summary of what he said — that these activities were mutually exclusive. The government does not believe that they are mutually exclusive. If he is of the view that they are mutually

exclusive, then that almost guarantees that in fact he may have a different view about the appropriate organisational structure. His position may indicate that he has a different view in relation to the best way to achieve the outcome that he was obliged to achieve by statute. The government formed a different view about the best way of that statutory obligation being achieved.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — And because you believed he had a different view you therefore deemed it unhelpful to consult him?

Mr JENNINGS (Special Minister of State) — The reason I paused a few minutes ago was that I have given you the nature of the discussion that took place. I am not trying to gild the lily in relation to the completeness of conversations that may have taken place prior to cabinet's consideration on what the scoping of the bill may be. They were general; they were not specific in relation to this matter in terms of the policy intent of the government. Regardless of the structure that is embedded in the legislation, the policy intent was clear and conveyed.

The model by which that would be achieved is not necessarily something on which the government felt obliged to have lengthy discussions outside of internal considerations of government at that time. Our discussions were about identifying what the policy imperatives were and the way in which they could be achieved. We were prepared to listen to views and to consider them and come up with a model. By the time that the model was developed, that was shared before it came to Parliament.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, did you seek the views of Mr Ison while you were developing that model before you drafted the legislation?

Mr JENNINGS (Special Minister of State) — No. One of the difficulties I have in terms of the time frames that are in question at this minute is that whilst Mr Ison has been acting in his position for quite some time, I am not certain whether he was in that office and was acting at the time the policy considerations were made. I certainly know that we have had, from his time in the acting capacity, what I believe to be full and frank and appropriate discussions with him about the legislative model, the intent of the legislation and the benefits that could accrue to the work that is currently being undertaken by him and his office, and that has been from my perspective a very productive and constructive series of conversations.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Well, Minister, perhaps I can simplify it and refer not to Mr Ison but to the office of the FOI commissioner: was the office of the FOI commissioner consulted as you were developing the model before you went into legislative draft?

Mr JENNINGS (Special Minister of State) — In relation to the sequence of these matters this is an extremely esoteric matter as far as the community is concerned, I am certain. I know that you have a political interest in the sequence of these conversations, but in my mind it is a fairly esoteric line that we are working, because I am not trying to hide the fact that in fact there were conversations, there were scoping discussions, there were general outcomes that were discussed as policy considerations before cabinet considered it as an approval in principle, which is the process by which government actually develops legislation — as you have just reminded the Victorian community. It is a two-stage process within government: you actually scope out what the intent may be, you have drafting instructions and then it comes back as a piece of legislation and subsequently a bill of cabinet.

That is not a secret, necessarily, though perhaps it is not a feature of community life that is actually well understood. So Mr Rich-Phillips is playing a role in the education of the community about the way in which legislation is drafted, and he is also interested in whatever intrigue he may hope to generate about who gets spoken to at what point in time in relation to that sequence. We have already discussed it, Mr Rich-Phillips, and you created a select committee more than six months after the bill came into Parliament to try to tease that out for perhaps not the fullest consideration of policy matters, can I say to you.

Mr Rich-Phillips — It did its job.

Mr JENNINGS — I am not sure about that. I think the issue is that as far as the government is concerned the appropriate line of communication was established and maintained in the preparation of this legislation, so maybe I should just leave it at that.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I would like to move to another matter now, and I might come back to that one given you raised political considerations in your response. I will go to the issue of timing. Why has the government elected to make this structural change now? As you would appreciate, the office of the FOI commissioner was established midway through the term of the last

government; when you introduced this legislation 12 months ago that office was approximately three years old. The Office of the Commissioner for Privacy and Data Protection was established in 2014; it was barely two years old when you introduced the legislation. If there was a lead time, as you suggested there was in the policy development process, you could go back 12 months earlier. Both these offices were certainly less than five years old; one of them was probably less than two years old or on the cusp of two years when you made the decision to undertake this radical restructure. What was the reason for that from a timing perspective, when neither of these officers had been in place long enough for them to have identified structural deficiencies?

Mr JENNINGS (Special Minister of State) — Your government introduced the Freedom of Information Commissioner. By the time you left office, one by one government agencies in the state of Victoria, the government agencies that worked under your administration — were challenging the jurisdictional cover of the Freedom of Information Commissioner. When the Labor government came to office in 2014, one of the first instructions I gave across the public sector was to prevent departments challenging the jurisdiction of the Freedom of Information Commissioner. If that is not inheriting a system that was broke, I'll go he!

Mr RICH-PHILLIPS (South Eastern Metropolitan) — But, Minister, if you have concerns about the jurisdictional coverage of the FOI commissioner — —

Mr Jennings — No, you did — your government did.

Mr RICH-PHILLIPS — No, but if the minister has concerns about agencies challenging the jurisdictional coverage of the FOI commissioner, that could be remedied by a legislative amendment to the FOI act. It does not require a completely new structure that combines two existing offices in an entirely new structure. You could fix that discrete problem with discrete legislation.

Mr JENNINGS (Special Minister of State) — I think that is a bit cute. One by one your ministerial colleagues either encouraged or allowed departments working under them to challenge the jurisdictional cover and application of the work of the Freedom of Information Commissioner, the body that you created. So for anybody in the community who is listening to this issue the importance of the matter that I am raising is that the previous government created a body and its ministers and its departments then chose to say, 'We're not complying with your direction and your method because we refuse to accept its legitimacy'. It is, I think, a somewhat hypocritical position that Mr Rich-Phillips is taking today in saying that we inherited a model that was pretty new and actually should have been looked after. During the previous administration not only was it not looked after but it was also monumentally abused.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — What I am saying, Minister, is that if you accept the argument you are putting forward, and for the purposes of the debate let us do that, it can be remedied with discrete legislation. It does not require the existing FOI commissioner to be abolished; it does not require the existing Office of the Commissioner for Privacy and Data Protection to be abolished and a new structure to be put in place. If the problem was of the nature you have outlined, that could have been fixed with discrete legislation making discrete changes to the FOI act.

Mr JENNINGS (Special Minister of State) — Well, Mr Rich-Phillips, I reckon we started this committee a bit after 4 o'clock, and a bit after 4 o'clock we started talking about why we have put forward this piece of legislation. I have outlined election commitments. I have outlined the way in which we think we could actually get a better outcome in terms of the collation of information, the dissemination of information and the way we can protect our citizens' interests. I have gone through the history of why the government made that decision. We have gone through the way in which we reconcile those sometimes competing policy demands outlined in statute, bring them into an organisation, build the capability and build the culture. We made a conscious decision to bring all of those elements together. The element that we are talking about now, at this moment, is what had been the administrative chaotic situation that the current government inherited from the government that you were a member of.

If you take that issue in isolation to say it could have been remedied by one piece of amending legislation, maybe it could have. In the first instance it was remedied from day one by the government — the incoming government — issuing directions to departments across the Victorian public sector: do not challenge the jurisdictional standing of the Freedom of Information Commissioner. We did that from day one by a direction. We did not need a piece of legislation for that either. We have chosen on balance to actually proceed with the statute that is before us today.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. There is another matter I would like to take you to, which was covered in your second-reading speech and which goes to the question of conclusive certificates. You stated in the second-reading speech that the bill repeals the use of conclusive certificates in relation to the FOI act. Can you outline what the policy intent is with that change?

Mr JENNINGS (Special Minister of State) — We are living in anticipation of where this line of inquiry is heading.

Mr Rich-Phillips — We are a jump ahead.

Mr JENNINGS — That is where we are going. As a related issue to the one that I talked about before, which is in fact the jurisdictional challenge that we inherited when we came to government, there was also a practice where certificates had been issued by secretaries in relation to whether to verify or assert that cabinet in confidence covered material, and once that certificate was established then the ability of the Freedom of Information Commissioner to examine that matter had been limited. In fact it was to reduce the limitations of that scrutiny.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister; that is very helpful. I would like to ask you about an example of the use of a conclusive certificate to understand how the use of that conclusive certificate would apply in view of the amendments you are making with this bill. You will I am sure be aware — it has been referred to in question time previously — that in December last year the commissioner for privacy and data protection wrote to the Premier seeking information about reports that the Premier was undertaking an audit, for want of a better term, of the mobile devices of his cabinet colleagues to establish the source of a cabinet leak. That was the suggestion. The privacy and data protection commissioner wrote to the Premier seeking information about this investigation that the Premier was apparently undertaking, to determine whether it was in breach of the privacy principles or the privacy act.

In response to that request from the privacy commissioner to the Premier a conclusive certificate was issued by the Secretary of the Department of Premier and Cabinet (DPC), which states — and I will read it for the purposes of the record:

> Certificate pursuant to section 79(3) of the Privacy and Data Protection Act 2014
>
> I, Chris Eccles, Secretary of the Department of Premier and Cabinet, certify that the giving of the information requested in a letter to the Honourable Daniel Andrews, MP, Premier, from Mr David Watts, commissioner for privacy and data protection, dated 16 December 2016, would involve the disclosure of information which, if included in a document of the agency or an official document of the minister, would cause the document to be an exempt document of a kind referred to in section 28(1) of the Freedom of Information Act 1982.

It is signed by Chris Eccles, Secretary of the Department of Premier and Cabinet. The effect of it was essentially the secretary of DPC saying, 'The information you are seeking is cabinet in confidence and we're not going to give it to you'. Would the amendments in this bill — which, in the language of your second-reading speech, repeal conclusive certificates — have prevented Mr Eccles from issuing that conclusive certificate to block Mr Watts's inquiry?

Mr JENNINGS (Special Minister of State) — I have got good news and bad news. The good news is that if the Parliament had not conspired to actually prevent the passage of this legislation, then in fact at Christmas time the Secretary of the Department of Premier and Cabinet would not have used that instrument in relation to that response, because in fact it would have denied him the opportunity to use that instrument. If you are actually after good news, that is good news because through that instrument we are opening up the way in which the privacy commissioner could get access to that information. It does not mean that it abrogates the right of claim for cabinet in confidence, but in the one instrument it would not be 'all over red rover' in relation to the nature of that instrument itself being provided within statutory cover in cabinet-in-confidence matters.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. Just to be clear: the effect of the amendment in section 79, I think it is, will be that conclusive certificates for the purposes of cabinet in confidence will not be able to be issued, full stop — it is a blanket repeal of those certificates for cabinet-in-confidence purposes?

Mr JENNINGS (Special Minister of State) — Yes.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, are there any guidelines around the use of those certificates currently? The minister would appreciate the nature of the request that came from Mr Watts. It is a public document; it is on the commissioner's website. The request he made of the Premier, on a fair reading of it, did not on the face of it seek cabinet information — information about cabinet deliberations, cabinet documents or anything of that nature — yet what came back from the secretary of

your department was a blanket conclusive certificate that 'The whole thing is cabinet in confidence and we're not going to tell you anything'. Are there currently any guidelines in place which determine how a secretary or other responsible officer can use those conclusive certificates when claiming a matter is cabinet in confidence? Obviously this is important because the nature of a conclusive certificate is that there are very limited grounds on which the claim can be challenged.

Mr JENNINGS (Special Minister of State) — Yes. Once this legislation passes, if it passes in the form that the government is recommending today, it will not be available in the future, so in a sense your concern may be remedied through our collective action during the course of the day. I am certain that in the guidelines that you actually seek there would be a combination of statutory obligations and practice, and I am certain that the secretary would receive advice about the appropriateness of issuing such a certificate. I am not aware that it has been formalised as one template guideline, but in fact it would be on the basis of statutory obligations and established practice and precedent, and any internal legal advice about the appropriateness of that matter would have been obtained prior to the certificate being issued.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. You spoke earlier about the cultural change that you are seeking to drive through this legislation in the FOI area and privacy and data protection fields across government, and indeed you spoke about the direction that you had given as minister with respect to agencies challenging the jurisdiction of the FOI commissioner. I would like to refer you to another relevant piece of correspondence from the then acting general counsel of the Department of Premier and Cabinet in responding to Mr Watts's request for information that went to the Premier, which accompanied I think a subsequent conclusive certificate seeking to deny Mr Watts access to information. The letter is dated 20 January. It is addressed to the commissioner:

> I refer to your letter to the Secretary to the Department of Premier and Cabinet dated 13 January 2017 and notice to produce under section 79 of the Privacy and Data Protection Act 2014 (the act).
>
> On behalf of the secretary, I enclose a certificate under section 79 of the act.

Again, in response to a request for information from the independent commissioner, the secretary of your department has issued a conclusive certificate saying, 'We're not going to tell you anything'. But then the letter goes on to say:

> DPC notes the secrecy provisions in section 120 of the act. To avoid doubt, DPC does not consent to you disclosing or communicating this response.

It is signed by the acting general counsel of the Department of Premier and Cabinet. Is that response from the acting general counsel in your department consistent with the culture that you are seeking to create across the public service?

Mr JENNINGS (Special Minister of State) — There are two aspects to your question. I believe it probably is consistent.

Mr Rich-Phillips — You suspect it is?

Mr JENNINGS — Yes, and the reason why I think it is consistent is because there are two things that we should be mindful of here. What is the statutory obligation of statutory office-holders? It is to act in accordance with the law. This letter did not actually say, 'We actually question your jurisdictional cover'; it did not say that. It did not actually say, 'Your interpretation of the law is wrong'; it did not say that. It reminded the statutory office-holder of an element of his statutory obligation, and I think that is useful for us to use as a ready reckoner — perhaps a lightning rod for the way in which people should actually apply the statutes that are available to them. They should be mindful of their obligations under various statutes, and I think this was one reminder.

That is an important culture, that you actually are mindful of your statutory obligations and that you comply with the statutes that you are obliged to implement and comply with. In fact some people are actually holders of statutes and they should be mindful of what that means in terms of their obligations. I have been humiliated on a number of occasions in the last year because I have come out and actually defended what I believe is the statute that I am responsible for in relation to the Ombudsman's Act 1973, and in fact despite the best legal advice that is available to me, that was not the prevailing view when these matters were considered in the Supreme Court and the High Court. It does not actually mean that I have acted in any shape or form — ever — outside of the legal advice I have obtained in relation to what the statute meant. I think it is a very important principle that I have actually operated within what we believe to be the legal framework that is embedded within the statute, and I think that letter demonstrates that in one form.

The other issue in relation to 'consistent with the culture' is that this certificate is available under statute and was used under statute, and our intention is to remove that opportunity in the future. The correspondence, which clearly was not complied with in the spirit of the interpretation of the acting general counsel at the time in relation to a reminder of statutory obligations, obviously had no effect. In future we would like people across the public sector to act in accordance with what is available to them under the law and what they are obliged to comply with in the law.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I certainly agree with the minister that statutory office-holders should be mindful of their statutory responsibilities and operate within the framework of the statutes for which they are responsible. I might differ with the minister in his suggestion that officers using the full extent of the statutory tools available to them is necessarily, of itself, a good thing without an appropriate policy framework around it, because to use one of the principal pieces of legislation that comes into play in this bill, being the Freedom of Information Act 1982, there are a number of statutory tools available in that legislation which would facilitate the blocking of the release of information by a departmental officer if that was what they wished to do. That is not necessarily, though, the philosophy that the government would want to underpin the operation of the FOI act, notwithstanding that there are 20 or 30 grounds on which documents can be refused and therefore those statutory tools are available. The mere fact that they are available does not mean that their use is necessarily a good thing if it is not consistent with the philosophy that, hopefully, the government is seeking to promote across the public service. Indeed in that regard the minister referred to stepping aside from whether a statutory officer did or did not act in accordance with their statutory obligations.

The second element of the acting general counsel's letter was:

> To avoid doubt, DPC does not consent to you disclosing or communicating this response.

My question really is: is that lack of consent — the indication or suggestion of the government's or the department's desire to keep these matters confidential, presumably to avoid embarrassment to the government or embarrassment to the department — consistent with the philosophy or the culture that you are seeking to create around FOI and the management of information?

Mr JENNINGS (Special Minister of State) — In fact, Mr Rich-Phillips, I did answer that question. That is the same question. It had a different preamble but exactly the same conclusion in terms of the question, so I did answer it.

Mr Rich-Phillips interjected.

Mr JENNINGS — I gave a pretty full answer. In fact for a lot of your contribution in terms of the preamble, you and I were not at odds in relation to the philosophical underpinnings, and in fact the spirit of this reform that we are actually embarking upon and the spirit of the Freedom of Information Act is ultimately to release information, and ultimately that is in fact what we are trying to do. In fact the very provision that you have taken offence at in relation to the ability to issue a certificate is not going to be available to the secretary to use in the future if this bill passes. So as a first-order principle, take it as a victory for the release of information and transparency that this device will not be able to be used in the future. That is a good thing.

The issue then — what I perhaps laboured in my substantive contribution, which you then may have misconstrued — is that people should be mindful of the law in terms of how it obliges them to take certain actions. I think whether that applies to public servants, ministers or statutory office-holders, all of us should be obliged to act within the black-letter law and the spirit of the law. That is a first-order issue; that is a very deep-seated philosophical issue.

I then referred to the fact that if there is a legal instrument that is available to people, they should use that legal instrument. It is not to the exclusion of complying with the spirit of laws, but their actions should be consistent with what the statute either prescribes or allows for. That is the point that I am making. I think you are choosing to talk about some lessons that could be learned departmentally in relation to this issue, and I do not think that is the full set of lessons that should be learned.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Perhaps, Minister, we are talking about different lessons for different entities. My comments were focused on your department, perhaps not your statutory office-holders. I will move on from that point for now. Most of my remaining questions relate to structural matters and indeed go to the amendments I am seeking to put forward. Perhaps just on this clause in a policy sense can you give an indication to the committee of what your expectation is with the new structure — with the information

commissioner, the deputy commissioner for privacy and data protection and the deputy commissioner for FOI — as to the relative remuneration, if you like, or seniority of those positions in relation to the current FOI commissioner and the current commissioner for privacy and data protection and where that sits within the Victorian public executive remuneration structure?

Mr JENNINGS (Special Minister of State) — There are two components to the answer to this question. On the first component, in relation to the current classification, I am going to receive some advice which I will share with the committee. I will come back to the committee before we conclude and indicate what the current remuneration bands and conditions may be.

The second part of the answer to the question is that the government has not predetermined the outcome. Ultimately the executive band that the commissioner and then the deputy commissioners may fall into will have to be factored into the transitional arrangements that relate to moving current office-holders into the new organisational structure and assisting in that transition. The reason I raise that issue is, in terms of the remuneration and conditions of employment in terms of the transition, it would be appropriate to embark upon that transition on the basis of preserving the conditions of anybody who transits into the new organisation, depending upon where they end up in that organisation. That is a subsequent matter that will be considered once this legislation passes.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I take it that the expectation is that where there are lateral transfers it will be at the same level and on the same grading terms. Will that also apply if one or both of the existing commissioners occupies the relative positions in the new structure as deputy commissioners?

Mr JENNINGS (Special Minister of State) — As a general principle I would think that the 'no disadvantage' test should apply in terms of the transition, so that is what I am confirming. What that means for ultimately where they may be successful or otherwise in relation to that transition into any particular position in the organisation is something that would warrant further consideration once the structure is in place and once the transition has been discussed with them. I am happy to place on the public record that we would start from the assumption of no disadvantage as the first principle and then look at how the transition works in terms of the success or otherwise of being placed in the new organisational structure.

Ms FITZHERBERT (Southern Metropolitan) — I have just a couple of brief questions, Minister. Getting back to what you referred to earlier, paraphrasing fairly, as the politics that accompanied this bill and the committee hearing that was held some time back and Mr Watts's testimony in particular. Mr Watts said that he attributed part of the formulation of what is in this bill to be a result of his upsetting the Community and Public Sector Union (CPSU). In fact he said, and I quote:

> My belief is — and I have been told this — that this is the result of upsetting the CPSU; the unions have long memories.

Do you want to comment on the evidence he gave?

Mr JENNINGS (Special Minister of State) — I start from the premise that I would prefer not to. I do not think it is a relevant matter in this consideration. It was certainly not a driver of the government's consideration. Mr Watts may have given some reason for why he believed that to be the case, but that was not a determinant of the government's position.

Ms FITZHERBERT (Southern Metropolitan) — If I could ask further on that. Mr Watts, immediately after giving that evidence of his view of some of what prompted this bill, discussed what he characterised as bullying and a text message in particular that he received. In relation to the consultation process he said specifically:

> … may I take you back to the consultation process. I had a meeting with Mr Bates on 5 May, as I have previously said in evidence. At that stage I actually said to Mr Bates — after Mr Porter and Mr Miller had left the meeting — I asked him whether the legislation was being amended specifically to remove me at the instigation of the CPSU …

et cetera. Then he said that shortly after that, on 19 August, which was the date that that exchange was made public:

> On the evening of 19 August I received a text message from Mr Bates at 8.28 p.m.

And this is what it said:

> I'm told you briefed James Campbell on my ALP membership. I look forward to hearing how you explain that decision to Bill and Chloe.

You would no doubt be aware of this evidence that was given. Mr Watts characterised that as bullying. Has there been any investigation or action taken as a result of that accusation?

Mr JENNINGS (Special Minister of State) — I certainly know that there were conversations held departmentally about the wisdom of such a message being transmitted. It was made clear that it was in fact unwise to send such a transmission. In terms of its construction and its perception as being bullying, I do not believe that that was the intent. It may have been perceived that way. If that is the case, I am sorry that Mr Watts felt that that was the case. I believe that that nature of communication is unwise and should not be undertaken, but if that is interpreted as active bullying, I think that that is a fairly long bow.

Ms FITZHERBERT (Southern Metropolitan) — We can debate whether or not it is bullying. It was certainly interpreted that way by the person who was on the receiving end. But you have said to us today that it was made clear to the person who sent that that it was unwise and there were conversations at the departmental level. Did those conversations develop into the use of a grievance procedure or perhaps some form of formal counselling? Did it get into the realm of needing to be formally managed in some way, as part of the employment relationship?

Mr JENNINGS (Special Minister of State) — There was not a process. The mere fact that it was conveyed has a degree of formality to it. The fact that I have referred to it in the Parliament has a formality to it and a recognition of the poor judgement that may have been demonstrated. I am certain that that is appreciated and will guide further communications in the future, to prevent that from being a feature of either internal consideration or public commentary.

Ms FITZHERBERT (Southern Metropolitan) — That is appreciated. Is that because you have had direct conversations with departmental officers about this unfortunate incident? Why are you so strong in your certainty on that front?

Mr JENNINGS (Special Minister of State) — The answer to that question is yes.

Ms FITZHERBERT (Southern Metropolitan) — Are you able to elaborate on the nature of those conversations?

Mr JENNINGS (Special Minister of State) — I have in all the details that I am sharing with you.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Minister, I am curious that a minister would be counselling a deputy secretary of his department on the wisdom of transmitting such a message. Is that normal, that you would take on that role within the Department of Premier and Cabinet?

Mr JENNINGS (Special Minister of State) — That is not what I said.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — No, you did not say it. I am asking: is it normal that you, as the minister, would be effectively counselling a deputy secretary about the wisdom of sending such a message?

Mr JENNINGS (Special Minister of State) — That is not what I said.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — If the minister does not like my characterisation as counselling, how would he describe it?

Mr JENNINGS (Special Minister of State) — We are wasting time, because in fact if you go back and check the record, I did not say that I personally discussed this matter with the officer in question. I said that I know that conversations took place, and as far as I am concerned the appropriate conversations took place and they were reported to me.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — So for the avoidance of doubt, you did not have a conversation with Mr Bates about this matter?

Mr JENNINGS (Special Minister of State) — I have not had a conversation with Mr Bates about this matter.

Clause agreed to.

Clause 2

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

1. Clause 2, lines 19 to 31, omit all words and expressions on those lines.

2. Clause 2, line 32, omit "Division 2" and insert "Division 1".

3. Clause 2, page 4, line 5, omit "subsection (2), (3), (4) or (5)" and insert "subsection (2)"

I have a series of amendments to clause 2. The amendments to clause 2 relate to the operative date that the creation of this new statute should apply from and then there are some considerations that are subsequent to that.

In terms of the sequence, the most significant of those is amendment 4, where we change the operative date, being July of this year, to September of this year to provide us with enough time to stand up a new organisation. The other amendments, 1, 2 and 3, relate to the impacts that occur in relation to other statutes that are impacted by this legislation. There are provisions that refer to the Health Complaints Act 2016 and the Judicial Commission of Victoria Act 2016. Because those bills received passage prior to this bill, the reference in this piece of legislation is no longer required in terms of the commencement of those acts.

Amendments agreed to.

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

4. Clause 2, page 4, line 6, omit "July" and insert "September".

In fact I got a bit ahead of myself because I talked about the interlocking nature of amendments 1, 2 and 3. The reason why we need them is that the gestation period of this piece of legislation has been longer than we originally anticipated. Therefore we need a different operational date to stand up a new organisation, so amendment 4 shifts the operative date from 1 July to 1 September.

Amendment agreed to; amended clause agreed to; clauses 3 to 5 agreed to.

Clause 6

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

1. Clause 6, page 16, line 18, omit "or remove".

2. Clause 6, page 16, lines 29 to 34, omit all words and expressions on these lines and insert—

"(2) The Minister must cause a full statement of the grounds of suspension to be presented to each House of Parliament within 7 sitting days of that House after the suspension.

(3) The Public Access Deputy Commissioner must be removed from office by the Governor in Council if each House of Parliament, within 20 sitting days after the day on which the statement is presented to it, declares by resolution that the Public Access Deputy Commissioner ought to be removed from office.

(4) The Governor in Council must remove the suspension and restore the Public Access Deputy Commissioner to office unless each House makes a declaration of the kind specified in subsection (3) within the time specified in that subsection.

(5) If the Public Access Deputy Commissioner is suspended from office under subsection (1), the Public Access Deputy Commissioner is taken not to be the Public Access Deputy Commissioner during the period of suspension.".

The proposed structure that the bill will put in place has the information commissioner sitting above two deputy commissioners, the public access deputy commissioner and the FOI deputy commissioner. Currently the standalone FOI commissioner and the standalone commissioner for privacy and data protection may only be removed from office by a vote of both houses of Parliament. That is in recognition of their independent statutory nature. The current legislation does not allow the holders of those offices performing those statutory functions to be removed by the government or by the Governor in Council. To ensure the independence, the legislation that was put in place in the last term of government provided that both those commissioners could only be removed by a vote of both houses.

The legislation that the committee is considering today, which sets up a new structure with an overarching information commissioner and the current roles largely analogous to the two new deputy commissioners, provides only that the overarching commissioner has the protection of Parliament from removal. It provides that the two deputies can be removed by the Governor in Council, effectively the government providing advice to the Governor.

What my amendments 1 and 2 seek to do is amend the bill in this instance in relation to the public access deputy commissioner, the one analogous to the privacy and data protection commissioner, to provide that that deputy commissioner, just as the current standalone commissioner, could only be removed by a vote of both houses of Parliament and not by the Governor in Council, as is proposed by the government in the legislation.

Mr JENNINGS (Special Minister of State) — The government will not be supporting the amendment, and we do so for a couple of reasons. One is because on balance we are confident in the model that is before the Parliament in the statute that we have prepared. The statute we have prepared for Parliament's consideration at the moment is designed to have one reconciled organisation through one statutory office-holder that is subject to parliamentary scrutiny in terms of whether the appointment can be removed only with the endorsement of the Parliament or subject to the Parliament's ratification, as distinct from the two statutory office-holders that have been provided for previously, who will then by our design acquit their

statutory functions but not have that protection, as it were, by the nature of their employment positions.

As Mr Rich-Phillips has indicated, the government's preference is to have those deputy commissioners appointed through a Governor in Council process, which is indeed still a formal and onerous process in its own right. This relates to the second point, apart from the design of having an organisation that has a structure where clearly the hierarchy is established by both the appointment instrument and the nature of the work to be acquitted by the office-holders.

The second issue is the relativity between other agencies, whether they be similar statutory agencies such as the Auditor-General or the Ombudsman's office. You will actually note that their current and longstanding statutory arrangements have been that the head of the organisation is the one that is subject to Parliament's consideration, not the deputy's position, which would be appointed through a similar mechanism to what is adopted here.

So by design we would prefer not to accept Mr Rich-Phillips's proposition that he is moving by amendment, and certainly it would take this organisation out of kilter with other relevant agencies. We are wanting to maintain a degree of administrative relativity between other statutory bodies, and this is the reason we will not be accepting the amendment.

Mr BARBER (Northern Metropolitan) — The Greens will not support this amendment. We have considered the arguments that have been put forward by the mover, the government and other stakeholders, or I could say interested parties. We have considered the analogy, as Mr Rich-Phillips described it, but we have also considered other analogous offices, which I think the government also indicated, and we believe that this is an appropriate method of appointment.

If Mr Rich-Phillips's concern is that some office-holders could be sacked as a result of making a bad decision on a freedom of information matter, then I would say that would be the first time in history that anybody has retained any sanction for the kind of appalling decisions that get made every day under the Freedom of Information Act 1982, so please let me know if you believe that has happened.

Mr JENNINGS (Special Minister of State) — Can I actually just say — because I said I would come back to the committee in terms of the remuneration band of the current office-holders — Mr Watts is currently within the executive officer EO-1/EO-2 band and Mr Ison is within the EO-2 band.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Thank you, Minister. You would expect the deputy roles to be at that EO-2 band as well?

Mr JENNINGS (Special Minister of State) — As I indicated previously, the intention of us in terms of the transition would be on a no-regrets basis — a no-disadvantage test in relation to any transitional arrangements in terms of the appointments to the new office-bearer's position. I would not want us to get too far ahead of ourselves in relation to making assumptions about who may be in what aspect of the organisational structure.

Committee divided on amendments:

Ayes, 18

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

Noes, 20

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

Pairs

Atkinson, Mr	ALP vacancy

Amendments negatived.

Committee divided on clause:

Ayes, 20

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

Noes, 18

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

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

Pairs

ALP vacancy	Atkinson, Mr

Clause agreed to.

Clause 7 agreed to.

Clause 8

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

3. Clause 8, lines 15 to 24, omit all words and expressions on these lines and insert—

"(2) An agency or Minister may extend the period for deciding a request referred to in subsection (1)(a) by a period of not more than 30 days, as agreed by the applicant.".

The intent of amendment 3 is to preserve the reduction in response time for an FOI application at 30 days. One of the purposes of this legislation is ostensibly to reduce the response time on an FOI from 45 days to 30 days; however, what the legislation then goes on to say is that if an agency is required to undertake consultation about that FOI application, they are still entitled to 45 days, as is currently the case. The reality is that there are very few FOIs, certainly the ones that come through the realms of members of this place, where consultation is not required, so the provision that allows 45 days in the case of consultation effectively sets the response time back at the current 45 days. So the intent of this amendment is to actually give effect to the 30 days that the government says it is doing by removing the automatic extension to 45 days, noting that the capacity to extend to 45 days is available by agreement with the applicant under this legislation. We think it is an appropriate way to actually ensure that 30 days is 30 days like the government is saying and not really a default 45 days, as would be the effect of the legislation unamended.

Mr JENNINGS (Special Minister of State) — The government does not agree to the amendment by Mr Rich-Phillips, and I will outline for the committee's benefit why that is the case. The government believes that without the automatic extension of time mechanism the decreased 30-day processing time this bill implements may not provide sufficient time for FOI decision-makers to properly consult and is likely to result in more deemed refusals. Effectively what that means is you create circumstances where by statute you cannot comply with your obligations and in fact there may be more failures to actually comply with the intent of the legislation. That would be a very undesirable element which would mean that there would be a consequential increase in the number of reviews and complaints made to the information commissioner.

We believe that it is appropriate that additional time be afforded, because it is often appropriate for decision-makers to consult with third parties who are affected by the materials to be released in response to this request. Particularly in relation to what is the matter that has been at the heart of many of the discussions that we have had so far, which is to protect personal information which may be included in documents or a contractor who may be subject to commercially sensitive information held by government, you need to actually get clearance to actually make sure that they are willing to have information released about the circumstances.

They are the operational reasons the government does not support Mr Rich-Phillips's amendment, but beyond that I actually want to draw attention to other jurisdictions — for instance, in terms of the comparable time frame in the commonwealth. Whereas Victoria provides for 30 days of processing with a 15-day extension, in the commonwealth the equivalent is 30 calendar days with a 30-calendar-day extension period. In South Australia it is 30 business days with an unlimited extension period. In Queensland the relative time is 25 business days with a 10-business-day extension.

The extension of the FOI processing time frames to undertake third-party or mandatory consultation is a common FOI time frame extension measure available in all other Australian jurisdictions — well, I do not know about all of them, but I think probably all of them; I have particular reference here to assert that for the commonwealth, South Australia, New South Wales and Queensland. On that basis, in terms of the relative time frame in Victoria, it is still preferable to what actually applies in other jurisdictions, certainly the commonwealth. It provides for tighter time lines, it acquits the government's election commitments and it indeed allows for the practical application of processing FOI by the public sector and reduces the likelihood of deemed non-compliance with our obligations.

Mr BARBER (Northern Metropolitan) — The Greens will not be supporting the amendment by Mr Rich-Phillips. The act does not in practice work the way Mr Rich-Phillips is suggesting. I base that on my

personal experience as a user of the act, which is vast — in fact there are entire families of lawyers out there who have put their kids through private schools as a result of the battles that I have had with governments, Labor and Liberal, to try and get hold of documents.

Mr Leane — I think that could be an exaggeration.

Mr BARBER — It is not an exaggeration. The question of consulting with third parties only arises when the intention of the decision-maker is to release the information. Most times of course they simply refuse information, and therefore you do not need to consult a third party as to whether or not you are going to release that third party's information. In almost all the cases that I have dealt with it has not been private individuals. When I tried to FOI the CCTV at Flinders Street station, where a young woman was picked up and dumped on her head by ticket inspectors, there were hundreds of individuals who were in the background of that CCTV, but there was no question as to whether the government was going to try and consult those individuals. The government is simply using privacy as a general kind of, 'Go away. Leave us alone. We're finding your application a bit too intense, Mr Barber'.

However, when we are going after the increasingly vast numbers of outsourced services, it is those private corporations swimming in all that public money who might have an interest, and the decision most often is to refuse. Those companies never get a look-in as to whether they want the information to be released or if they are comfortable about the information being released because it is the government that is fretting on their behalf. In fact it will not work the way Mr Rich-Phillips is suggesting it will — 30 days will not effectively become 45 days. In practice of course if the government does not want to release the material, they inevitably run out the statutory time line. I have just bypassed the FOI commissioner and gone straight to the Victorian Civil and Administrative Tribunal because it was already a deemed refusal due to expiry of the statutory time lines. Under this proposal by the government, I will get to that point a lot quicker, and I will be glad of that.

Committee divided on amendment:

Ayes, 18

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

Noes, 20

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

Pairs

Atkinson, Mr	ALP vacancy

Amendment negatived.

Clause agreed to; clauses 9 to 41 agreed to.

Clause 42

The DEPUTY PRESIDENT — Order! We will now deal with clause 42. I ask Mr Jennings to move his amendments 5 and 6, which relate to the provision of an appropriate avenue for the review of a deemed refusal decision. I consider this amendment as a test for Mr Jennings's amendment 7.

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

5. Clause 42, line 12, omit '29A;";' and insert "29A;".

6. Clause 42, after line 12 insert—

'(ea) a decision of an agency or a Minister refusing to grant access to a document or refusing to amend a document, or a decision of a principal officer refusing to specify a document in a statement, that is taken to have been made under section 53;";'.

In terms of the amendments to clause 42, amendment 5 is a technical change to substitute a full stop for a semicolon, but that is not the most significant element of the amendments that I am moving. Amendment 6 to the same clause is necessary to ensure that there is an appropriate avenue for review of deemed refusal decisions. An applicant will be able to seek a Victorian Civil and Administrative Tribunal review of a decision of an agency or a minister refusing to grant access to a document or refusing to amend a document, or a decision of the principal officer refusing to specify a document in a statement, that is taken to have been made under section 53 of the Freedom of Information Act 1982. So we are moving that amendment.

The Deputy President has already indicated this will be a test of amendment 7, which effectively is reliant on amendment 6 for that effect.

Amendments agreed to; amended clause agreed to; clauses 43 and 44 agreed to.

Clause 45

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

7. Clause 45, after line 23 insert—

'(2) In section 53(1) of the Principal Act, for the words and expressions commencing "the principal officer" and ending at the end of the subsection **substitute** "for the purposes of making an application to the tribunal under section 50(1)(ea), the agency or minister is taken to have made a decision refusing to grant access to the document in accordance with the request or, in the case of a request under section 39, refusing to amend the document in accordance with the request, on the last day of the relevant period.".

(3) After section 53(1) of the Principal Act **insert**—

"(2) Subject to this section, where—

(a) a notice has been served on the principal officer under section 12(1); and

(b) the time period provided in section 12(2) has elapsed; and

(c) notice of the principal officer's decision has not been received by the applicant—

for the purposes of making an application to the tribunal under section 50(1)(ea), the principal officer is taken to have made a decision refusing to specify the document in a statement on the last day of that period.".

(4) In section 53(5) of the Principal Act, for ", other than a decision to grant, without deferment, access to the document in accordance with the request, is given," **substitute** "is given, subject to subsection (5A),".

(5) After section 53(5) of the Principal Act **insert**—

"(5A) Subsection (5) does not apply to—

(a) a decision of the agency or minister to grant access to the document without deferment; or

(b) in the case of a request under section 39, a decision of the agency or minister to amend the document in accordance with the request; or

(c) in the case of a notice under section 12(1), a decision of the principal officer to specify the document in a statement.".

(6) Section 53(8) of the Principal Act is **repealed**.'.

I am grateful for the explanation about the previous amendment, which was to deal with an avenue for deemed refusals to provide greater access for those matters to be considered, which is the substantive principal matter. Amendment 7 to clause 45 amends section 53 of the act to clarify that an applicant can apply to the Victorian Civil and Administrative Tribunal to seek a review of a deemed refusal decision. Basically this is the rejoinder to what has already been tested and adopted in clause 42.

Amendment agreed to; amended clause agreed to; clauses 46 to 63 agreed to.

Clause 64

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

8. Clause 64, line 23, omit "Services" and insert "Complaints".

The reason we need to correct the reference to the health complaints commissioner is that there have been legislative changes that have occurred since this bill was introduced. It is now actually being considered by the committee, and we have to make sure that we are compliant with the appropriate description of the health complaints commissioner. This amendment will enable us to be consistent.

Amendment agreed to; amended clause agreed to; clauses 65 to 76 agreed to.

Clause 77

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

4. Clause 77, page 81, lines 27 to 29, omit all words and expressions on these lines and insert—

"and the person holding that office is taken to be the Public Access Deputy Commissioner appointed under section 6D—

(i) for the period equivalent to the remaining period that the person would have held office as the Freedom of Information Commissioner except for this clause; and

(ii) on the terms and conditions, including remuneration, that applied to the person's appointment as the Freedom of Information

> Commissioner immediately before the commencement day; and".

The purpose of this amendment is to preserve the existing office-holder, being the FOI commissioner, in that office and have that person transfer as the inaugural public access deputy commissioner under the new model. As the minister indicated earlier in his contribution on clause 1, the effect of this legislation is to transfer the staff of the respective two agencies to the new structure on a lateral basis. However, the bill, as drafted, terminates the appointments of the FOI commissioner and the privacy and data protection commissioner.

The intent of this amendment and a subsequent amendment the committee will be asked to deal with is to preserve those two statutory office-holders in those positions and have them transfer into the respective deputy positions under the new structure. This is consistent with the approach that is being taken with the rest of the staff employed by those two statutory agencies. It ensures that the expertise and corporate knowledge those two office-holders have is carried into the new structure and it addresses a concern that has been raised that the shift of this structure is at least partially designed to provide the government with an opportunity to remove one of those statutory office-holders. This mechanism and the parallel mechanism which I will seek to insert in clause 80 would remove any implication that it was the government's intention to use this legislation to remove a particular individual if their lateral transfer into the new structure was provided for for the balance of their term of appointment by this amendment and the consequential amendment to clause 80.

Mr JENNINGS (Special Minister of State) — Mr Rich-Phillips's argument sounds reasonable and considered, and so I am not arguing against his view that he is trying to be fair and reasonable in terms of the statutory office-holders being treated fairly in relation to the transitional arrangements to the new organisation. In fact I have given some undertakings in this committee that it is the government's intention to act fairly in relation to those transitional arrangements and I am happy to be tested over time in relation to satisfying that expectation. But the government thinks that it is overly prescriptive to lie in statute those transitional arrangements in terms of what the employment conditions could or should be in relation to facilitating the transition. We differ with Mr Rich-Phillips in relation to whether the statute should hold such a provision and we do not believe by design that it should.

Mr BARBER (Northern Metropolitan) — The Greens will not be supporting this amendment. Earlier on tonight Mr Rich-Phillips argued that only Parliament should be able to remove these sorts of people from their offices, and that is exactly what Parliament is doing when it passes this legislation unamended. And, no, I am not voting that way because the Community and Public Sector Union told me to!

Mr JENNINGS (Special Minister of State) — Neither am I!

Committee divided on amendment:

Ayes, 18

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

Noes, 20

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

Pairs

Atkinson, Mr	ALP vacancy

Amendment negatived.

Clause agreed to; clauses 78 and 79 agreed to.

Clause 80

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

5. Clause 80, page 100, line 15, omit "or remove".

6. Clause 80, page 100, lines 26 to 31, omit all words and expressions on these lines and insert—

> "(2) The Minister must cause a full statement of the grounds of suspension to be presented to each House of Parliament within 7 sitting days of that House after the suspension.
>
> (3) The Privacy and Data Protection Deputy Commissioner must be removed from office by the Governor in Council if each House of Parliament, within 20 sitting days after the day on which the

statement is presented to it, declares by resolution that the Privacy and Data Protection Deputy Commissioner ought to be removed from office.

(4) The Governor in Council must remove the suspension and restore the Privacy and Data Protection Deputy Commissioner to office unless each House makes a declaration of the kind specified in subsection (3) within the time specified in that subsection.

(5) If the Privacy and Data Protection Deputy Commissioner is suspended from office under subsection (1), the Privacy and Data Protection Deputy Commissioner is taken not to be the Privacy and Data Protection Deputy Commissioner during the period of suspension.".

These replicate the amendments 1 and 2 that the committee previously dealt with, except in this instance in respect of the privacy and data protection deputy commissioner to provide that that deputy commissioner can only be removed from office by a vote of both houses of Parliament rather than by the action of the Governor in Council. This replicates the current situation with respect to the current standalone commissioner for privacy and data protection.

Mr JENNINGS (Special Minister of State) — I think for the fourth time in terms of amendments we are opposing Mr Rich-Phillips's amendments — and good on him for keeping on going. He has tested it four or five times; he is testing it again.

Amendments negatived; clause agreed to; clauses 81 to 95 agreed to.

Clause 96

The DEPUTY PRESIDENT — Order! I call on Mr Jennings to move his amendment number 9, which corrects and substitutes a clause reference in the Privacy and Data Protection Act. This amendment is a test for Mr Jennings's amendments 10 and 11.

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

9. Clause 96, line 14, omit "section 8D(1)(e)" and insert "section 8D(1)(d)".

Thank you, Deputy President. In fact you have done most of the heavy lifting to justify my moving of this amendment. It is a technical change, necessary to correct a substituted clause reference for proposed amendments to section 106 of the Privacy and Data Protection Act, and it makes sure that the appropriate reference will be made in this section.

Amendment agreed to; amended clause agreed to.

Clause 97

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

10. Clause 97, line 19, omit "or (h)" and insert "and (i)".

This is another technical change, making sure that the correct reference is made in this clause.

Amendment agreed to; amended clause agreed to.

Clause 98

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

11. Clause 98, line 24, omit "or (h)" and insert "and (i)".

This is one in a series of technical changes to make sure that the right section is referred to in the relevant clause.

Amendment agreed to; amended clause agreed to; clauses 99 to 104 agreed to.

Clause 105

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

7. Clause 105, lines 21 to 23, omit "and the person holding that office and any person acting in that office go out of office; and" and insert—

"and the person holding that office is taken to be the Privacy and Data Protection Deputy Commissioner appointed under section 8H—

(i) for the period equivalent to the remaining period that the person would have held office as the Commissioner for Privacy and Data Protection except for this clause; and

(ii) on the terms and conditions, including remuneration, that applied to the person's appointment as the Commissioner for Privacy and Data Protection immediately before the commencement day; and".

This seeks to preserve the position of the current commissioner for privacy and data protection and have that person become the privacy and data protection deputy commissioner under the new structure. It is analogous to the amendment that the house dealt with in clause 77.

Mr JENNINGS (Special Minister of State) — The government, for the reasons that we have discussed in the committee, will not be supporting this amendment. I have to say to Mr Rich-Phillips that I am not actually saying that he and the privacy commissioner are

friends, but Mr Rich-Phillips is a very loyal person and he has pursued these matters very loyally through the course of the committee.

Amendment negatived; clause agreed to; clauses 106 to 132 agreed to.

Division heading preceding clause 133

The DEPUTY PRESIDENT — Order! We will now deal with division heading preceding clause 133. I call on Mr Jennings to address his amendment 12, which is a technical amendment as a result of the Health Complaints Act 2016 now being the operational one. I consider this amendment a test for Mr Jennings's amendment 13.

Mr JENNINGS (Special Minister of State) — This is a further technical change in relation to the Health Complaints Act. We have done it before. I appreciate Mr Rich-Phillips and other members of the committee being sufficiently happy to support us; when I have been on a roll and repetitive you have supported us, so thank you.

The DEPUTY PRESIDENT — Order! I put the question that the division heading preceding clause 133 stand part of the bill.

Division heading agreed to.

Clause 133

The DEPUTY PRESIDENT — Order! I call on Mr Jennings to address his amendment 13, which seeks to omit clause 133 and has been tested with his previous amendment.

Mr JENNINGS (Special Minister of State) — Thank you, Deputy President. You have already indicated that this has been tested. It is one in a series of technical amendments.

The DEPUTY PRESIDENT — Order! I put the question that clause 133 stand part of the bill.

Clause agreed to.

Division heading preceding clause 134

The DEPUTY PRESIDENT — Order! We will deal with division heading preceding clause 134. I call on Mr Jennings to address his amendment 14, which is a technical amendment as a result of the Health Complaints Act 2016 now being operational. I consider this amendment a test for Mr Jennings's amendment 15.

Mr JENNINGS (Special Minister of State) — Thank you, Deputy President. I believe that you have actually outlined to the committee what we are doing.

The DEPUTY PRESIDENT — Order! I put the question that the division heading preceding clause 134 stand part of the bill.

Division heading agreed to.

Clause 134

The DEPUTY PRESIDENT — Order! I call on Mr Jennings to address his amendment 15, which seeks to omit clause 134 and has been tested with his previous amendment.

Mr JENNINGS (Special Minister of State) — This is another technical amendment.

The DEPUTY PRESIDENT — Order! I put the question that clause 134 stand part of the bill.

Clause agreed to.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — On amendment 15, which was as I understand it to omit the clause, can we just clarify that? Have we omitted the clause, or did it stand part of the bill? I thought you called that it was standing as part of the bill.

Business interrupted pursuant to sessional orders.

Sitting extended pursuant to standing orders.

The DEPUTY PRESIDENT — Order! Is leave granted to recommit clause 134?

Mr RICH-PHILLIPS (South Eastern Metropolitan) — Yes, Deputy President. Could you give us an explanation as to why we need to recommit clause 134?

The DEPUTY PRESIDENT — Order! The reason is that amendment 15, which seeks to omit clause 134, has not been tested.

Clause 134 recommitted

The DEPUTY PRESIDENT — Order! I put the question that clause 134 stand part of the bill.

Clause negatived.

Clauses 135 and 136 agreed to.

Clause 137

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

16. Clause 137, line 3, omit "July" and insert "September".

Down to my management of the committee I might have actually had to move this operative date back even further. But I think we will be able to comply with moving it back from July to September, and that is the effect of this amendment.

Amendment agreed to; amended clause agreed to; schedule 1 agreed to.

Clause 133 recommitted

The DEPUTY PRESIDENT — Order! The committee now seeks leave to retest clause 133. Leave is granted. I call on Mr Jennings to move his amendment 13, which seeks to omit clause 133 and has been tested by his previous amendment. Members are advised that in order to support this amendment, they should vote against the question that clause 133 stand part of the bill.

Mr JENNINGS (Special Minister of State) — The committee, or this proceeding, has been a bit unlucky, because we were trying to speed to the conclusion prior to 6.30 p.m. so that we could move on to the adjournment debate, and in that speed we have incorrectly dealt with amendments 12, 13, 14 and 15 in my name. This is actually coming back to amendment 12, which has the effect of omitting this heading. We should vote no if we support the heading being removed. That was the error that was made at about 6.28 p.m. that has actually wasted about 12 minutes of our lives, but in the scheme of things that is not a huge waste given that this bill has been in the chamber since about last June.

Clause negatived.

The DEPUTY PRESIDENT — Order! Now we move to the division heading preceding clause 134. The committee seeks leave to recommit the division heading. Leave is not granted.

Reported to house with amendments.

Report adopted.

Third reading

The DEPUTY PRESIDENT — Order! The question is:

That the bill be now read a third time and do pass.

House divided on question:

Ayes, 20

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

Noes, 18

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

Pairs

ALP vacancy	Atkinson, Mr

Question agreed to.

Read third time.

ADJOURNMENT

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

That the house do now adjourn.

Northern Victoria Region police numbers

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Police, and it is regarding public safety in regional Victorian communities, particularly with respect to frontline police numbers and operational hours in small country towns such as Tatura. My request of the minister is that as a matter of urgent and immediate priority she allocates additional permanent police numbers for the Shepparton policing district, beginning with the Tatura police station, to at least begin to address some of the very valid concerns raised by members of the Tatura community.

Last Thursday the shadow Minister for Police, Edward O'Donohue, and I hosted community safety forums in Tatura and Shepparton. Our forums followed those held by police in October last year. Unfortunately all of the same issues were raised, sending a very clear message that the government has so far failed to take action and must now take immediate steps. The Tatura forum had around 100 attendees, with many members of the community strongly and vocally stating that they simply do not feel safe in their own community and desperately need a significant increase in the permanent police presence in the township. The community has been concerned for some time about the lack of police presence in the town and said their confidence in both the police and the Victorian government is eroding. I note that the community had nothing but positive things to say about their local sergeant, but they also said he is only able to do what he can do with the limited resources he has.

What was previously a permanent presence of a sergeant plus five other officers has at times been reduced to a single-officer station, with several officers either seconded or transferred or out on sick and stress leave. During this period the community has endured a spate of antisocial behaviour, hoon driving, and home and business break-ins and burglaries, including an armed robbery at the Hilltop golf club in December last year and an incident involving a violent offender at the Tatura sports stadium which, with no immediate police presence available, necessitated community members locking the stadium down to protect the children inside. The crime rate has increased by 49.8 per cent in Tatura, 225 per cent in Byrneside and 74.1 per cent in Merrigum over the past two years.

Specific requests the Tatura community has for an improved local police force in small towns include an increased presence of police actually located in the community; the security of police numbers assigned to Tatura, with no reduction due to secondment or for other reasons; for the police station to be manned rather than closed; a focus on proactive, not reactive, policing; improved response times to incidents; policy changes, with a focus on being hard on crime and increased community respect for police; and improved capacity to provide supplementary support to other emergency services, including the Country Fire Authority and the State Emergency Service.

Local police have informed me that by the end of May a number of officers will be transferred from Shepparton to the Tatura station, which should bring the numbers back up to a sergeant plus four. However, the community does not accept this is enough and believe additional numbers are needed in Tatura. Further, the permanent police presence in Shepparton itself has in recent years been 88 and now is down to 79, so relocating officers from Shepparton to Tatura is effectively the Premier robbing Peter to pay Paul.

Motorcycle noise

Mr BARBER (Northern Metropolitan) — My adjournment matter is for the attention of Ms D'Ambrosio, who has ministerial responsibility for Environment Protection Authority Victoria (EPA). My colleague Ms Ellen Sandell, the Assembly member for Melbourne, and who is currently on maternity leave, has been receiving a growing number of complaints about excessive motorbike noise in the city, particularly but certainly not exclusively around the motorcycle dealerships on Elizabeth Street. That is with a growing number of CBD residents and of course a growing number of CBD visitors every day.

Just so that we can advise our constituents, which we share in our overlapping electorates, would the minister be able to inform myself and the house what the EPA is doing in relation to excessive motorcycle noise in Melbourne, particularly where it relates to the unlawful modification of vehicles, and if there are any plans to either open an investigation into the extent of the problem or start doing some on-ground enforcement?

On the EPA website under 'Current issues', which is aimed at informing Victorians as to what the EPA is working on, there are no strategies or interventions listed under 'Noise'. If my colleagues and I can assist in providing further information to the minister or the EPA about the extent of this problem and how it might be dealt with, then I would urge the minister to get in touch with us.

The Bubble student support centre

Ms SHING (Eastern Victoria) — The matter I wish to raise tonight is for the attention of the Minister for Training and Skills, Ms Tierney. It relates to a number of representations that have been made in this place in relation to Federation Training's Morwell campus and the skills and training centre which has replaced and improved upon services provided in the Bubble.

In the course of a question she asked of the minister today in question time Ms Bath, a colleague from Eastern Victoria Region, indicated that she had in fact raised a number of issues with Ms Tierney, the minister, previously in relation to the Bubble, the axing of the programs and, to quote, 'putting students' qualifications at risk'. She referred to a Ms Pasquill having an exam tomorrow which she is concerned she

will fail and how Ms Pasquill was worried she would not be able to complete her qualification without the maths tutoring she was receiving from the Bubble. I note in this regard that the minister in fact received an adjournment matter from Ms Bath in December last year where she did not identify the student but asked for further assistance in relation to the Bubble and access to student services and that this was indeed the subject of a response from the minister on 8 December 2016.

The action that I seek from the minister is that she outline, to avoid any doubt whatsoever, that the skills and training centres will in fact improve upon services provided by the Bubble and by Federation Training and that the minister clarify the blatant misrepresentations made to a constituent of Eastern Victoria Region around access to support and services. This constituent has not been provided with information which she would have benefited from had the information provided to Ms Bath in the course of the adjournment in 2016 been properly conveyed. I ask the minister to make sure that that information is provided directly to Ms Pasquill so that she can understand the full nature of assistance available from the skills and training centre as a consequence of our ongoing investment in skills and training in Victoria.

Mr Ramsay — On a point of order, Deputy President, I suggest that you seek guidance from the President in relation to that adjournment matter being in order. It is actually providing a defence for the minister in relation to a matter that was canvassed today in this chamber; it was not seeking an action from the minister. The minister is big enough to defend herself in relation to any misinterpretation of material that might have been forwarded to the chamber. That is not appropriate for an adjournment in this place.

Ms Shing — On the point of order, Deputy President, the action that I sought very, very clearly from the minister was that — for the avoidance of any doubt or confusion arising from a misrepresentation or a failure by Ms Bath to communicate properly with one of the constituents that we share in Eastern Victoria Region around Morwell training services — she outline assistance that is available from the skills and training centres under our commitments to TAFE and training.

Ms Fitzherbert — On the point of order, Deputy President, can I point out that Ms Bath is not under the jurisdiction of the minister and therefore it is inappropriate for her to be answering this question.

Mr Davis — On the point of order, Deputy President, what Ms Shing has done is elevate a spat where matters raised by members of the same region were raised earlier today, and now she has raised a different version of these events. It is not the responsibility of the minister on the adjournment to deal with spats among regional members.

Ms Shing — Further on the point of order, Deputy President, despite the way that Mr Davis may seek to characterise this matter, I am entirely within my rights to raise in the course of the adjournment an issue which is relevant to the electorate that I, along with Ms Bath, represent. I note in this regard that investment in skills and training is an area of significant interest and concern to people after years of neglect. To that end, I would seek that the record be clarified in relation to the minister's actions and that in fact the minister communicate directly with Ms Pasquill to make sure that she is aware of the assistance available to her through the skills and training centres that we have invested in.

Mr Davis — Further on the point of order, Deputy President, out of the member's own mouth she indicates that this was not about an action; this was about seeking clarification and seeking that points be put forward. It is very clear that it was not an action that she was seeking from the minister but the furtherance of a spat with another member.

Ms Shing — Further on the point of order, Deputy President, the action that I very clearly articulated on at least three or four occasions in the course of this adjournment is that the minister communicate directly with the constituent in relation to the services and assistance that are available to her through the skills and training centres that have been developed to assist people throughout Gippsland and regional Victoria as part of our commitment to skills and training.

The DEPUTY PRESIDENT — Order! I will refer the matter to the President, and I or the President will report on that tomorrow.

Local government property valuation

Mr DAVIS (Southern Metropolitan) — My adjournment matter tonight is for the attention of the Treasurer. It relates to a budget announcement that was made whereby as part, I understand, of the State Taxation Acts Amendment Bill 2017 the government will seek to have property revaluations conducted annually and it will seek to strip councils of a role in property valuations, stripping them of the longstanding and important role that they have played in commissioning property valuations. Many of them have their own valuation departments. Goodness knows what will happen to the people employed in those

departments under this proposal. Goodness knows what will happen to the contractors that are currently being employed to undertake valuations across the country.

A number of councils have contacted me in recent days about this matter. It is very clear that there has been no consultation with the Municipal Association of Victoria, the Victorian Local Governance Association or indeed local councils about the implementation of this matter. I make the point that we have a trusted, reliable and well-established valuation system in Victoria whereby people can actually trust the councils with those valuation processes. They know that in fact the valuations by the councils are actually not about increasing rates but about dividing the rate arrangements between individual ratepayers.

With the arrangements that are to be put in place by the Treasurer and this government under Daniel Andrews the state government will undertake these valuations, and it of course will have a direct interest itself in seeing the valuations being higher so that increased revenues can flow. I mean, this is the whole purpose of the change to annual valuations and valuations by the state government — to see valuations done more regularly. That will incur more costs; it is clear. One regional council said to me that the cost of doing the valuations in their municipality annually would be an additional $150 000. That is just one municipality for example.

I hasten to add that I have a high regard for the valuer-general, who will oversee this process. Nonetheless, this announcement has been made without consultation with the valuing sector. It has been made without consultation with councils and council organisations and without consultation, importantly, with ratepayers, who will be paying through the nose as a result of these increases. Of course Daniel Andrews said before the election that he would not increase rates, taxes, levies or charges by more than the consumer price index — 'indexation' was his word. He has already put in at least 16.

What I seek from the minister is a commitment to not destroy the trusted valuation system, to consult, particularly with councils and council organisations, and to make sure that Victorians can maintain their trust in the valuation system.

Barmah National Park

Mr YOUNG (Northern Victoria) — I rise today to bring to the attention of the Minister for Energy, Environment and Climate Change issues arising in the Barmah National Park. This park was created by a change in land tenure from state forest to national park, and it came with many promises that tourism would thrive, that visitation to the area would increase, bringing income to the surrounding towns and businesses, and that the management of the park would create a wonderful natural environment for all.

It sounds good in theory. In reality, though, the changes have been a nightmare for local residents and business owners. Among the issues is the ban on firewood collection — a source of heating fuel for many locals. The debate about the small populations of brumbies and how they are managed has created a huge degree of tension and has jeopardised the existence of this incredible icon and drawcard. And more recently the pending closure of the caravan park is a very surprising result after the national park was supposed to create thriving environmental tourism.

I ask the minister to visit the area and speak to locals about what has been a terrible initiative, which is simply proof that the creation of new national parks does not fulfil any of the promised benefits offered by their proponents. It seems it is more likely to create a pest and weed-filled fire hazard, which has caused many individuals and groups to contact me about what exactly is going on. I am happy to assist the minister in contacting and liaising with those concerned groups, and I wish to point out that they are very keen to have the attention of the minister and would very much appreciate a visit.

Knox planning scheme amendment

Ms DUNN (Eastern Metropolitan) — My adjournment matter tonight is for the Minister for Planning. It is in relation to the City of Knox. In April this year the councillors at the City of Knox resolved to request that the minister prepare a planning scheme amendment that aligns with the independent planning panel report in relation to height controls in Upper Ferntree Gully. The action that I seek from the minister is that he ensures that the new amendment C162 is finalised before October 2017, when interim height controls expire in that particular part of the municipality.

Family violence action plan

Mr MELHEM (Western Metropolitan) — My adjournment matter is directed to the Minister for Women and Minister for the Prevention of Family Violence, the Honourable Fiona Richardson. I note that the government recently released its primary prevention strategy as part of the family violence rolling action plan. *Free from Violence: Victoria's Strategy to*

Prevent Family Violence and All Forms of Violence against Women strives to ensure that all Victorians experience equality and respect in their homes, workplaces and communities. I commend the government for developing the strategy, as the Royal Commission into Family Violence recognised the need for a primary prevention strategy to address the attitudes and behaviours that lead to violence in the home.

To support the implementation of the strategy the Labor government has provided an initial investment of $38.7 million. The strategy will further be supported by the establishment of a dedicated prevention agency to drive focus on prevention over the long term. With a further investment of $12 million in the 2017–18 Victorian budget the prevention agency will develop, support and coordinate prevention initiatives across the state.

The action I seek is for the minister to provide me with further details outlining how Victoria's primary prevention strategy will prevent family violence and create a safer Victoria, with a particular focus on my electorate of Western Metropolitan Region.

Northern Victoria Region police numbers

Mr O'SULLIVAN (Northern Victoria) — The matter that I wish to raise tonight is for the Minister for Police, and the action that I am seeking is for the minister to come to my electorate of Northern Victoria Region and visit the townships of Shepparton, Bendigo and Mildura to see firsthand the impact that crime is having in these centres, with a view to allocating more police for these communities.

The first priority of government is to keep the community safe. I think this is one of the key roles any government should undertake, and undertake with vigour, because there is nothing more important than people feeling safe in their own communities. I just do not think we are getting that from the current government. We are seeing many instances of home invasions, carjackings, burglaries and offences against the person, and overall we have seen crime rates increase in the last couple of years by about 20 per cent. Former police commissioner Kel Glare actually called it a crime tsunami. When a former police commissioner is saying that, you should actually sit up and listen.

This government has had three budgets now, and we have just seen the first allocation of new police above attrition. But what has been very disappointing is that, with increasing crime rates right throughout regional Victoria, most of those police were allocated to Melbourne, with just 10 of them allocated to Geelong. From my point of view I consider Geelong to be a part of Melbourne.

What it really means is that regional Victoria has been ignored by this city-centric government. Look at some of the crime rates in individual locations. Since this government came to office, crime in Bendigo has risen by 25 per cent, theft is up 37 per cent and arson is up 64 per cent. In Shepparton general crime is up some 15 per cent. In Mildura crime is up by 10 per cent, with particular rises in stalking, harassment and threatening behaviour of 33 per cent.

Really what we need to do is see some police allocated to regional Victoria, so those crime rates that we are seeing could potentially be driven down or could even just plateau rather than increasing. The police out there in country Victoria do an absolutely terrific job, but they are not getting the support that they require to do the job that they need to do, which is to keep the community safe. I think it is one of the first priorities of government that they need to be able to stand up and say that they are looking after their community and keeping people safe.

St Kilda Junction substation

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is for the Minister for Planning in the other place, and it is in relation to the recent discovery that Public Transport Victoria and Yarra Trams are planning to build an industrial power substation in the middle of the St Kilda Road junction. Local residents have recently become aware of this, and they are quite concerned and have raised their concerns with me and with others who have an interest in this, including the City of Port Phillip.

The structure will be the equivalent of three double garages laid end to end, a structure that is nearly 100 square metres in size, and it has been described as not dissimilar to a toilet block in appearance. I have to agree with this somewhat cruel description; certainly the architecture in the plan I have seen has a certain Stalinist look about it. It is going to be in the middle of St Kilda Junction, and it will dominate the grassy treed area there. There has been a pattern recently in St Kilda of quite significant structures like this being built with minimal or no community consultation. I understand that the City of Port Phillip does not support this development, although I may stand corrected on that. In any event, no planning permit is required to build this structure.

What emerged very recently at a public meeting is that discussion has been going on for some two years between Public Transport Victoria and Yarra Trams but not with the public — they have not been involved in any way. Apparently a number of different sites were considered, and this one was chosen. Locals have concerns for safety and loss of amenity, and they believe that the structure will be a big, fat graffiti target — and I am sure they are right on that last point.

Last week Public Transport Victoria called a community consultation at which they announced that this development will proceed, that contracts have been let, that it is now an urgent project and that construction is due to happen in June. Fifty residents — who at this meeting I am told were quite angry about this — were consulted in terms of architectural feedback in relation to the structure that has been proposed. I understand that a further meeting is being called with Public Transport Victoria and VicRoads. There is a history of resident concerns with development and planning issues related to St Kilda Junction, and the action that I am seeking from the minister is an explanation of the current planning framework that affects St Kilda Junction and any plans he may have to change that.

Country Fire Authority Ballan training facility

Mr MORRIS (Western Victoria) — My adjournment matter this evening is for the attention of the Minister for Emergency Services, and it relates to the replacement fire training facility that was promised to be built in Ballan. The Country Fire Authority (CFA) training facility in Fiskville was closed by this government, which has failed to deliver on its promise to deliver a new training facility. This has left our CFA volunteers without training opportunities; however, this may well be just another part of the government's plan to destroy the CFA. At the time of the closure of Fiskville the then mayor of the Moorabool shire, Paul Tatchell, was quoted in the Ballarat *Courier* as having said:

> Shutting it down still doesn't solve the problem, it's still a bloody mess …
>
> They don't even have the respect to call the council and tell us they are going to shut down a facility that supplies 60 jobs.
>
> They all have four bloody advisors and they can't even sit down with us and tell us what they are going to do.

I can tell you Tatch was right on the money. It is a God-almighty mess, and the community of Ballan are suffering through the negative economic impact brought to bear upon them by this government's incompetence. The then minister, Ms Garrett, was quoted in the Ballarat *Courier* of 27 May — —

Mr Finn — Who is the member there in Ballan?

Mr MORRIS — Geoff Howard.

Mr Finn — Who the hell is he?

Mr MORRIS — He was the guy who described the misdemeanour today by — —

The DEPUTY PRESIDENT — Order!

Mr MORRIS — Yes, thank you. I will get back on track. The then minister, Ms Garrett — —

Ms Shing — Eyes up.

Mr MORRIS — That is a quote, Ms Shing. The then minister, Ms Garrett, was quoted in the Ballarat *Courier* of 27 May 2016 as having said in relation to the replacement facility that:

> We are working through a couple of options, which we will be able to make announcements about shortly.
>
> But there will be a training facility in the Ballan area and the other aspects of that we will be making announcements about in the near future but it will be Central Highlands …

So the action that I seek from the minister is that he provide a detailed time line of when the new training facility in Ballan will be delivered in order to provide some certainty to the community.

Wyndham City Council

Mr FINN (Western Metropolitan) — I wish to raise a matter this evening for the attention of the Minister for Local Government, and by my best estimate this is episode 3497 of the Wyndham council saga.

The minister may well recall that last year I did warn her that if she did not step in prior to the council elections in Wyndham, there would be trouble ahead. Unfortunately she chose not to step in, she chose not to exercise her responsibilities in this area, and sure enough trouble has followed. We have had this extraordinary situation, as members will recall, where a chap called Intaj Khan — indeed, Deputy President, you may well know him — a member of the Socialist Left of the ALP, attempted to buy the mayoralty of Wyndham City Council with 95 candidates running in Tarneit. That is a Freudian slip — it was in Wyndham. And not only that — not only did he say that he wanted to be mayor — he then went on to say he wanted to be the member for Tarneit. There were 41 candidates in his own ward of Harrison. I suppose given the shonkiness involved here, he may well fit in beautifully as the member for Tarneit — —

Ms Shing — On a point of order, Deputy President, as much as we all enjoy Mr Finn's late-night dissertations, I would question the relevance of this particular matter to the adjournment matter that he is seeking to raise. We have all gone on somewhat of a journey with him, and it is becoming harder to follow along with every sentence that passes.

Mr FINN — On the point of order, Deputy President, Ms Shing might admit that she is getting a bit slow as the night progresses, but I am firing on all cylinders, and I am more than happy to inform you and to inform the house and anybody else who is listening of the action that I am seeking of the minister. I am certainly getting to that, and I still have well over a minute and a half to do it.

The DEPUTY PRESIDENT — Order! Yes, you have still got 1 minute and 42 seconds. Please, continue.

Mr FINN — Thank you very much. As I said, we have had a very, very difficult time with some ALP candidates and indeed ALP councillors in the Wyndham council, and it is in my view time for the long-suffering Wyndham residents to be given a break. The minister is the one who can be responsible for giving them a break, because at the moment there is an investigation, as the minister would be aware, by the local government inspectorate of all 95 council candidates. I am not sure how long that is going to take, but I am here to say that I doubt it will be happening by Tuesday lunchtime next week. This will take a significant amount of time.

At the moment all candidates, including all the councillors elected in October last year, are under a cloud. What we need to do and what I am asking the minister to do is to remove the councillors while this investigation is going ahead. I am asking her to remove the councillors in the interests of giving the council some certainty, and I am asking her to remove the councillors in the hope that the residents can be sure that their council is on the up and up. The council election in October last year lacked integrity — the investigation that is currently being undertaken by the inspectorate shows that it lacked integrity — and in my view the residents deserve better. If the minister were to appoint administrators, I am sure they would get it, and I ask the minister to do that as a matter of urgency.

Early childhood education

Ms BATH (Eastern Victoria) — My adjournment matter this evening is for the Minister for Families and Children, the Honourable Jenny Mikakos, and the action I am seeking from the minister is that she come to Gippsland and meet with founder Rhonda Renwick and director Ann Shanley of Kindred Spirits Foundation to discuss early childhood learning and literacy and the gap that often occurs in regional areas and low socio-economic areas. Language is a vital component of any child's development, and we often find throughout regional areas that there are distinct disadvantages. We see that children can be at great risk of falling behind even before they really start their education experience.

Information from Australian Early Development Census shows that some of the most disadvantaged areas in terms of language, cognitive development and communication are in central Victoria, in Maryborough and in Shepparton; western Victoria, in Mildura, in Warracknabeal and in Swan Hill; and in my electorate of Eastern Victoria Region, particularly in the Latrobe Valley and East Gippsland. For example, the stats show that in Traralgon 94.4 per cent of children begin their early childhood education — so they begin preschool — but only 42 per cent finish. In Lakes Entrance we have 93 per cent start and only 34 per cent finish. Factors such as poor health, socio-economic disadvantage and intergenerational illiteracy compound this gap, and there needs to be work done on early literacy.

We need a whole-of-community approach to this. Studies have shown that early intervention can really lead to long-term important educational advantages. If we put the work in early in a child's education, it pays dividends later on. Analysis from the Mitchell Institute indicates that children who are developmentally vulnerable at the onset of school are often locked into trajectories of underperformance and that often this leads to disengagement, poor attendance and lower school completion rates. It is a self-fulfilling prophecy.

Locally we know that in March 2017 the Latrobe Valley had 14.6 per cent youth unemployment and Morwell had 19 per cent unemployment overall. This is a substantial disadvantage. Children are vulnerable, so I am seeking that the minister come down to speak to the Kindred Spirits Foundation to learn more about their work and discuss initiatives that will support the children of Central Gippsland. We need to strengthen and encourage communities to work with these preschools to address this social disadvantage.

Geelong convention and exhibition centre

Mr RAMSAY (Western Victoria) — My adjournment matter is for the Minister for Regional Development, the Honourable Jaala Pulford, and the

action I seek from her is that she advise the Geelong community about a time frame and process for a funding commitment for the Geelong convention centre. The Greater Geelong region is extremely disappointed that there was no allocation in the budget for funding the centre and by the hollow promises from Geelong Labor MPs Lisa Neville, Christine Couzens and John Eren, from the Legislative Assembly, last year that a convention centre was just around the corner. The fact is that Regional Development Victoria with the Geelong Authority and Deakin University have been planning a business case for over a year and a half now and the final business case report has been sitting on the minister's desk for over two months.

There was an expectation that this much-needed infrastructure for the Geelong region would be delivered in this budget, and now the Geelong region feels very let down — so much so that the *Geelong Advertiser* has run editorials headed 'Our city snub' and 'Andrews in centre backflip'. The Geelong community feel that they have been dudded, especially when the Premier only a few months ago at the waterfront in Geelong said:

> We're getting the crucially needed planning and business case done, so we can consider it ahead of the next budget.

He promised action on the project with or without federal government support. Even more damning were the Premier's comments last year in July, when he said, 'The time for talk is over'. Even Jeff Kennett was moved to write a column slamming the Andrews government for backing down on a funding commitment for the much-needed convention centre. As he rightly points out, Geelong was losing opportunities to host conventions with large seating requirements and the wealth generation they provide for the region.

I suspect that the government is backtracking on the design given rumours suggesting that the seating capacity was totally inadequate — somewhere around 1000 seats; even the new football ground can host over 1500 seats in its dining areas — a lack of a private partner for a hotel complex and even rumours of site problems. The *Geelong Advertiser* stated that this screams of a gigantic cock-up, and given the Geelong region has seen little of the $9 billion sales revenue from the port of Melbourne, the minister has a lot of explaining to do to the communities of the Geelong region, who are asking, 'Where is the promised convention centre?'.

Responses

Ms TIERNEY (Minister for Training and Skills) — We had 13 adjournment matters this evening. The first was from Ms Lovell to the Minister for Police, the Honourable Lisa Neville. The issue was in relation to police numbers and policing issues in her electorate. I will refer that to the minister.

Mr Barber raised a matter for Minister D'Ambrosio. It was in relation to motorbike noise levels and Environment Protection Authority Victoria noise level enforcement in the CBD. That will be referred to the minister.

Ms Shing raised a matter for my attention as Minister for Training and Skills. The Deputy President has referred that matter to the President at this point.

Mr David Davis raised a matter for the local government minister, the Honourable Natalie Hutchins, in relation to land appraisals, evaluations and consultation. That matter will be referred to Minister Hutchins.

Mr Davis — On a point of order, Deputy President, I raised that matter for the Treasurer, not the local government minister.

Ms TIERNEY — I did not hear that. In fact I do not think you could — —

Mr Davis — I am sure the *Hansard* will record that.

The DEPUTY PRESIDENT — Order! He is referring to the Treasurer, Minister.

Ms TIERNEY — He is now, yes, so that will be referred to the Treasurer.

The next matter is a matter that was raised by Mr Young. It was to do with firewood collection and the utilisation thereof, brumbies and the closure of a caravan park in a national park in his electorate. He is also seeking that the minister for the environment visit the area. That will be referred to her.

Ms Dunn raised an issue for the Minister for Planning in relation to a planning matter in the City of Knox. She was seeking the finalisation of planning scheme amendment C162 before 17 October.

Mr Melhem raised a matter in relation to the prevention of family violence, and it was directed to the Minister for the Prevention of Family Violence, the Honourable Fiona Richardson. In particular he was seeking more detailed information about the implementation of the strategy that is being rolled out

and the particular work that is being done in connection with local government in his electorate and he was wanting more information about how the overall rollout in Western Metropolitan Region is being done. That will be referred to Minister Richardson.

Mr O'Sullivan raised a matter for the Minister for Police. Again it was to do with police numbers and policing in regional Victoria. That matter will be referred to the Minister for Police.

Ms Fitzherbert raised a matter for the Minister for Planning in relation to proposed structures near the St Kilda Junction. That matter will be referred to Minister Wynne.

Mr Morris raised a matter for the Minister for Emergency Services in respect of the Country Fire Authority training facility. That matter will be referred to Minister Merlino.

The 11th item was from Mr Finn in relation to Wyndham City Council. The action he is seeking is for the Minister for Local Government, the Honourable Natalie Hutchins, to remove all councillors from the City of Wyndham. I will refer that matter to the minister.

Ms Bath raised a matter for the Minister for Families and Children, Minister Mikakos, seeking for the minister to go to Gippsland to visit a local organisation or organisations to discuss language development and service provision.

Mr Ramsay raised an issue for the Minister for Regional Development, Minister Pulford. That was in relation to the Geelong convention centre. That matter will be raised with the minister.

There are also a number of responses to adjournment debate matters. I have written responses to adjournment debate matters raised by Ms Springle on 7 February, Ms Crozier on 21 February, Ms Fitzherbert on 21 February, Mr O'Donohue on 21 February, Ms Crozier on 23 February, Mr Elasmar on 8 March, Ms Crozier on 9 March, Ms Dunn on 9 March, Ms Lovell on 9 March, Ms Crozier on 21 March, Mr Melhem on 22 March and Ms Symes on 22 March.

The DEPUTY PRESIDENT — Order! The house stands adjourned.

House adjourned 7.32 p.m.