PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Thursday, 10 December 2015

(Extract from book 19)

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By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AM

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

Premier	The Hon. D. M. Andrews, MP
Deputy Premier and Minister for Education	The Hon. J. A. Merlino, MP
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Minister for Public Transport and Minister for Employment	The Hon. J. Allan, MP
Minister for Small Business, Innovation and Trade	The Hon. P. Dalidakis, MLC
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Minister for Roads and Road Safety, and Minister for Ports	The Hon. L. A. Donnellan, MP
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Minister for Health and Minister for Ambulance Services	The Hon. J. Hennessy, MP
Minister for Training and Skills	The Hon. S. R. Herbert, MLC
Minister for Local Government, Minister for Aboriginal Affairs and Minister for Industrial Relations	The Hon. N. M. Hutchins, MP
Special Minister of State	The Hon. G. Jennings, MLC
Minister for Families and Children, and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Environment, Climate Change and Water	The Hon. L. M. Neville, MP
Minister for Police and Minister for Corrections	The Hon. W. M. Noonan, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
Minister for Agriculture and Minister for Regional Development	The Hon. J. L. Pulford, MLC
Minister for Women and Minister for the Prevention of Family Violence	The Hon. F. Richardson, MP
Minister for Finance and Minister for Multicultural Affairs	The Hon. R. D. Scott, MP
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Kairouz, MP

OFFICE-HOLDERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

Speaker:

The Hon. TELMO LANGUILLER

Deputy Speaker:

Mr D. A. NARDELLA

Acting Speakers:

Mr Angus, Mr Blackwood, Ms Blandthorn, Mr Carbines, Mr Crisp, Mr Dixon, Ms Edwards, Ms Halfpenny, Ms Kilkenny, Mr McCurdy, Mr McGuire, Ms McLeish, Mr Pearson, Ms Ryall, Ms Thomas, Mr Thompson, Ms Thomson, Ms Ward and Mr Watt.

Leader of the Parliamentary Labor Party and Premier:

The Hon. D. M. ANDREWS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:

The Hon. J. A. MERLINO

Leader of the Parliamentary Liberal Party and Leader of the Opposition:

The Hon. M. J. GUY

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:

The Hon. D. J. HODGETT

Leader of The Nationals:

The Hon. P. L. WALSH

Deputy Leader of The Nationals:

Ms S. RYAN

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 ASSEMBLY

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	McLeish, Ms Lucinda Gaye	Eildon	LP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Merlino, Mr James Anthony	Monbulk	ALP
Angus, Mr Neil Andrew Warwick	Forest Hill	LP	Morris, Mr David Charles	Mornington	LP
Asher, Ms Louise	Brighton	LP	Mulder, Mr Terence Wynn [2]	Polwarth	LP
Battin, Mr Bradley William	Gembrook	LP	Napthine, Dr Denis Vincent [3]	South-West Coast	LP
Blackwood, Mr Gary John	Narracan	LP	Nardella, Mr Donato Antonio	Melton	ALP
Blandthorn, Ms Elizabeth Anne	Pascoe Vale	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Britnell, Ms Roma [1]	South-West Coast	LP	Noonan, Mr Wade Matthew	Williamstown	ALP
Brooks, Mr Colin William	Bundoora	ALP	Northe, Mr Russell John	Morwell	Nats
Bull, Mr Joshua Michael	Sunbury	ALP	O'Brien, Mr Daniel David [4]	Gippsland South	Nats
Bull, Mr Timothy Owen	Gippsland East	Nats	O'Brien, Mr Michael Anthony	Malvern	LP
Burgess, Mr Neale Ronald	Hastings	LP	Pakula, Mr Martin Philip	Keysborough	ALP
Carbines, Mr Anthony Richard	Ivanhoe	ALP	Pallas, Mr Timothy Hugh	Werribee	ALP
Carroll, Mr Benjamin Alan	Niddrie	ALP	Paynter, Mr Brian Francis	Bass	LP
Clark, Mr Robert William	Box Hill	LP	Pearson, Mr Daniel James	Essendon	ALP
Couzens, Ms Christine Anne	Geelong	ALP	Perera, Mr Jude	Cranbourne	ALP
Crisp, Mr Peter Laurence	Mildura	Nats	Pesutto, Mr John	Hawthorn	LP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Richardson, Mr Timothy Noel	Mordialloc	ALP
Dimopoulos, Mr Stephen	Oakleigh	ALP	Richardson, Ms Fiona Catherine Alison	Northcote	ALP
Dixon, Mr Martin Francis	Nepean	LP	Riordan, Mr Richard [5]	Polwarth	LP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Ryall, Ms Deanne Sharon	Ringwood	LP
Edbrooke, Mr Paul Andrew	Frankston	ALP	Ryan, Mr Peter Julian [6]	Gippsland South	Nats
Edwards, Ms Janice Maree	Bendigo West	ALP	Ryan, Ms Stephanie Maureen	Euroa	Nats
Eren, Mr John Hamdi	Lara	ALP	Sandell, Ms Ellen	Melbourne	Greens
Foley, Mr Martin Peter	Albert Park	ALP	Scott, Mr Robin David	Preston	ALP
Fyffe, Mrs Christine Anne	Evelyn	LP	Sheed, Ms Suzanna	Shepparton	Ind
Garrett, Ms Jane Furneaux	Brunswick	ALP	Smith, Mr Ryan	Warrandyte	LP
Gidley, Mr Michael Xavier Charles	Mount Waverley	LP	Smith, Mr Timothy Colin	Kew	LP
Graley, Ms Judith Ann	Narre Warren South	ALP	Southwick, Mr David James	Caulfield	LP
Green, Ms Danielle Louise	Yan Yean	ALP	Spence, Ms Rosalind Louise	Yuroke	ALP
Guy, Mr Matthew Jason	Bulleen	LP	Staikos, Mr Nicholas	Bentleigh	ALP
Halfpenny, Ms Bronwyn	Thomastown	ALP	Staley, Ms Louise Eileen	Ripon	LP
Hennessy, Ms Jill	Altona	ALP	Suleyman, Ms Natalie	St Albans	ALP
Hibbins, Mr Samuel Peter	Prahran	Greens	Thomas, Ms Mary-Anne	Macedon	ALP
Hodgett, Mr David John	Croydon	LP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Howard, Mr Geoffrey Kemp	Buninyong	ALP	Thomson, Ms Marsha Rose	Footscray	ALP
Hutchins, Ms Natalie Maree Sykes	Sydenham	ALP	Tilley, Mr William John	Benambra	LP
Kairouz, Ms Marlene	Kororoit	ALP	Victoria, Ms Heidi	Bayswater	LP
Katos, Mr Andrew	South Barwon	LP	Wakeling, Mr Nicholas	Ferntree Gully	LP
Kealy, Ms Emma Jayne	Lowan	Nats	Walsh, Mr Peter Lindsay	Murray Plains	Nats
Kilkenny, Ms Sonya	Carrum	ALP	Ward, Ms Vicki	Eltham	ALP
Knight, Ms Sharon Patricia	Wendouree	ALP	Watt, Mr Graham Travis	Burwood	LP
Languiller, Mr Telmo Ramon	Tarneit	ALP	Wells, Mr Kimberley Arthur	Rowville	LP
Lim, Mr Muy Hong	Clarinda	ALP	Williams, Ms Gabrielle	Dandenong	ALP
McCurdy, Mr Timothy Logan	Ovens Valley	Nats	Wynne, Mr Richard William	Richmond	ALP

[1] Elected 31 October 2015

[2] Resigned 3 September 2015
[3] Resigned 3 September 2015
[4] Elected 14 March 2015
[5] Elected 31 October 2015
[6] Resigned 2 February 2015

PARTY ABBREVIATIONS

ALP — Labor Party; Greens — The Greens;
Ind — Independent; LP — Liberal Party; Nats — The Nationals.

Legislative Assembly committees

Privileges Committee — Ms Allan, Ms D'Ambrosio, Mr Morris, Ms Neville, Ms Ryan, Ms Sandell, Mr Scott and Mr Wells.

Standing Orders Committee — The Speaker, Ms Allan, Ms Asher, Mr Brooks, Mr Clark, Mr Hibbins, Mr Hodgett, Ms Kairouz, Mr Nardella, Ms Ryan and Ms Sheed.

Joint committees

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

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

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

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

Environment, Natural Resources and Regional Development Committee — (*Assembly*): Ms Halfpenny, Mr McCurdy, Mr Richardson, Mr Tilley and Ms Ward. (*Council*): Mr Ramsay and Mr Young.

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

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

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

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

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

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

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THURSDAY, 10 DECEMBER 2015

CONTENTS

Thursday, 10 December 2015

The SPEAKER (Hon. Telmo Languiller) took the chair at 9.33 a.m. and read the prayer.

HUMAN RIGHTS DAY

The SPEAKER — Order! Today is Human Rights Day, celebrated across the world each year on 10 December. It commemorates the day in 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights. This year four freedoms are being highlighted: freedom of speech, freedom of religion, freedom from want and freedom from fear. They were the four freedoms articulated by US President Franklin D. Roosevelt in his famous speech to Congress in 1941 during some of the darkest days of the Second World War. They are the freedoms that underpin a civilised society to this day and offer hope to those who continue to suffer under oppression. On this day I am inspired by the words of a great leader, Nelson Mandela, who worked tirelessly to free his people from oppression. He once said:

> To deny people their human rights is to challenge their very humanity.

Let us reflect on those words over the next 12 months leading up to the 50th anniversary of two human rights covenants, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both adopted in 1966. Let us share the powerful and enduring message of Human Rights Day: 'Our rights. Our freedoms. Always'.

RULINGS BY THE CHAIR

Introduction of private members bill

The SPEAKER — Order! Yesterday the member for Melbourne sought to introduce a bill. In the process of putting the appropriate question the Chair caused confusion in the house by initially declaring the voices with the ayes rather than the noes. This confusion denied the member for Melbourne the opportunity to request a division on the question. As it was the Chair's error that led to this confusion, I will allow the member for Melbourne to seek to introduce her bill again so the decision of the house in relation to this matter is clarified.

ELECTORAL LEGISLATION AMENDMENT (POLITICAL DONATIONS) BILL 2015

Introduction

Ms SANDELL (Melbourne) — I move:

> That I have leave to bring in a bill for an act to amend the Electoral Act 2002 and the Local Government Act 1989 in relation to political donations and for other purposes.

House divided on motion:

Ayes, 3

Hibbins, Mr	Sheed, Ms
Sandell, Ms	

Noes, 82

Allan, Ms	Lim, Mr
Andrews, Mr	McCurdy, Mr
Angus, Mr	McGuire, Mr
Asher, Ms	McLeish, Ms
Battin, Mr	Merlino, Mr
Blackwood, Mr	Morris, Mr
Blandthorn, Ms	Nardella, Mr
Britnell, Ms	Neville, Ms
Brooks, Mr	Noonan, Mr
Bull, Mr J.	Northe, Mr
Bull, Mr T.	O'Brien, Mr D.
Burgess, Mr	O'Brien, Mr M.
Carbines, Mr	Pakula, Mr
Carroll, Mr	Pallas, Mr
Clark, Mr	Paynter, Mr
Couzens, Ms	Pearson, Mr
Crisp, Mr	Perera, Mr
D'Ambrosio, Ms	Pesutto, Mr
Dimopoulos, Mr	Richardson, Mr
Dixon, Mr	Richardson, Ms
Donnellan, Mr	Riordan, Mr
Edbrooke, Mr	Ryall, Ms
Edwards, Ms	Ryan, Ms
Eren, Mr	Scott, Mr
Foley, Mr	Smith, Mr R.
Fyffe, Mrs	Smith, Mr T.
Garrett, Ms	Southwick, Mr
Gidley, Mr	Spence, Ms
Graley, Ms	Staikos, Mr
Green, Ms	Staley, Ms
Guy, Mr	Thomas, Ms
Halfpenny, Ms	Thompson, Mr
Hennessy, Ms	Thomson, Ms
Hodgett, Mr	Tilley, Mr
Howard, Mr	Victoria, Ms
Hutchins, Ms	Wakeling, Mr
Kairouz, Ms	Walsh, Mr
Katos, Mr	Ward, Ms
Kealy, Ms	Watt, Mr
Kilkenny, Ms	Williams, Ms
Knight, Ms	Wynne, Mr

Motion defeated.

PETITIONS

Following petitions presented to house:

North Road, Ormond, level crossing

To the Legislative Assembly of Victoria:

The petition of certain residents of Victoria draws to the attention of the house the decision to keep the Dorothy Road, Ormond, underpass open to cars and other vehicles once the level crossing works have been completed. Keeping the underpass permanently open will not be necessary as traffic will flow more smoothly along North Road. Also, the volume of traffic and its speed in local streets, particularly Woodville Avenue, has increased safety risks for local residents and users of E. E. Gunn Reserve.

The petitioners therefore request that the Legislative Assembly of Victoria call on the state government to reconsider its decision to keep the Dorothy Avenue underpass open to cars and other vehicles following the completion of the railway line works.

By Mr SOUTHWICK (Caulfield) (94 signatures).

Special religious instruction

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house the support in our community for the role of special religious instruction in government schools, despite changes in recent years in relation to requirements for parents to actively opt-in and for schools to demonstrate sufficient demand and resourcing.

The petitioners therefore request that the Legislative Assembly of Victoria take note of this support and affirm the commitment by all parties and members to ensuring that special religious instruction remains part of our school system under the current arrangements of 30 minutes per week during normal class time.

By Mr WAKELING (Ferntree Gully) (8929 signatures).

Special religious instruction

To the Legislative Assembly of Victoria:

The petition of residents in the Bendigo East electorate draws to the attention of the house that the government has scrapped special religious instruction (SRI) in Victorian government schools during school hours.

Prior to the last election, Daniel Andrews and Labor said they would not scrap SRI during school hours in Victorian government schools. Daniel Andrews and James Merlino have announced that next year they will break their promise and will only allow SRI to occur outside of school hours or during lunch breaks.

The petitioners therefore request that the Legislative Assembly of Victoria ensure that the Andrews government reverses its broken promise and allows students attending government schools to attend SRI during school hours.

By Mr WAKELING (Ferntree Gully) (180 signatures).

Tabled.

Ordered that petition presented by honourable member for Caulfield be considered next day on motion of Mr SOUTHWICK (Caulfield).

Ordered that petitions presented by honourable member for Ferntree Gully be considered next day on motion of Mr WAKELING (Ferntree Gully).

ABORIGINAL AFFAIRS

Victorian government report 2014–15

Ms HUTCHINS (Minister for Aboriginal Affairs), by leave, presented report.

Tabled.

DOCUMENTS

Tabled by Clerk:

Auditor-General:

Access to Public Sector Information — Ordered to be published

Implementing the Gifts, Benefits and Hospitality Framework — Ordered to be published

Water Entities: 2014–15 Audit Snapshot — Ordered to be published

Children's Court of Victoria — Report 2014–15

Commissioner for Environmental Sustainability Act 2003 — Framework for the 2018 Victorian State of the Environment Report

Falls Creek Alpine Resort Management Board — Report year ended 31 October 2014

Legal Profession Uniform Law Application Act 2014 — Practitioner Remuneration Order 2016 under s 96

MEMBERS STATEMENTS

Special religious instruction

Mr CLARK (Box Hill) — I call on the Premier and the Minister for Education to reverse Labor's ban on Christmas carols in government schools. A local parent has written to me about its effect on her family's school, saying:

In keeping with the new department of education guidelines … our school … removed all religious traditional Christmas carols from our carols night next week. Enough parents complained that the school reversed the decision and

> as a result next week, the children will be able to sing the traditional carols they have been practising … but … most likely next year … the school community will not have the power to override the guidelines … I cannot understand a decision that removes all significance and meaning from Christmas … the music of the classic Christmas carols is still considered beautiful and very much a part of Christmas. What a loss if we are to lose this to a generation of kids to come …

The ban is set out in a so-called fact sheet for principals issued last month, which purports to tell principals what activities come within special religious instruction and will therefore now be banned during school hours. Activities deemed to come within the ban include any music taught by school visitors or volunteers that involves praise of a deity, regardless of the musical style, unless it comes within 'common societally recognised music'. So if a school arranges for parent volunteers or specialist music instructors to organise a Christmas concert, well-known and much-loved Christmas carols, like *Silent Night, Away in a Manger* or *Come All Ye Faithful*, may be banned. Indeed about the only traditional Christmas songs children will clearly be able to sing are *Rudolph the Red-Nosed Reindeer* and *Jingle Bells*. The government must withdraw this appalling edict and make clear that students at government schools are entitled to learn, sing and enjoy Christmas carols as they have for generations.

Craigieburn Regional Aquatic and Leisure Centre

Ms SPENCE (Yuroke) — Recently I was thrilled to participate in a sod-turning event for the Craigieburn Regional Aquatic and Leisure Centre development. The centre will be an amazing facility for Craigieburn locals as well as for people from across the region. The centre will have something for everyone, with a leisure pool, toddler pool, learn-to-swim pool and a 50-metre pool. Also included will be a spa, sauna and steam rooms, cafes and spectacular water slides making it a great space for locals to relax or join in the fun. In addition there will be ample male, female and family change areas, making the facilities accessible for all ages and abilities to enjoy. The development of this precinct in Craigieburn has been taking place over many years. During my time as a councillor, this aquatic facility was envisaged to complement the amazing Hume Global Learning Centre, the Craigieburn Central shopping centre and the other sports and recreation facilities that we will see in the area.

The current council has been able to finalise these plans and get the project underway though the cooperation and support of all levels of government as well as Stockland and Lend Lease. It was terrific to join Rob Mitchell, the federal member for McEwen, and Cr Helen Patsikatheodorou, the mayor of Hume City Council, to mark this significant milestone. Well done to all involved in this project. My thanks go to Hume City Council for inviting me to participate in this major event. I am confident this will be a successful project and an amazing facility, and I look forward to visiting it when it opens in 2017.

Gippsland South electorate food producers

Mr D. O'BRIEN (Gippsland South) — Members will already be aware that Gippsland South is the most beautiful electorate in the state. I am pleased to advise members that it is also home to some of the best food producers in the nation. *The Age Good Food Guide* has listed Australia's top 30 producers for 2015, and no less than 4 of them are from the electorate of Gippsland South.

An honourable member interjected.

Mr D. O'BRIEN — Of the nation — 4 out of 30 in the nation. Congratulations go to Ilan Goldman of Mirboo Pastured Poultry in Mirboo North; Ian Onley of Bullfrog Gully Eggs at Gormandale; Burke and Bronwyn Brandon of Prom Country Cheese at Moyarra; and Wayne and Linda Cripps of Port Franklin Fresh Fish. I have been lucky enough to visit some of these establishments over the last few months. Prom Country Cheese produces some wonderful cheeses, while the King George whiting I picked up from Port Franklin Fresh Fish last week was simply superb. We have so many fine producers in our region who deliver excellent produce and encourage foodie tourism, which is something that our region can rightly be proud of.

Felicitations

Mr D. O'BRIEN — On this last day of sitting I thank the people of Gippsland South for supporting me through my first year as their new member. I love my job, I love the people and places of my electorate and I look forward to continuing to stand up for them over the coming years. I take this opportunity to encourage all people of Gippsland South and Victoria generally to take care on the roads and in the water over summer. Let us also pray we do not have the bushfire season that has been predicted.

I also thank my colleagues in The Nationals and the coalition and all members in this chamber for their support over the year. I wish you all a merry Christmas and a happy new year.

Sri Durga Arts/Cultural and Educational Centre

Ms KAIROUZ (Kororoit) — Last Monday I was delighted to attend the opening of the new Sri Durga temple at the Sri Durga Arts/Cultural and Educational Centre in Rockbank. The opening of the temple was a very exciting time for the Hindu community in my electorate of Kororoit. The temple, which began in 1998 in a tin shed, has been transformed into a truly peaceful and beautiful place of worship. I was thrilled to be part of the celebrations, which were full of vibrant colours, joyful music and many people, young and old.

The temple is the largest Hindu temple in Australia, and it has taken many years of hard work and the dedication of members of the Sri Durga Arts/Cultural and Educational Centre and the broader Hindu community to bring the dream to life. I was amazed to see that most of the work on the project had been completed by a team of dedicated volunteers from all walks of life. It is truly an example of what members of the community can do when they work together to make a dream a reality.

The construction of this temple has been a major project for the Sri Durga Arts/Cultural and Educational Centre. At the same time the centre has continued to provide valuable resources to the local community, including providing help and support to Indian students in Victoria, supporting and promoting leadership programs in schools, providing food and clothing to the needy and imparting the religious, educational and cultural values of Hinduism.

I commend the Sri Durga Arts/Cultural and Educational Centre for organising this event. The opening of this new temple is a momentous occasion for the centre and for the wider Hindu community. Multiculturalism is such an important part of this state, and I was grateful to be able to participate in such a vibrant community event. I would particularly like to thank the centre's committee members for the work they put in to the evening. It was a great success.

Waltanna Farm

Ms KEALY (Lowan) — Waltanna Farm near Hamilton is a fantastic family-operated business which grows and processes flaxseed. Certified as an organic food producer in 1998, the Nagorcka family has worked hard to stay a step ahead of their competitors. This is a fabulous success story of food production and localised value-added processing resulting in local jobs and a stronger regional economy. Commendations to the Nagorcka family for helping to build western Victoria's reputation for premium food production.

Wimmera cancer centre

Ms KEALY — Locals continue to work hard to raise vital funds for Rachael's Wish and the Wimmera cancer centre. I commend and thank the Wimmera Health Care Group's Friends of the Foundation for running another highly successful Great Wimmera River Duck Race.

The Horsham Islamic Welfare Association is running a fundraising dinner for the cancer centre, to be held in the Lutheran hall, and it has promoted the event as a great Christmas gift idea. What a fantastic example of how an important community cause can bring people together. I urge the Andrews Labor government to join in the community spirit and fund this vital project.

Minyip police numbers

Ms KEALY — It is very disappointing for the people of Minyip that after about a year a police officer has still not been appointed to fill the vacancy at the station. Given reports of highly skilled and experienced police applying for the job, surely it is now time for the police minister to intervene and ensure that appropriate resources are provided and the position is filled as soon as possible.

Strathdownie peat fire

Ms KEALY — I would like to extend my sincere thanks and gratitude to everyone who assisted to control the Strathdownie peat fire. This fire had been burning since ignited by a lightning strike in late October. I commend the commitment and hard work of all involved for their tireless efforts to extinguish a very challenging fire in exceptionally difficult conditions.

Greenvale Farm

Ms KEALY — I recently visited Anthony and Amanda Kumnick at their beautiful Greenvale Farm, a fantastic example of sustainable food production. Their very happy heritage pigs are carefully bred and nurtured in open farmlands near Willaura, producing fresh pork products as well as award-winning smallgoods. Given the number of awards that Greenvale Farm wins for its pork products, it is clear a happy pig is a tasty pig.

St Leonards Creek pedestrian bridge

Ms NEVILLE (Minister for Environment, Climate Change and Water) — I do not think I can beat that. On

Monday I had the pleasure of opening the St Leonards Creek pedestrian bridge, a project funded by the state government in partnership with Bellarine Bayside and the City of Greater Geelong. The bridge means that those people enjoying the Bellarine Peninsula foreshore coastal trail will no longer have to walk along the roadside to cross the creek, improving safety and enjoyment.

In addition to the bridge, works have included the installation of a connection pathway to the existing trail, fencing to protect vegetation, bollards to define the pathway, and picnic tables and chairs. It looks absolutely fantastic. The need for the bridge was strongly supported by the St Leonards community through a department workshop, and now that it is complete it will be enjoyed by locals and visitors alike.

Drysdale sporting precinct

Ms NEVILLE — On another matter, on Monday I also had the pleasure of confirming the state government's $3.5 million commitment to stage 1 of the Drysdale sporting precinct. We have brought this money forward even though the council is yet to fully commit to its half of the project. The project will deliver by 2017 a flagship football and cricket oval, additional multipurpose sporting fields, lighting, a relocatable pavilion, cricket nets and car parking. This is great news for Drysdale. It has been long awaited, and it is very exciting.

I am proud that this was in our first budget, and I am pleased to have been able to work to bring this forward. I congratulate all those people who have worked hard over many years to make the precinct a reality, including Paul Rawson of the Drysdale Soccer Club, Anne Brackley from the SpringDale Neighbourhood Centre, Ross Deeath and Greg Collier.

Mount Waverley electorate Neighbourhood Watch

Mr GIDLEY (Mount Waverley) — Today in the Parliament I rise to recognise all Neighbourhood Watch volunteers in MON 011 and MON 024 for their tremendous service to improving public safety. Like so many others, this Neighbourhood Watch area could not achieve all that it has without the dedicated support of its volunteers. I pay special tribute to Jack Quillinan and the late Claire Kemp, who have recently been awarded certificates for 25 years of service to MON 011, while Margot Munro, Ken Rowley, Pauline Allen, Kathleen Banks, Elizabeth Binns, Rod Ackroyd, Cliff Parks and John Thompson have been awarded certificates for 20 years of service to MON 011. This service is remarkable, and I thank these residents for it. I also thank and acknowledge area manager Colin McKinnon for his leadership in the area.

Ross McDowall

Mr GIDLEY — I also congratulate Mr Ross McDowall from South East Volunteers, who was recently recognised at the 2015 Premier's Volunteer Champions Awards as an outstanding adult volunteer. For more than five years Ross has been a driver in South East Volunteers, supporting people to live independently at home. Ross also volunteers with Motor Neurone Disease Australia and Eastern Palliative Care. I thank him for his dedication and service to volunteering and assisting others.

Western distributor

Mr GIDLEY — Yesterday the Victorian Labor government outlined its plan to condemn commuters who use the Monash Freeway to higher tolls for longer without time savings or road improvements, to fund a new road in the western suburbs. I will stand and fight against this unfair and outrageous cash grab and tollway robbery of commuters using the Monash Freeway. I will stand up against this tollway robbery from the weekly budget of households and small and medium businesses by this Victorian Labor government.

Buninyong electorate community

Mr HOWARD (Buninyong) — Last week I enjoyed another busy week in my electorate, meeting with many constituents and celebrating the progress made on several important projects. On Monday I met with the Moorabool shire FReeZA committee, Off-Tap, to advise of the Andrews government's commitment of another $58 800 to support its activities in running a terrific range of all-age, drug and alcohol-free events over the next three years. On Tuesday I ran mobile offices in Meredith and Smythesdale, where I was pleased to meet with many constituents.

On Wednesday I visited Phoenix P-12 Community College, where I talked with the year 5 and 6 students about my role as a member of Parliament. Later that day I went to Ballarat Secondary College with the member for Wendouree. We were able to share the excitement of the college in announcing that architects Baade Harbour Australia will do the design work for the $6 million upgrade to support both the Wendouree and Ballarat East sites.

On Thursday I was very pleased to join with Working Heritage and people in the Ballan area to celebrate the restoration of their 140-year-old courthouse. It was the result of a great job done by Helen Weston, who is the chair of Working Heritage, her team and the local Ballan people in supporting that project. On Saturday I was pleased to attend the opening of an art exhibition by Wathaurung artist Deanne Gilson called 'Body of my Ancestors'. Later that day — —

The SPEAKER — Order! The member's time has expired.

Road safety

Ms SHEED (Shepparton) — Today I bring to the attention of the Parliament the importance of road safety as we move into the holiday season. Ten people have died on the roads in the Shepparton local government area this year. At the same time last year it was only two. Thirty-five people have died in motor vehicle accidents across the Goulburn Valley this year to date. Police have appealed to drivers to take extra care during the forthcoming holiday season. Superintendent Michael Sayer of our region said that 21 of the victims were local people driving on roads that were familiar to them. Fatalities can occur anywhere in any conditions; road trauma does not discriminate.

Every day we are faced with the news of yet another fatality on our roads. We know the factors that contribute to road accidents: speeding, fatigue, new and young drivers, drugs and alcohol, and distractions such as mobile phones. While increased enforcement, targeted education, adoption of vehicle safety technologies and improvements to the road network all have an impact on road safety and contribute to a reduction in the road toll, it is essential that drivers understand their responsibilities when they get behind the wheel of a motor vehicle. The flow-on effect of road trauma is huge for families and our communities. It is not only the fatalities but also the serious injuries which can be the cause of so much pain for families. With the harvest season well underway in regional areas extra care should be taken on country roads so that holidays for all Victorians and their families are happy and peaceful.

Cardinal George Pell

Mr McGUIRE (Broadmeadows) — The Vatican's financial chief adviser to the Pope, Cardinal George Pell, appears to have misled the Victorian Parliament or downplayed the significance of his understanding of matters by covering up a Melbourne priest's sexual abuse of a nine-year-old girl in the privacy of the confessional box.

In 2013, as deputy chair of the Victorian parliamentary inquiry into the handling of child abuse by religious and other non-government organisations, I challenged Cardinal Pell on whether he understood how victims of Father Peter Searson at Holy Family Catholic School Doveton regarded what happened as hear no evil, see no evil, say nothing about evil from the church. Cardinal Pell responded:

> I think that is an objectionable suggestion, with no foundation in the truth. No conviction was recorded for Searson for sexual misbehaviour. There might be victims.

Julie Stewart, who says she was sexually abused by Searson in 1984 and 1985, said the cardinal's statement 'there might be victims' angered her so much it drove her to recently testify to the Royal Commission into Institutional Responses to Child Sexual Abuse.

In September last year I revealed to Parliament that as Archbishop of Melbourne, George Pell wrote to Julie in 1998 offering her $25 000 compensation, stating his regret and apology for abuse within the Catholic Church, which he described as a 'betrayal of trust'. Cardinal Pell denied to the parliamentary inquiry that he in any way covered up offending or was guilty of wilful blindness but was clearly not forthcoming or prepared to publicly acknowledge what he had already accepted and apologised for on behalf of the church.

I renew my call for the royal commission to determine the truth concerning who protected children and who protected paedophiles, particularly in Doveton and Ballarat, where paedophile clusters were established.

Luigi Fecondo

Mr TILLEY (Benambra) — I rise to celebrate the life of a quiet Victorian and passionate Australian, which serves as a reminder of how refugees and immigrants have shaped our history and made us a richer community. Luigi Fecondo was born in San Martino, Italy, on 9 April 1933 and was fondly known as 'Johnny' to his family and friends. Sadly, he passed away at Marlo on 3 November this year. So great was the bridge this single man created between countries that, as his family and friends laughed, cried and celebrated his life at the mouth of the mighty Victorian Snowy River, so did the ancient rustic village of Fara in the Apennine Mountains.

In December 1943, when Johnny was six years of age, the Germans invaded and destroyed most of his town. At the age of 10, he and the remaining villagers spent

Christmas hiding in a cave with snow due any day. In search of a better life Johnny passed, legally, through the Bonegilla migrant camp, but hated it there. Bonegilla was a modern day Christmas Island, but importantly it provided a start to a new life. In the early days Johnny picked potatoes and grapes and worked anywhere he could. He taught his Australian wife, May Brownbridge, to cook pasta, make salami and about the joy of Passata Day. She overcame the taunts at that point of cooking 'wog food' and taught all her family how to do it. And Johnny taught us how to catch estuary perch, and most of all, he taught us how to appreciate our own country.

My first encounter with and privilege of meeting Johnny was when he very generously offered to tie his boat off the back of my boat and go about selectively catching — —

The ACTING SPEAKER (**Mr Carbines**) — The member's time has expired.

Racial and religious tolerance

Mr RICHARDSON (Mordialloc) — I want to raise and address some of the comments made in and the coverage of the recent US presidential debate, particularly the demonisation of a particular religion — Muslims generally — and some of the hate-filled speeches made at rallies across our country demonising Muslim Australians. The recent coverage of these events has risked normalising some of these hate-filled speeches. Not challenging these bigoted speeches for what they are risks demonising people in and alienating them from our community. This bigoted behaviour creates angst, it hurts people, and I think we need to call it out for what it is. Examples of this are that there have been a number of rallies on a number of issues across this place.

I also want to put on the record that as parliamentarians we have a responsibility to speak out. My challenge for the government and for the opposition for next year is that instead of proposing matters of public importance and throwing political mud at each other, maybe we should step back and push for discussions of matters of real public importance, such as the demonisation of people in our community. We have seen through the generations examples of what not speaking out against hate-filled speech can bring. My worry is not just for this generation but for future generations with that normalisation. My message for people who are preaching hate and intolerance is: you will not do it under our name, you will not do it under our country's flag, and you will certainly not do it on behalf of our nation.

Volunteer firefighter cancer compensation

Mr BURGESS (Hastings) — Late last month I had the honour of signing a pledge to show support for our local brigade firefighters. Volunteer Fire Brigades Victoria(VFBV), the body that represents volunteer firefighters across our state, has launched a campaign to encourage Victorian MPs to support all firefighters in recognition of the risks they run of contracting cancer from exposure to toxins as part of their firefighting service role. They have asked MPs to sign a pledge. The pledge my coalition colleagues and I have made is:

> I will support CFA volunteers with cancer; and I will vote for non-discriminatory presumptive legislation for all Victorian firefighters.

The VFBV has called on the Premier to deliver legislation that does not discriminate against the men and women in our volunteer brigades. I was very proud to sign this pledge and show my support for firefighters, paid and volunteer, and ensuring that they are provided with equal protection for protecting Victoria. We will not allow the Premier to introduce an unfair system that favours some firefighters over others. Firefighters protect all Victorians every day, and they all deserve the right to equal protection.

White Ribbon Day

Mr BURGESS — On 25 November I was pleased to join several hundred people in Western Port for a White Ribbon Day march down High Street in Hastings to show support for the campaign to end violence against women. I thank the Mornington Peninsula Shire Council and particularly David Garnock for hosting this important event, with the aim of eradicating and exposing the appalling blight of family violence in our society.

Hannah Swinnerton

Mr BURGESS — On 29 November I was pleased to be invited to attend an antibullying fundraising event organised by Hannah Swinnerton.

Click Cup

Mr STAIKOS (Bentleigh) — I recently attended the inaugural Click Cup held at King George Reserve in East Bentleigh. The event was organised by the Bentleigh ANA Cricket Club and the Holmesby family in support of the Click Foundation and in memory of Emma Holmesby, who passed away earlier this year at the age of 28 following an epileptic seizure.

The Click Foundation was established in 2009 with the main purpose of finding a cure for epilepsy. Here are the facts: 660 000 Australians will have epilepsy during their lifetime; 880 000 children under the age of 15 are impacted by epilepsy; 2.3 million Australians will experience a seizure at some point in their lives; and 4.4 million Australians have a friend, relative or partner with epilepsy.

The event was a roaring success. Local residents came to show their support and watch a very entertaining celebrity cricket match with well-known people like Gary Sweet and Rhys Muldoon and a host of footballers. I have so much respect for the Holmesby family, who have turned a very deep personal tragedy into an opportunity to make a difference. Congratulations to everyone involved in putting together such a fantastic event. I am already looking forward to next year.

Ormond railway station

Mr STAIKOS — It was a pleasure to recently announce that the Andrews Labor government is providing a second entrance to Ormond railway station, on the southern side of North Road, as part of the level crossing removal project. Around a third of commuters come from the southern side of North Road and have to cross six lanes of heavy traffic to access the station. We are proud to be improving access to the station, which will include lifts for people with disabilities. Sadly, Liberal MPs have expressed opposition to the provision of disability access at the station through lifts. They have proven to be out of touch with local residents, who have overwhelmingly endorsed this approach.

Wonthaggi Relay for Life

Mr PAYNTER (Bass) — On 14 November I opened the Wonthaggi Relay for Life event at the Wonthaggi State Coal Mine. Relay for Life is a celebration of cancer survivorship. Every dollar raised goes towards funding Cancer Council's vital research, prevention and support programs.

It was an incredibly moving experience for me to watch the first lap of the relay, which honoured cancer survivors and their carers. My staff and I joined with the team from Bass Coast Specialist School, and I would like to thank the principal, Edith Gray, and Christy Burns for inviting us to walk with them. I would also like to congratulate the coordinator, Allison Gamble, and the Wonthaggi Relay for Life committee, volunteers and participants, as well as the Friends of the State Coal Mine, for helping out on the night and for making the inspirational sign of HOPE, which sat on the hill and upon which people wrote personal messages during the course of the 18-hour event.

Our fundraising target of $40 000 was well and truly exceeded. I am proud to be involved in Relay for Life, and I look forward to attending the Cardinia Relay for Life on 26 and 27 February next year and walking with Di Price and Team Kinders Together.

Family violence

Ms RICHARDSON (Minister for Women) — Today marks the last day of our first Victoria Against Violence 16-day campaign, our state's contribution to the United Nation-endorsed movement to end gender-based harm. As the Speaker reminded us, today is also International Human Rights Day, which marks the signing of the Universal Declaration of Human Rights. One of those important rights is the right to live free from fear. Over the past 16 days this is precisely what we have been highlighting and campaigning for. No-one should live in fear, especially in the place where they should be at their safest — their own home.

Over the past 16 days the message that there is no excuse for family violence has been spread right across every corner of our state. We have lit buildings across Melbourne, including Parliament House, orange — the signature colour of the UN's campaign to stop violence against women. And thank you to AGL for its support in this. We have joined the UN's Clothesline Project, highlighting the intrinsic link between attitudes and rates of violence against women. We have joined the annual Walk Against Violence through Melbourne. We have launched a plan for a gender equality strategy — a first for Victoria. We have announced plans for a memorial to victims and survivors of violence. Today our parliamentary friendship group, along with the AFL Players Association and Our Watch, launched the #NoExcuse4Violence campaign.

But for me the highlights of all our events right across the state were those that gave voice to victims. Hearing Rosie Batty and Kristie McKellar address Parliament — a first for our Parliament — I know had an enormous impact, as did our Listening Project conference held here at Parliament House. Thanks to everyone who has supported this campaign.

Government performance

Mr MORRIS (Mornington) — As the festive season approaches it is a time to reflect on what has gone, and it has been an interesting year. It certainly has not been a good year for Victorian families, and even more so it has not been a good year for Victorian

taxpayers. Even if we restrict our review of events to the last four weeks, the picture remains bleak. We learnt on 30 November that 35 000 Victorians were now waiting for public housing, a figure that is up substantially on last year. We found out on 3 December that the Treasurer was not quite sure why he had such a variance in his midyear budget update with regard to public sector wages. First of all he claimed that it was a change in accounting practices demanded by the Auditor-General, and then he had to back off when the Auditor-General said he had not asked Treasury to change the accounting standards or how the government calculates employee accrued wages and salaries.

Then we learnt that $1.1 billion was flushed down the drain with regard to the east–west link. Further on that matter, as James Campbell said in the *Herald Sun* this morning, the longer the Premier is in office it is becoming clearer that recklessness is his stock in trade. Not only was there the theft of the journalist dictaphone and the ignoring of advice, we now know he relies on dodgy legal advice. It has not been a good year.

Eltham Wildcats Basketball Club

Ms WARD (Eltham) — I rise today to congratulate the Eltham Wildcats Basketball Club under 18 team on winning the National Junior Classic and for receiving the *Leader* Sports Star eastern division team of the year award for their efforts in November. In June this year the under 18 team won the National Junior Classic at the State Basketball Centre in Wantirna. To advance to this stage of the competition the Wildcats team placed in the top three within their pool, competed in the state competition to become the top team in Victoria and then went on to compete in and win the national competition. This is an incredible achievement considering the many injuries the team had to overcome throughout the year. It shows the absolute commitment of this team.

I congratulate the players who competed in the National Junior Classic: team captain Max Stroszynski, Tom Strmecki, Tom O'Connor, Patrick Lipinski, Keenan Shantz, Sam Whelan, Aidan O'Carroll, Anthony Varvaris, Mark Scherf, Daniel Robertson, Jack Tsaparis, Ryan Gardiner, Gian Festa, Jacob Burnham, Josh Robertson and Wyatt Shantz. I wish the team all the best for their travels in the US, where they will be competing in two tournaments. I know they will do Eltham proud.

Eltham electorate office staff

Ms WARD — I also thank my tremendous staff for their hard work and the support they have given to me in the Eltham district this year. Joe, Naomi, Adele, Duncan and Liz have put in phenomenal efforts this year. No job is too hard for them, and they are just fantastic. I along with the Eltham district are extremely lucky to have their support.

Of course I also thank the wonderful Geoff Matthews for all of his work as one of the most important people in the Diamond Valley area. I am extremely lucky to have Geoff volunteer in my office. Happy Christmas everyone.

Vietnam War memorial

Ms COUZENS (Geelong) — I am proud to speak about Geelong's past and future. Recently the Minister for Veterans announced funding to upgrade Geelong's Vietnam War memorial for the 50th anniversary next year. I was proud to join the minister, chair Ken Baker and members of the Vietnam Veterans Association Geelong and district sub-branch at the recent announcement in North Geelong.

Vietnam veterans did not receive acknowledgement for their service and sacrifice when they returned from that war. In past years this has been somewhat rectified. Upgrading this memorial site honours Geelong Vietnam veterans for their service, their pain and their sacrifice. Part of the memorial upgrade involves the construction of a pathway. Each brick will carry the name of a veteran who served in the Vietnam War. I am proud to be sponsoring a brick commemorating Antonio Parrello, a Geelong resident before enlisting as a soldier for that war. Antonio was one of 521 Australians who died in Vietnam. I encourage the people of Geelong to sponsor a brick for the memorial pathway, to honour and thank an Australian veteran who served in Vietnam.

Avalon Airport

Ms COUZENS — On another matter, it was only back in March this year that Jetstar was at a point of deciding whether to leave Avalon Airport. Thanks to the Andrews government, Jetstar has announced that Avalon has introduced additional flights. This is great news for Geelong, and it has saved jobs. The tourism opportunities will be a great boost for our great city. With Jetstar at Avalon running flights from Sydney and the Gold Coast, and now Hobart and Adelaide, as announced yesterday, this will provide great opportunities for visitors to come into Geelong.

Patterson Lakes public jetty

Ms KILKENNY (Carrum) — I thank all residents of Patterson Lakes as well as the traders of the Patterson Lakes shopping centre for contacting me about their vision for a new and safe public jetty at the Patterson Lakes Inner Harbour marina. A new public jetty with multiple berths will unlock and reinvigorate this incredible harbour precinct which boasts a wonderful location very near the Patterson River launching way, one of the busiest launching places for recreational boat users in Victoria, and the Patterson Lakes shopping centre, which has it all — cafes, restaurants, a supermarket, medical services, gift shops, florists, chemists, public amenities and a post office.

A new public jetty will deliver positive social, community and economic outcomes for the local community, including local residents, shop owners, local businesses and restaurants. A new public jetty will enhance the area as a destination of choice for recreational boat users and members of the public. This is not a new project. Residents and traders have been seeking a new public jetty for years. I want to finally make this jetty a reality. It will, however, need the support of Kingston City Council, and I very much look forward to working with Kingston City Council to achieve this vision.

Felicitations

Ms KILKENNY — In the meantime, I wish all members a very happy and safe Christmas and a wonderful new year. I look forward to coming back in the new year and having a very productive year with everyone. All the best.

Ms McLeish — On a point of order, Acting Speaker, I seek guidance from the Speaker as to what is and what is not permissible as part of statements on reports. Yesterday the member for Bendigo West spoke about a Family and Community Development Committee inquiry. This inquiry has had two stages, stage 1 and stage 2. An interim report on stage 1 was tabled in August, and stage 2 of the inquiry is currently underway. It is my understanding that members cannot comment on a current inquiry.

I have reviewed *Hansard* very carefully, and I note some very tenuous links to the report on stage 1 in the content of the contribution by the member. The majority of the content seems to be quite heavily geared towards stage 2 of the inquiry. I note that the member does not refer to any recommendations or outcomes specifically. However, as I said, it is my understanding that until a report is tabled members are unable to make comments on it.

I would appreciate it if you, Acting Speaker, could refer this to the Speaker for clarification of this matter so that he can review the content of what was said and determine how much of it related to the interim report. When I look at the references made to regional visits and some of the discussion that was raised, they have certainly been part of stage 2 and do not relate to the interim report.

The ACTING SPEAKER (**Mr Carbines**) — Order! I thank the member for Eildon for her point of order. I will refer those matters through the Clerk to the Speaker for his consideration and report back to the house.

JUDICIAL COMMISSION OF VICTORIA BILL 2015

Statement of compatibility

Mr PAKULA (Attorney-General) 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 Judicial Commission of Victoria Bill 2015.

In my opinion, the Judicial Commission of Victoria Bill 2015, as introduced to the Legislative Assembly, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

The bill establishes the Judicial Commission of Victoria, which will provide a formal, structured, transparent system for investigating complaints and concerns regarding judicial officers, (including judicial registrars) and members of the Victorian Civil and Administrative Tribunal. Matters relating to either misconduct or health issues may be raised in complaints from the public, or referrals made either by the head of each court or VCAT, or the Attorney-General. Professional bodies representing the legal profession may also make complaints on behalf of their members.

The bill establishes a modern approach to judicial complaints handling consistent with the need to maintain an independent judiciary.

Human rights issues

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

Right to a fair hearing by a competent, independent and impartial court or tribunal — section 24(1) of the charter

The bill enhances the independence of the courts and VCAT by establishing a formal system for handling serious and less

serious complaints against judicial officers and members of VCAT. This will decrease the risk of:

- legitimate complaints or concerns not being appropriately addressed; and
- an ad hoc process being established only when a serious issue arises, with the consequent risk of inconsistent and arbitrary approaches being taken.

The independence of the judiciary is protected by the involvement of serving and retired judicial officers in the investigation of complaints. The board of the commission will consist of the heads of Victoria's five courts and the president of VCAT, together with four community members. An investigating panel appointed by the commission to investigate the most serious matters will be comprised of two serving or retired judicial officers and one community member.

An accepted aspect of judicial independence is the general liberty of judges to hear and determine cases free from external influence or direction, irrespective of whether such influence originates in the community, in government, or even within the judiciary itself.

This freedom from external influence has necessary and recognised limits where conduct falls short of expected standards and results in a potential misuse of the judicial role.

While the commission process involves the exertion of influence by more senior judicial officers, such influence does not fetter or direct the exercise of powers that are properly open to a judicial officer. The commission will investigate whether judicial conduct meets basic threshold standards of independence, honesty, and competency. The role of the commission is not to assess whether the decision of a judicial officer or VCAT member in a proceeding was correctly made on the merits.

An investigating panel established under the bill may provide a report to Parliament, giving its opinion that facts exist which may be grounds for removal on the basis of proved misbehaviour or incapacity. Parliament may only vote for the removal of a judicial officer if it has received such a report. This enhances judicial independence by ensuring removal decisions have an objective basis in fact.

Fair hearing rights and the commission

It is unlikely that a complainant or a judicial officer or VCAT member against whom a complaint is made to the commission will be a 'party to a civil proceeding' for the purposes of section 24(1) of the charter. The commission will investigate complaints about judicial performance, not private rights. It will make recommendations on those complaints; it will not have power itself to sanction judicial officers or VCAT members.

In the unlikely event that the fair hearing right were held to apply to the handling of a complaint to the commission, the bill is not incompatible with any right to a fair hearing. The bill ensures that the commission and any investigating panel appointed by the commission are independent and impartial and constituted by competent members who will act fairly to assess the complaint and any submissions of the officer concerned. If the fair hearing right did apply, it is reasonably limited in two respects:

- the investigation by the commission and investigating panel would not be in public (unless otherwise ordered by the investigating panel), but that is to achieve the legitimate purpose of not undermining confidence in the judiciary; and
- the bill provides that a complaint must be dismissed if it is made by a person declared to be a 'vexatious complainant' by the commission. If there is a fair hearing right of access to the commission, it is not absolute. The limitation is important to protect the commission from having to spend a disproportionate amount of time on complaints from vexatious complainants. The limitation also ensures subject officers are not harassed by repeated claims that have no reasonable basis.

The bill provides that the commission may revoke or suspend a declaration that a person is a vexatious complainant.

For these reasons, I consider the fair hearing right most likely does not apply to the commission, but even if it does apply, the bill is compatible with it.

Right to freedom from self-incrimination — section 25(2)(k) of the charter

The bill provides that a person is not excused from answering a question or producing a document to an investigating panel appointed by the commission on the grounds that the answer or the document may incriminate that person.

The direct use of evidence obtained by compulsion in criminal proceedings for an offence (but not disciplinary proceedings) would limit the right to freedom from self-incrimination in section 25(2)(k) of the charter.

Thus, whilst the bill allows evidence to be compelled and used for the purposes of the proceedings of an investigating panel, it imposes limits in relation to the use of that evidence in future criminal proceedings. Relevantly, it prohibits the direct use of evidence obtained by the investigating panel against the person before any court or person acting judicially, except in proceedings for:

- perjury or giving false information;
- an offence against the Judicial Commission of Victoria Act 2015;
- an offence against the Independent Broad-based Anti-corruption Commission Act 2011 or the Victorian Inspectorate Act 2011;
- an offence against section 72 or 73 of the Protected Disclosure Act 2012; or
- a disciplinary process or action.

The bill also provides that the derivative use of evidence obtained under compulsion is not permitted, except in relation to evidence given by the judicial officer or VCAT member under investigation.

Derivative use in any criminal proceeding (but not disciplinary proceedings) of any evidence obtained by compulsion is also a limitation on the rights in section 25(2)(k), as interpreted by the trial division of the

Supreme Court in the Matter of Major Crimes (Investigative Powers) Act 2004 (2009) 24 VR 415.

An absolute prohibition on the use of derivative material could encourage the admission of wrongdoing to 'sterilise' any future criminal investigation concerning disclosed misconduct. Admissions made during formal investigating panel hearings will often be the only source of information available to law enforcement to initiate a criminal investigation. The purpose of limiting the right in relation to judicial officers and members of VCAT is to ensure that those officers can be held accountable in a criminal proceeding, and it is therefore in the public interest to ensure evidence is available in such a proceeding.

Where incriminating material is elicited through a process that has, as its aim, the broader advancement of the administration of justice, there would be serious ramifications in seeking to require law enforcement bodies to ignore evidence relating to judicial misconduct that came to light.

By not extending the derivative use of compelled material to judicial officers and VCAT members, the bill recognises that those who hold high public office should be subject to a higher level of scrutiny. The right is limited only to the extent necessary to achieve this scrutiny. The limitation does not extend to removing the protections given to other witnesses, who may be the judge's family, friends, neighbours or colleagues.

The power to compel incriminating material balances the public interest in protecting the administration of justice with the public interest in the right of an accused to a fair trial.

Right not to have privacy unlawfully or arbitrarily interfered with and the right not to have one's reputation unlawfully attacked — section 13 of the charter

Privacy — investigation of non-judicial conduct relating to private life

The bill permits the investigation of complaints and referrals that relate to the private life of judicial officers and VCAT members, but only if the matter complained of relates to the grounds on which an officer may be removed from office (that is, misbehaviour or incapacity), and could have affected the performance of official functions, or could have infringed on standards of conduct expected of that officer.

Accordingly, any interference with privacy will not be arbitrary.

Privacy — document production, compelled testimony, warrants and search and enter powers

An investigating panel may exercise coercive document production powers, which may, in particular circumstances, impact on the right to privacy, as a person may be compelled to disclose private information at a public hearing. The bill only gives coercive power to obtain documents and compel testimony to the investigating panel, which only investigates those matters that involve serious allegations that could, if substantiated, justify removal from office. As well, most investigating panel hearings will not be public.

An investigating panel will consider significant matters of public importance. The power to compel evidence, including oral testimony, is a crucial aspect of the functions of the investigating panel and is necessary for the appropriate resolution of matters. Any consequent breaches of personal privacy are pursuant to the statutory objective of securing the public interest in the proper administration of justice, and are not arbitrary. A person may object to the production of evidence which is not relevant to the investigation. An investigating panel must afford procedural fairness. The powers to obtain evidence are clear and authorised by law.

The bill includes a number of privacy safeguards. For example, the bill provides appropriate limitations on when information can be publicly disclosed by the commission or an investigating panel. The bill also places important limitations on when an investigating panel can hold a public hearing, to minimise the risk of personal information being made publicly available and the risk of a person's reputation being unreasonably damaged. An investigating panel can only hold a public hearing if it is satisfied that there are exceptional circumstances and it is in the public interest to do so, having regard to certain specified matters.

Privacy — requirement to undergo medical examination

The bill specifies that a medical examination can be required, and a copy of any medical report provided to the commission or investigating panel, only if the officer concerned may be suffering from an impairment, disability, illness or condition that may significantly affect the officer's performance of official functions and the requirement is appropriate in all the circumstances.

The bill provides that an investigating panel may not use its coercive powers to obtain medical reports that predate an investigation. This ensures officers are not discouraged from seeking medical assistance in relation to health issues that may have no effect on the performance of official functions.

These limitations ensure that requiring the provision of a medical report will not be an arbitrary interference with privacy. The officer will also be provided with a copy of the medical report and may submit to the investigating panel a further medical report addressing the matters set out in the first report.

As noted above, privacy safeguards will limit the ability of the commission and its staff to disclose information obtained in the course of performing their duties, and the circumstances in which the investigating panel can hold a public hearing.

Privacy — release of information about commission and investigating panel decisions

Information may be released by the commission to the complainant, the officer concerned, the head of jurisdiction, and the public in certain circumstances, but only after having regard to considerations including the immediate and longer term impacts on public confidence in the judiciary, and privacy considerations. In appropriate cases, this may include details of substantiated poor conduct by an officer. The bill reinforces expected standards of behaviour and decreases the likelihood of repeated incidents occurring. Suppression of substantiated incidents of poor judicial behaviour would remove an important democratic safeguard, and risk compromising high judicial standards.

An adverse report from an investigating panel about a judicial officer must be tabled in Parliament. However, the bill ensures that reputations are not unlawfully or arbitrarily damaged, by providing that an investigation must adhere to

the requirements of procedural fairness, and must allow the person being investigated a right to respond to allegations and make submissions.

Information about matters involving protected disclosures against judicial officers and VCAT members may not be released, unless certain limited exceptions apply. This reflects the need to provide greater protection for people who make protected disclosures, and to encourage the reporting of wrongdoing which might not otherwise be brought to light.

The bill also provides for a disclosure regime that ensures that information is released or restricted having regard to legitimate public interest considerations. Where personal information is disclosed, there would need to be a public benefit having regard to such factors as the need to maintain a credible complaints resolution process, and public confidence in the judiciary.

Right not to be deprived of property other than in accordance with law — section 20 of the charter

This right requires search and seizure powers to be clear, confined, formulated precisely, and accessible to the public.

An investigating panel may inspect, retain, and copy relevant documents and things found in the execution of a search warrant. The bill clearly sets out the scope and operation of this power, including the circumstances in which property may be seized. The occupier of the relevant premises must be provided with receipts for any seized items, as well as copies of any seized documents or things (where a copy can be readily made) as soon as practicable, unless contrary to the public interest.

Seized property must also be returned if the retention is no longer necessary for the purposes of the investigation or if the property is required as evidence in a legal proceeding.

Any interference with the right to property is strictly confined, and does not limit this right.

Right to equal and effective protection against discrimination — section 8(3) of the charter

Under the bill, an investigating panel may find that a person with a medical disability which creates an incapacity to carry out his or her official functions should, on that account, be referred to Parliament or (in relation to VCAT members) the Attorney-General for consideration of removal on the grounds of proved misbehaviour or incapacity.

Similarly, non-judicial members may be removed from the board of the commission, or the pool of people who may be appointed to an investigating panel, if they are physically or mentally incapable of satisfactorily carrying out their functions.

Discrimination under the charter relates to an attribute in section 6 of the Equal Opportunity Act 2010, such as disability.

A disability may or may not create an incapacity to perform official functions, and incapacity may or may not result from a disability, so investigation and removal on the grounds of incapacity may not be discrimination. Even if it does amount to discrimination, it is a reasonable and justifiable limit on the right in section 8(3) to equal protection against discrimination.

There is a compelling public interest, as with other positions of public trust such as health practitioners, in ensuring that judicial officers and VCAT members are able to perform their duties.

Freedom of movement — section 12 of the charter

The bill provides that an investigating panel may issue a summons to compel a person to attend and give evidence, and produce documents or other things. This could limit a person's right under the charter to move freely within Victoria and to leave Victoria. Any such limitation is reasonable having regard to the purpose of the relevant provisions, which is to ensure a judicial officer or member of VCAT is only removed from office on the best and most complete information that can be obtained.

The bill provides that an investigating panel may issue a summons if it is satisfied that it is reasonable to do so, having regard to the evidentiary value of the information, document or thing sought to be obtained. This prevents an investigating panel from issuing a summons arbitrarily. The person summonsed is free to leave at the conclusion of the investigation. Any restriction on freedom of movement is the least possible restriction necessary to achieve the purpose of providing important information to an investigating panel.

The Hon. Martin Pakula, MP
Attorney-General

Second reading

Mr PAKULA (Attorney-General) — I move:

That this bill be now read a second time.

Speech as follows incorporated into *Hansard* under sessional orders:

The Judicial Commission of Victoria Bill 2015 establishes a new, independent body to investigate complaints and concerns about judicial officers and members of the Victorian Civil and Administrative Tribunal.

A robust, independent, and accountable judiciary is essential to the proper functioning of any democracy. Judicial officers adjudicate disputes that have critical and sometimes life-changing outcomes for the participants involved, including disputes between a citizen and the government, or even the outcome of an election.

Victoria is fortunate to have a judiciary of the highest calibre. The establishment of the commission is not a response to a serious or systemic problem within the courts or VCAT. Rather, it is an acknowledgment that a modern justice system must include a transparent and accessible process for handling complaints.

The public expects the highest possible standards of behaviour from judicial officers and members of VCAT. To guard against any erosion in public confidence, a clear and independent process should apply to complaints about the conduct of judicial officers and VCAT members. The commission will increase accountability and implement a rigorous system for dealing with conduct that departs from the high standards of behaviour expected by the community.

The establishment of a commission to handle complaints against judicial officers is supported by the heads of jurisdiction, and demonstrates the ongoing commitment of the judiciary and VCAT to maintaining the highest levels of integrity.

Judges, magistrates and VCAT members are of course already subject to various forms of accountability. Their work is performed in public, they must give reasons for decisions, especially in the Supreme and County courts, and their decisions are usually subject to some type of appeal or review. They also take a judicial oath to act impartially and are already subject to removal by Parliament in grave circumstances.

This bill will overcome the absence of any formal mechanism to deal with judicial conduct that, although of concern, falls short of misbehaviour or incapacity that would justify the removal of a judicial officer. The new process established by the Bill will lead to valid concerns about officers' conduct being given appropriate attention, whilst protecting the judiciary from baseless or misguided complaints.

Currently, Victoria has a formal system for the investigation of only the most serious complaints, but lacks a visible and systematic process for handling less serious matters. The relevant head of jurisdiction handles the less serious complaints, according to a non-statutory process that differs in each court and VCAT.

The proposed commission is broadly modelled on the Judicial Commission of New South Wales, which has operated successfully for over 20 years. The New South Wales experience suggests that many complaints about the judiciary are complaints by parties disappointed with the outcome of their case. The commission will not be a substitute for the appeals process and will be unable to change a decision. The commission will focus on the conduct and capacity of judicial officers and members of VCAT, including matters such as excessive delay in giving judgement, court room demeanour, and health issues which may affect the performance of official functions.

The commission will be governed by a board comprising the six heads of jurisdiction and four community members of high standing. This membership will ensure both the protection of judicial independence, and input from community members who are not members or former members of the judiciary.

The commission will be supported by a small office comprising a director and staff, and will be administratively part of Court Services Victoria. The director of the commission will be chosen by the board. Sharing staff with Court Services Victoria precludes potential interference from executive government, thereby bolstering the independence of the commission.

Under the bill, any member of the public will be able to complain to the commission about the conduct of a judicial officer or member of VCAT. The commission may also receive and investigate referrals from the Attorney-General.

The bill provides for the Law Institute of Victoria and the Victorian Bar, who represent the legal profession in Victoria, to make complaints on behalf of their members without needing to disclose the identity of the member. This will encourage lawyers to raise concerns that may not otherwise have been raised.

The bill will combine processes for dealing with serious and less serious complaints, and invest them in a single complaints body, thereby modernising the system and creating a more efficient and structured approach across the court and tribunal system.

Heads of jurisdiction will be able to refer complaints and concerns directly to the commission, alleviating the investigative burden currently carried by the heads of jurisdiction. Heads of jurisdiction currently take responsibility for complaints handling within their courts, which is time consuming and may not satisfy complainants that their complaints are being handled independently. Heads of jurisdiction will also benefit from being able to discuss complaints about officers of their court or tribunal with the heads of other jurisdictions, who will join them on the board of the commission.

The commission will be able to conduct a limited enquiry, which may involve obtaining a transcript of a hearing, interviewing the officer concerned, or seeking further information from the complainant. The bill ensures that the officer is given an opportunity to provide his or her perspective on the complaint, which may be based on a misunderstanding of the legal system or the desire to re-agitate the issues in unsuccessful litigation.

Having considered a complaint or referral, the commission must do one of the following:

a. dismiss certain complaints, for example those that are trivial, vexatious, relate to a person who is no longer a judicial officer, or relate solely to the merits of a judicial decision;

b. refer complaints that have not been dismissed, and could, if true, warrant removal from office on grounds of misbehaviour or incapacity, to an investigating panel for a full investigation; or

c. refer less serious complaints, which have not been dismissed, to the judicial officer's head of jurisdiction with recommendations for follow-up actions.

Although serious complaints will be rare, interstate experience shows that the processes for investigating and removing a judicial officer must be established by legislation well in advance of any serious issue arising, in order to avoid the process itself becoming as controversial as the complaint.

An investigating panel will comprise three members appointed by the commission. One will be a community member of high standing, and the other two will be current or former judicial officers from Victoria or other Australian jurisdictions. The office and rank held by the officer the subject of the complaint will influence the membership selection for a particular investigating panel. A panel could not include a serving judicial officer from the same, or a lower, court than the officer being investigated. For example, an investigating panel examining a complaint against a magistrate may include one community member, one serving magistrate from New South Wales, and a retired Victorian County Court judge.

An investigating panel will only be convened when a very serious complaint is made. Any investigation will be truly independent — the commission will be unable to direct or control the members of any investigating panel.

An investigating panel will determine its own procedure when conducting hearings and will not be bound by formal rules of evidence, although the panel must provide procedural fairness to the officer being investigated. A panel will have coercive powers, such as the ability to compel the production of documents and the attendance of witnesses. This is necessary to ensure a panel is fully informed when making a report that could lead to the removal of a judicial officer.

In order for a judicial officer to be removed, the investigating panel must first find that there are facts that could justify removal of the judicial officer due to proved misbehaviour or incapacity. In such cases, a report must be presented to the Governor and to the Attorney-General, who must table the report in Parliament. Parliament will then consider the matter. A judicial officer can only be removed if a special majority (that is, 60 per cent) of both houses of Parliament agree.

An investigating panel will also be empowered to consider serious complaints against non-judicial members of VCAT, and panel members can include interstate tribunal members or retired VCAT members. If the panel finds that there are facts that could justify removal of the VCAT member due to proved misbehaviour or incapacity, the member may be removed from office by the Governor in Council, upon the recommendation of the Attorney-General. The Attorney-General must consult the president of VCAT before making such a recommendation.

If a complaint or referral is not dismissed, but would not warrant removal from office, the commission will refer the matter to the officer's head of jurisdiction. The referral can include the commission's assessment as to the appropriateness of the officer's conduct, and recommendations as to the future conduct of the officer.

The bill supports the role of the heads of jurisdiction by enhancing their powers to manage their courts and to respond to the recommendations of the commission. For example if the head of jurisdiction receives a substantiated complaint, the bill provides that he or she may counsel the officer. A head of jurisdiction may also exercise an existing power, for example, directing the officer to participate in professional development or continuing education or training.

The bill will not change important existing legislative protections for judicial officers. In particular:

> it will remain the case that a judicial officer can only be removed by the Governor in Council, acting upon a vote by a special majority of both houses of Parliament;
>
> it will be a prerequisite for a valid vote by Parliament that an independent body — the investigating panel — has concluded that facts exist which may warrant consideration of removal from office; and
>
> the only grounds on which a judicial officer can be removed are proved misbehaviour or incapacity.

As a further protection, the provisions in the bill relating to the functions, powers, and composition of the commission and the investigating panel will be placed in the Constitution Act 1975 and any future amendments to those provisions will require a special majority.

The bill will also strengthen the independence of judicial registrars by providing that these officers can only be removed on the same basis as other judicial officers. Currently, a judicial registrar can be removed by the Governor in Council on the recommendation of the Attorney-General, following a report from an independent person.

The bill will amend the Independent Broad-based Anti-corruption Commission Act 2011 to provide for a cooperative relationship between the commission and the Independent Broad-based Anti-corruption Commission (IBAC). The two bodies will be able to refer matters to each other and share information. IBAC is the principal anticorruption body in the state, and therefore the Bill provides that in some cases IBAC may require the Commission to adjourn its investigation. However, IBAC cannot include a finding of corrupt conduct or any other adverse finding against a judicial officer in a special report (i.e. a report to Parliament) or an annual report. It is therefore appropriate for the commission, a specialist body, to have parallel jurisdiction with IBAC over allegations of corruption involving the judiciary.

We are fortunate in Victoria that credible allegations of corruption or criminal conduct against judicial officer or VCAT members have been rare. The investigation of alleged corruption will primarily be the responsibility of the IBAC or Victoria Police.

On rare occasions, a situation may arise where, because of the need to maintain public confidence in the courts and VCAT, it would be inappropriate for an officer to continue to perform his or her functions while an investigation is underway. The bill provides a process to stand down a judicial officer or non-judicial VCAT member from some or all of his or her duties. Standing down will not affect payment of salary or entitlements. An officer who is not the head of a court or the president of VCAT, may be stood down by his or her head of jurisdiction where the commission or an investigating panel has recommended that this should occur, or where there is an urgent need to stand down the officer. The heads of jurisdiction may be stood down by the relevant council of judges or magistrates for the court of which they are a member. Standing down will only be permitted where the officer is subject to serious allegations.

The bill will provide a process for investigating both physical and mental health problems amongst judicial officers and non-judicial VCAT members. An officer could be required by the commission or an investigating panel to see a medical practitioner if the officer appeared to be suffering from an impairment, disability, illness or condition affecting their ability to perform their duties.

The bill provides all heads of jurisdiction with an administrative power to ensure the effective, orderly and expeditious discharge of the business of their court, and the power to do all things necessary or convenient to perform this responsibility.

This general power for heads of jurisdiction could extend to requesting judges to carry out particular duties from time to time, requesting judges to undergo breath-testing, and establishing structures and processes for managing the

business of their courts. In addition, the commission and an investigating panel will be able to require a judicial officer to undergo a medical examination.

A health issue which amounts to incapacity can be grounds for removal from office. However, health matters are only of concern if they directly impact upon the ability of an officer to perform his or her duties. The commission is not concerned with an officer's disability or physical condition, unless that impairs the officer's performance.

The bill will provide that a judicial officer who is removed from office on grounds of incapacity will receive the same pension, if any, that he or she would have received if he or she had resigned on grounds of ill-health under the current provisions for early retirement in the Constitution Act and the court acts. This avoids the potentially harsh outcome of a judicial officer losing their pension where he or she has been removed from office on grounds of incapacity, and not on grounds of misbehaviour.

Under the bill, the commission will provide an annual report to Parliament. The commission will also inform complainants about the outcome of their complaint and the actions taken in response. The bill will increase the transparency of the complaints process, although considerations such as the need to protect the health information of a particular officer will moderate the extent to which information is publicly released.

The bill draws on consultations with the heads of courts, the Victorian Civil and Administrative Tribunal and other stakeholders. These consultations provided crucial input into the development of this important reform.

The bill strikes the appropriate balance between establishing a robust process to address concerns about the performance and conduct of judicial officers, without interfering with existing mechanisms for judicial and appellate review under Victoria's justice system. This will ensure that there is a transparent system of accountability for judicial misconduct and incapacity while preserving the independence of our judiciary.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 24 December.

ROOMING HOUSE OPERATORS BILL 2015

Statement of compatibility

Ms GARRETT (Minister for Consumer Affairs, Gaming and Liquor Regulation) 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 Rooming House Operators Bill 2015.

In my opinion, the Rooming House Operators Bill 2015, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

1. Overview of the bill

This bill aims to improve the operation of rooming houses by implementing a licensing scheme for rooming house operators. It also introduces various other measures aimed at fostering professionalism and holding rooming house operators to account for their conduct and the conduct of persons involved in the management or operation of their rooming houses, as well as protecting the rights of rooming house residents. The bill makes a number of necessary consequential amendments to other acts.

Pursuant to the licensing scheme established by the bill, in order to lawfully operate a rooming house a person will need to be licensed by the Business Licensing Authority (the authority). Only applicants considered to be 'fit and proper' according to prescribed statutory criteria will be eligible to be licensed by the authority, and it will be an offence to operate a rooming house without a licence.

The bill also establishes a register of rooming house operators with certain information to be made publicly available. It provides necessary powers for the director of Consumer Affairs Victoria (CAV) to monitor and enforce compliance with the licensing scheme, and creates a disciplinary regime that can ultimately result in the cancellation of a licence by order of the Victorian Civil and Administrative Tribunal.

2. Human rights issues

Right to privacy and reputation

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

Several clauses of the bill provide the authority with broad powers to access the private information of individuals in order to determine licence and licence renewal applications and regulate licences. Additionally, the bill provides CAV inspectors with powers of entry, search and seizure that may interfere with the privacy of individuals.

Obtaining, using and sharing the personal information of applicants, licence-holders and their associates

Division 2 of part 3 of the bill sets out the application processes for obtaining a rooming house operator licence, as well as for the renewal of a licence. An application for a licence or renewal must be accompanied by prescribed particulars and evidence, including the consent of the applicant to the authority checking or confirming any information provided by the applicant. Division 3 sets out the process by which the authority may conduct inquiries concerning an application to enable it to be satisfied that the applicant is a fit and proper person to be granted a licence or have a licence renewed, including the power to request further information from the director of CAV, a local council and the Chief Commissioner of Police.

Although the right to privacy is relevant to the provisions governing licence and renewal applications, applicants who are seeking to participate in a regulated industry have a diminished expectation of privacy. The information that will

be initially sought by the authority is only information that is necessary for or relevant to the determination of the applications, and any subsequent exercise of the information-gathering powers are a direct consequence of their application.

In assessing whether an applicant for a licence or licence renewal is a fit and proper person, the authority must consider certain private information of all 'relevant persons' who include: in the case of a natural person, the applicant or licensee as well as the person who is the manager or proposed manager of a rooming house; and, in the case of a body corporate, the body corporate as well as the manager or proposed manager and an officer of the body corporate. Following the establishment of the licensing regime, as with the applicants who intend to hold a licence or seek licence renewal, persons who involve themselves in a business operating a rooming house by holding a relevant financial interest or power should be aware of the regulations that will now apply to the industry. Further, each relevant person is required to provide consent for the authority to verify their identity. As such, relevant persons are likely to have a relatively limited expectation of privacy regarding the information obtained and reviewed by the authority in assessing applications.

Given that there is a reduced expectation of privacy in this context, and the applicants and relevant persons will have given their consent for their information to be checked or verified, in my opinion there will be no limitation on the right to privacy or reputation where the relevant information is obtained, reviewed and shared within the confines of the relevant provisions.

Ongoing reporting obligations and inquiry powers

During the course of a licence, the bill requires a licensee to notify the authority within 14 days after becoming aware that the licensee, the manager of the rooming house, or, in the case of a body corporate, an officer of the body corporate, has ceased to be fit and proper because they now meet one or more of the renewal disqualification criteria. A licensee must also notify the authority within 14 days where there is a change to the managers of the rooming house or to officers of the body corporate. It will be an offence to fail to comply with either of these notification obligations.

Upon receiving a notification that a new person has become a manager of a rooming house or an officer of a body corporate licensee, the bill provides the authority with inquiry powers that mirror those powers that apply in the context of assessing initial licence and licence renewal applications, to make sure that similar scrutiny applies where there is a change in personnel with management or control of rooming houses.

Following a notification under clause 22, clause 26 enables the authority to determine whether the new manager or officer meets any of the licence disqualification criteria. The authority must notify both the licensee and the director of CAV of its determination, which may lead to CAV applying to VCAT for a disciplinary hearing. The circumstances in which the mandatory reporting obligations and subsequent inquiry powers apply are clearly set out in the bill, and are aimed at ensuring the licensing scheme operates in a responsive and protective manner. The provisions ensure that managers or officers who have been assessed by the authority as fit and proper for the purpose of obtaining a licence, are not later replaced by unfit persons. For the reasons set out above, to the extent that these provisions could be considered to interfere with a person's privacy, the interference would not constitute an unlawful or arbitrary interference.

Register of licensed rooming house operators

Clause 43 requires the licensing registrar to establish and keep a register of licensed rooming house operators that contains certain prescribed particulars. Clause 44 requires that certain information from the register must also be published on the authority's website. The information to be listed on both the register and the website will include not only information relating to current licence-holders but also information in respect of licences that are cancelled or that the authority has refused to renew (including the grounds on which the licence was cancelled or refused to be renewed).

The purposes of the register include recording necessary information to monitor compliance with the licensing scheme and to allow the authority and CAV to fulfil their obligations. The register will also make information about licence-holders, or former licence-holders, available to the public. This serves the important purpose of promoting transparency, which will in turn assist residents (and agencies acting on their behalf) to make informed decisions about appropriate rooming house placements.

Not all of the information disclosed in the register will be of a private nature. Nevertheless, to the extent that the right to privacy is relevant to the information required to be listed on the register, I believe that any interference with that right is lawful and not arbitrary. The particulars which are to be listed on the register and the website are clearly set out in clauses 43 and 44, and their listing is therefore a known condition of any person seeking to be licensed as a rooming house operator. The collection and publication of information on the register is necessary for and tailored to ensuring compliance with the licensing scheme and promoting transparency, and accordingly does not constitute an arbitrary interference with privacy.

Compliance and enforcement powers of inspectors

Part 6 of the bill provides for the powers of CAV inspectors to monitor compliance and investigate potential contraventions of the bill. Clause 46 requires a licensee to keep all documents relating to the business of operating a rooming house and make them available for inspection at all reasonable times. Former licensees whose licences have been cancelled, expired or refused to be renewed in the last three years must also make all documents relating to the former business of operating a rooming house available for inspection in a form and at a place where they can be readily inspected.

Under clauses 47 and 48, licensees, former licensees, officers of body corporate licensees and third parties who have possession, custody or control of documents relating to a licensee's business of operating a rooming house, can be required to produce documents and answer questions relating to the licensee's business of operating a rooming house. The bill also provides for specified public bodies, certain other specified persons or bodies, and authorised deposit-taking institutions to produce information upon request of an inspector for the purpose of monitoring compliance with the bill or regulations. Clause 54 permits an inspector, with the written approval of the director of CAV, to apply to the Magistrates Court for an order requiring a person to answer

questions or supply information relating to a licensee's business of operating a rooming house. Following consideration of evidence, if a magistrate is satisfied that such an order is necessary for the purpose of monitoring compliance with the regime, the magistrate may grant an order requiring supply of information and answers.

The bill also provides for the entry, search and seizure powers of CAV inspectors. Inspectors may exercise powers of entry to any premises with the consent of the occupier, or where entry to the premises is open to the public. In the case of premises at which a licensee is conducting a business of operating a rooming house, inspectors may, for the purpose of monitoring compliance and only between the hours of 9.00 a.m. and 5.00 p.m., enter and search those premises without consent and seize items and inspect or make copies of documents. However, this power does not extend to a room in a rooming house that persons reside in, other than a room in which the rooming house operator resides and from which the operator operates the rooming house. For premises that are not those at which a licensee is conducting the business, where an inspector believes on reasonable grounds that there is evidence on those premises of a contravention of the bill or regulations, inspectors may apply to the Magistrates Court for a search warrant.

In my view, while the exercise of these compliance and enforcement powers may interfere with the privacy of an individual in some cases, any such interference will be lawful and not arbitrary. As noted above, the purpose of the inspection powers is to enforce compliance with the bill and relevant licence conditions, to ensure rooming houses are operated in a safe and professional manner, and the rights of rooming house residents are protected. Licensees and others involved in the business of operating the rooming house have a diminished expectation of privacy in the regulatory context, and it is reasonable that they can be required to produce information and permit entry to business premises for compliance purposes. In the case of persons who are not involved in operating the rooming house, inspectors' powers to require third parties to answer questions or provide information are limited to those individuals who have control over relevant documents and information, or bodies that are likely to hold relevant information, and only for the purpose of monitoring compliance. If it becomes necessary for enforcement purposes to require any other third party to answer questions or produce information, the bill only provides inspectors with these powers where a magistrate has first made an order.

Right to property

A number of provisions in the bill provide for the seizure of documents and things and may therefore interfere with the right to property. Section 20 of the charter provides that a person must not be deprived of their property other than in accordance with law. This right requires that powers which authorise the deprivation of property are conferred by legislation or common law, are confined and structured rather than unclear, are accessible to the public, and are formulated precisely.

Search and seizure powers of inspectors

The bill provides that CAV inspectors may, for the purpose of monitoring compliance, enter any premises with consent and examine and seize anything found on the premises believed to be connected with a contravention of the bill or regulations, provided the occupier consents to the seizure. The bill also provides, in the case of premises at which a licensee is conducting a business of operating a rooming house, that an inspector may enter and seize or secure against interference anything believed to be connected with a contravention of the bill or regulations. In addition, seizure of items may occur in accordance with a search warrant issued by a magistrate where there are reasonable grounds to believe that there is a thing connected with the contravention of the bill or regulations on any premises.

In each provision that permits inspectors to seize or take items or documents, the powers of inspectors are strictly confined. For instance, before items are seized with consent, inspectors must first inform the occupier that they may refuse to give consent and that anything that is seized may be used in evidence. Where a magistrate issues a search warrant, only things named or described in the warrant, or things that are of a kind which could have been included in the search warrant, are permitted to be seized, and the rules in the Magistrates' Court Act 1989 that govern the use of search warrants will apply. Entry and seizure without consent or warrant is only permitted in the case of premises at which a licensee is conducting a business of operating a rooming house, and the powers of inspectors are appropriately circumscribed to only permit seizure of, or secure against interference, material necessary to investigate breaches of the bill.

Embargo notices

Where a search warrant authorises the seizure of a thing that cannot, or cannot readily, be physically removed, clause 63 of the bill provides for an inspector to issue an embargo notice prohibiting a person from selling, leasing, transferring, moving, disposing of or otherwise dealing with the thing or any part of the thing. Performing a prohibited act in relation to a thing, where a person knows that an embargo notice relates to the thing, is an offence. Further, the bill renders any sale, lease, transfer or other dealing with a thing in contravention of clause 63 void.

The bill enables an inspector, for the purpose of monitoring compliance with an embargo notice, to apply to the Magistrates Court for an order requiring the owner of the thing, or the owner of the premises where it is kept, to answer questions or produce documents, or any other order incidental to or necessary for monitoring compliance with the embargo notice or clause 63. An inspector may also, with the written approval of the director of CAV, apply to a magistrate for the issuing of a search warrant permitting entry to where the embargoed thing is kept, for the purposes of monitoring compliance with an embargo notice.

To the extent that the restriction on selling, leasing, transferring, moving, disposing of or otherwise dealing with the thing that is subject to an embargo notice constitutes a deprivation of property, any such deprivation is for the purposes of ensuring that enforcement action under the bill is not frustrated due to disposal of evidence. These restrictions can only occur in clearly circumscribed circumstances, and monitoring of compliance with embargo notices is subject to the supervision of the Magistrates Court. Any such deprivation will therefore be lawful and will not limit section 20 of the charter.

Requirements for retention and return of seized documents or things

Clause 66 of the bill imposes a number of requirements that inspectors must comply with where they have retained possession of a document or item in accordance with any of the seizure or retention powers conferred by the bill. These requirements will ensure that a person is provided with a certified copy of any documents seized or taken from them, and that inspectors take reasonable steps to return documents or things to the person from whom it was seized either if the reason for their seizure no longer exists, or in any event return them within three months unless an extension is granted by a magistrate.

In my opinion, for the reasons outlined above, any interference with property occasioned by the bill is in accordance with law and is therefore compatible with the charter.

Right not to be punished more than once

Section 26 of the charter provides that a person has the right not to be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law.

Clauses 17 and 18 of the bill set out the disqualification criteria for rooming house operator licence applications and renewal applications. According to these criteria, an applicant is disqualified from being eligible for a licence in circumstances including where a relevant person has previously been convicted or found guilty of certain specified offences.

The right in section 26 of the charter has been interpreted as applying only to punishments of a criminal nature and does not preclude the imposition of civil consequences for the same conduct.

I do not consider that the consequences under these clauses are punitive so as to engage section 26. Their purpose is not to punish the convicted person, but to protect rooming house residents and the integrity of the licensing regime by ensuring that only appropriate persons are able to hold licences. Disqualification is based solely upon the fact of a conviction or finding of guilt for particular kinds of offences, rather than a consideration of the individual offending of the relevant person. However, the kind of offending which is caught is either the standard criteria employed across a number of occupational licensing schemes regulated by the authority (modified slightly to encompass a larger number of offences to reflect the vulnerability of many rooming house residents) and other laws that impose specific obligations on persons who operate rooming houses. These provisions are therefore targeted at, and consistent with, the purpose of establishing the licensing scheme, namely to professionalise the rooming house sector by ensuring that no unfit persons are granted licences and to protect the rights of rooming house residents.

Accordingly, I am of the opinion that the disqualification criteria are compatible with the right in section 26 of the charter.

Clause 33 provides for VCAT to take disciplinary action against a licensee. Such action can be taken where VCAT is satisfied that a relevant person has contravened the bill or regulations, including where a person has been convicted or found guilty of an offence. Where an action under clause 33 follows a conviction for an offence under another provision, a question arises as to whether a disciplinary action constitutes double punishment for the purposes of the right in section 26 of the charter.

The actions that may be taken by VCAT under clause 33 are of a regulatory nature and are for the purpose of protecting the integrity of the licensing scheme and the rights of rooming house residents by ensuring there is appropriate accountability, rather than being aimed at punishing the licensee. VCAT's powers under the bill are supervisory and protective in nature and any such disciplinary action under the bill does not amount to a finding of criminal guilt. Further, even if some of the actions that may be taken against a licensee under clause 33 amount to a sanction, those sanctions are not of a criminal nature and the right in section 26 of the charter does not preclude imposition of civil consequences for the same conduct.

I therefore consider that clause 33 does not engage section 26 of the charter.

Presumption of innocence — reverse onus

The right in s 25(1) of the charter is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to prove matters to establish, or raise evidence to suggest, that he or she is not guilty of an offence.

Clause 68(2) of the bill makes it an offence for the occupier of a premises where an inspector is exercising a right of entry for compliance enforcement purposes, or an agent or employee of the occupier, to, without reasonable excuse, refuse to comply with a requirement of the inspector. These requirements include giving oral or written information to the inspector, producing documents to the inspector, and giving reasonable assistance to the inspector.

By creating a 'reasonable excuse' exception, the offence in clause 68 may be viewed as placing an evidential burden on the accused, in that it requires the accused to raise evidence as to a reasonable excuse. However, in doing so, this offence does not transfer the legal burden of proof. Once the accused has pointed to evidence of a reasonable excuse, which will ordinarily be peculiarly within their knowledge, the burden shifts back to the prosecution who must prove the essential elements of the offence. I do not consider that an evidential onus such as this provision limits the right to be presumed innocent, and courts in other jurisdictions have taken this approach.

For these reasons, in my opinion, clause 68 does not limit the right to be presumed innocent.

Right to protection against self-incrimination

Section 25(2)(k) of the charter provides that a person charged with a criminal offence is entitled not to be compelled to testify against himself or herself or to confess guilt. This right is at least as broad as the common-law privilege against self-incrimination. It applies to protect a charged person against the admission in subsequent criminal proceedings of incriminatory material obtained under compulsion, regardless of whether the information was obtained prior to or subsequent to the charge being laid.

The right in section 25(2)(k) of the charter is relevant to clause 72, which applies to the enforcement powers of CAV inspectors provided by part 6 of the bill.

Clause 72 provides that it is a reasonable excuse for a person to refuse or fail to give information or do any other thing that the person is required to do under part 6, if the giving of the information or the doing of the thing would tend to incriminate the person. However, this protection does not apply to the production of a document that the person is required to produce under part 6, and is therefore a limited abrogation of the privilege against self-incrimination.

The privilege against self-incrimination generally covers the compulsion of documents or things which might incriminate a person. However, the application of the privilege to pre-existing documents is considerably weaker than that accorded to oral testimony or documents that are required to be brought into existence to comply with a request for information. I note that some jurisdictions have regarded an order to hand over existing documents as not constituting self-incrimination.

The primary purpose of the abrogation of the privilege in relation to documents is to facilitate compliance with the scheme by assisting inspectors to access information and evidence that is difficult or impossible to ascertain by alternative evidentiary means. Taking into account the protective purpose of the bill, there is significant public interest in ensuring that rooming houses are being operated in compliance with the provisions of the bill and the regulations.

There is no accompanying 'use immunity' that restricts the use of the produced documents to particular proceedings. However, any limitation on the right in section 25(2)(k) that is occasioned by the limited abrogation of the privilege in respect of produced documents is directly related to its purpose. The documents that an inspector can require to be produced are those connected with a licensee's business of operating a rooming house, and for the purpose of monitoring compliance with the bill or regulations. Importantly, the requirement to produce a document to an inspector does not extend to having to explain or account for the information contained in that document. If such an explanation would tend to incriminate, the privilege would still be available.

Further, clause 46 of the bill creates an obligation for licensees to keep all documents relating to the business available for inspection, and for former licensees to make documents relating to the former business available for inspection. The duty to provide those documents is consistent with the reasonable expectations of persons who operate a business within a regulated scheme. Moreover, it is necessary for the regulator to have access to documents to ensure the effective administration of the regulatory scheme.

There are no less restrictive means available to achieve the purpose of enabling inspectors to have access to relevant documents. To excuse the production of such documents where a contravention is suspected would allow persons to circumvent the record-keeping obligations in the bill and significantly impede authorised officers' ability to investigate and enforce compliance with the scheme. Any limitation on the right against self-incrimination is therefore appropriately tailored and the least restrictive means to achieve the regulatory purpose.

For the above reasons, I consider that to the extent that clause 72 may impose a limitation on the right against self-incrimination, that limitation is reasonable and justified under section 7(2) of the charter.

Right to a fair hearing

Section 24(1) of the charter provides that a person charged with a criminal offence or a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

Clause 33 of the bill provides for disciplinary powers of VCAT where there are grounds for taking action against a licensee, including the power to impose on a licensee who has contravened the bill or regulations a financial penalty of up to $10 000. Where VCAT has ordered a licensee to pay a penalty, and the licensee fails to pay the penalty within a prescribed time limit, subclause 33(4) provides that VCAT may cancel the licence without giving the licensee an opportunity to be heard.

The right to a fair hearing under section 24(1) of the charter is therefore relevant; however, in all of the circumstances, I am of the opinion that this clause does not limit the right to a fair hearing.

First, the licensee will have previously had an opportunity to be heard during the disciplinary proceeding and to make submissions on the appropriate sanction. Further, when determining to impose a penalty payment, VCAT must specify in the order by which date the penalty must be paid, and the possibility of cancellation in the event of non-payment is clearly set out in the provision. The bill therefore ensures the licensee has clear and effective notice of both when the penalty must be paid, and the consequences of non-payment. Finally, subclause 33(4) does not operate to automatically cancel a licence in the event of non-payment of a penalty. VCAT, which is itself bound by the rules of natural justice, will retain discretion to determine whether or not to cancel a licence. These safeguards ensure there will be no unfairness in the operation of the provision, notwithstanding the absence of a further hearing.

I therefore consider that this clause does not limit the right to a fair hearing.

Equality

Section 8(3) of the charter provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination.

Clauses 17(1)(d) and 18(1)(b)(iii) of the bill disqualify a person from obtaining or renewing a licence on the grounds that they are a represented person within the meaning of the Guardianship and Administration Act 1986 (guardianship act). A represented person is a person subject to a guardianship or administration order under the guardianship act. Persons subject to such orders are persons with disabilities who are unable to make reasonable judgements about certain matters.

In my view, these disqualification criteria do not limit the right to equality. A represented person is disqualified under clauses 17 and 18 of the bill because of his or her inability to make reasonable judgements about certain matters, rather

than because of his or her disability. The provisions recognise the fact that a represented person cannot carry out the functions required of a rooming house operator licence-holder.

Accordingly, clauses 17 and 18 do not discriminate against represented persons.

Protection of families and children

In recent years, there has been a significant growth in the number of people who would previously have rented privately residing in rooming houses, including families. By creating a regime to foster professionalism and accountability in the operation of rooming houses, the bill may promote the right in section 17 of the charter. Section 17 provides that families are entitled to be protected by society and the state, and that every child has the right to such protection as in his or her best interests and is needed by him or her by reason of being a child.

The bill also protects residents of rooming houses, including families, where disciplinary action is taken against licensees. For example, in the event that VCAT orders the cancellation of a licence, clause 34 allows VCAT to make orders necessary to protect residents of the rooming house. These powers will enable VCAT to ameliorate the effect on residents of a licence being cancelled and the rooming house either being closed or a different licensee being installed to operate the rooming house.

Conclusion

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

Jane Garrett, MP
Minister for Consumer Affairs, Gaming and Liquor Regulation

Second reading

Ms GARRETT (Minister for Consumer Affairs, Gaming and Liquor Regulation) — I move:

That this bill be now read a second time.

Speech as follows incorporated into *Hansard* under sessional orders:

In 2014, the now Premier made an election commitment to, if elected, legislate a 'fit and proper person' test for rooming house operators, to be administered by the Business Licensing Authority.

This bill delivers on that commitment.

I would like, first, to provide some context for the bill.

Members may not be aware that currently there are no laws regulating who can and cannot operate a rooming house.

This means that, provided that a person has the legal capacity to either lease or buy residential premises, he or she is able to operate a rooming house from that premises, subject to its being registered with the relevant local council and meeting assorted other legal requirements.

In 2009, the Brumby government established the Rooming House Standards Taskforce as part of its stated 'strategy to take action on those predatory operators of intentionally substandard rooming houses who prey on some of the most vulnerable members of our community'.

The task force was asked to report on solutions for problems associated with poor quality rooming house accommodation and services.

In its September 2009 report to government, the task force expressed serious concern about the manner in which some rooming houses were being operated.

It had found evidence of some rooming house operators: overcrowding rooms, in breach of public health laws; undertaking illegal building works, to facilitate the housing of larger numbers of residents; profiteering (i.e. seeking excessive rents) and engaging in other poor management practices; and not maintaining premises in adequate repair, resulting in squalid conditions.

The task force made 32 recommendations on ways to improve rooming house accommodation and services in Victoria.

A key recommendation was for rooming house operators to be registered by the state, as a means of driving improved professionalism and reducing exploitative practices in the rooming house sector.

This bill will address that recommendation, and similar recommendations made to government by parties as diverse as a Victorian coroner, and housing and social advocacy organisations.

I turn now to the features of the bill.

In essence, the bill establishes a licensing scheme for rooming house operators under which only 'fit and proper persons' will be eligible to be licensed, or have existing licences renewed.

It will be an offence, attracting significant penalties, to operate without a licence.

The term 'rooming house operator' is defined in the bill to be a natural person who, or a body corporate that, conducts the business of operating a rooming house, whether or not the rooming house operator owns the property on which the rooming house is located.

As I foreshadowed, the Business Licensing Authority will be responsible for determining licence and licence renewal applications, and the scheme will be enforced by the director of Consumer Affairs Victoria.

The question of whether an applicant is a 'fit and proper person' under the bill — and therefore eligible to be licensed — will be determined by reference to a set number of objective criteria, known respectively as the 'licence disqualification criteria' and 'renewal disqualification criteria'.

Importantly, an applicant for a licence or licence renewal will not be a fit and proper person if it, or any person it engages to

manage a rooming house on its behalf, or any of its officers (if the applicant is a body corporate) meets any of the licence disqualification criteria or renewal disqualification criteria, as the case may be.

I would now like to consider in greater detail the licence and renewal disqualification criteria.

Consistent with other occupational licensing schemes administered by the authority, the criteria will ensure that persons who have convictions for certain serious offences, for example, offences involving drugs, violence or dishonesty are not eligible to be licensed, where those convictions were recorded in the 10 years preceding an application for a licence.

Convictions for other serious offences, including sexual and child pornography offences, will also preclude a person from obtaining a licence, in recognition of the heightened vulnerability of many rooming house residents.

Importantly, the criteria also address what has become a key problem in the rooming house sector, namely: the continued refusal of some rooming house operators to comply with their legal obligations.

Where a court has found that there has been a contravention of specific rooming house-related laws within the preceding five years, a rooming house operator will not be eligible to be licensed. Where this has occurred during the course of a licence, a licensee will not be eligible to have their licence renewed.

This aspect of the licence and renewal disqualification criteria is designed to send a signal that continued recalcitrance on the part of some operators in this sector to meet clear legal requirements will no longer be tolerated.

Once a person or entity is licensed under the bill, that person or entity will have an ongoing obligation to notify the authority when a person becomes, or ceases to be, an officer of the entity or a manager of a rooming house it operates.

When the authority is notified that a new manager or officer has been installed by a licensee, the authority will undertake enquiries to determine whether that person meets any of the licence disqualification criteria, and notify the director of Consumer Affairs Victoria of the results of those enquiries.

Significant penalties will apply to a failure to notify the authority of any such changes, as well as to the failure to remove a new officer, or ensure that a new manager ceases to take part in the management of a rooming house, in circumstances where the authority has determined that the new officer or manager meets the disqualification criteria.

To assist the director of Consumer Affairs Victoria to enforce compliance with the licensing scheme, the bill includes a suite of enforcement powers. Search powers have been provided, although care has been taken to ensure that these powers will be exercised consistently with the rights of rooming house residents.

The bill provides wide grounds on which the director of Consumer Affairs Victoria may instigate proceedings at the Victorian Civil and Administrative Tribunal to take disciplinary action against a licensee.

In most circumstances, the tribunal will have the discretion to make whatever disciplinary order it considers appropriate in respect of a licensee.

However, the tribunal will be required to cancel a licence where it is established that a relevant person in relation to a licence (that is, the licensee itself or one of its officers or managers) meets a licence disqualification criteria or renewal disqualification criteria, as the case may be.

A person whose application for a licence or renewal of a licence is refused will be able to apply to the tribunal for a review of that decision. However, an application for review may be made only on the grounds that there has been an error of fact in relation to whether the licence or renewal disqualification criteria have been met.

Where a licensed rooming house operator's application to renew a licence fails, the director will be able to apply to the tribunal for 'protective orders' for the benefit of residents of their rooming house.

Such orders can also be made if the tribunal cancels a licence during a disciplinary hearing under the bill.

The bill provides for the establishment of a register of licensed rooming house operators, and enables the names of those persons to be published on the internet. This is designed to make the people who operate rooming houses transparent. It should be noted, however, that operators will be able to apply, where exceptional circumstances exist, to have their details suppressed from public view.

The transition of existing rooming house operators from an unregulated to a licensed environment is dealt with through transitional provisions giving existing rooming house operators a period of 120 days — from the date the bill commences — in which to apply for a licence.

Existing rooming house operators will be provided with ample time to understand the new scheme, before it comes into operation, to enable them to determine whether they wish to exit the sector or re-organise their affairs to ensure they are eligible to be granted a licence.

The bill provides that licences will be granted for an initial period of three years. If a licensee wishes to continue operating legally, the licensee must apply for renewal of the licence. A renewal may be granted for between three and five years, at the authority's discretion.

Licences will be personal to a licensee, which means they cannot be transferred to another person.

Importantly, a licence will not be linked to any particular premises which a licensee has registered with local government. A licensee may operate multiple rooming houses under the one licence.

Accordingly, in order to operate legally rooming house operators will be required to register their premises with local government as well as obtain a licence under this bill, issued by the authority.

This bill is an important step towards improving community confidence that persons who operate rooming houses meet minimum standards of personal and financial probity.

For rooming house residents, it is my sincere hope that this bill will improve your experience of living in a rooming house in the state of Victoria.

I commend the bill to the house.

Debate adjourned on motion of Mr NORTHE (Morwell).

Debate adjourned until Thursday, 24 December.

ACCESS TO MEDICINAL CANNABIS BILL 2015

Statement of compatibility

Ms HENNESSY (Minister for Health) 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 Access to Medicinal Cannabis Bill 2015.

In my opinion, the Access to Medicinal Cannabis Bill 2015, as introduced to the Legislative Assembly, 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 implements the recommendations of the recent Victorian Law Reform Commission report, *Medical Cannabis*, and provides for the cultivation, manufacture and supply of sound quality medicinal cannabis products within Victoria.

The bill provides for:

the regulation of the cultivation and manufacture of cannabis for medicinal cannabis products;

the procedures for determining who will be eligible to receive medicinal cannabis, including for research purposes; and

the procedures for authorising eligible persons to access medical cannabis products.

Human rights issues

Eligibility for medicinal cannabis — rights to privacy and equality

The bill provides for three types of authorisations for the supply and use of medicinal cannabis:

for eligible patients, where a patient has a particular medical condition and symptoms and it is appropriate to treat that patient with a medicinal cannabis product (section 78);

for research purposes, where persons may receive a medicinal cannabis product as participants in a medical trial (section 79); and

in exceptional circumstances, where a patient may not be an eligible patient but exceptional circumstances justify the patient being treated with a medicinal cannabis product (section 80).

The effect of these provisions is that a person's eligibility for medicinal cannabis will largely turn upon their having a certain medical condition and symptoms. Persons without such a medical condition or symptoms will not be eligible and will not be authorised to use medicinal cannabis unless they fall within the exceptional circumstances category. Unless a person is authorised to use medicinal cannabis, their use of cannabis is a criminal offence.

Section 8 of the charter recognises the right to be equal before the law and to equal and effective protection against discrimination. In basing eligibility upon a medical condition or symptoms, the bill engages the right to equality in section 8. However, I consider that basing eligibility for medical cannabis upon medical need does not amount to discrimination or, if it does, that discrimination is reasonable and justifiable for the purposes of section 7(2) of the charter. A person who does not have a medical condition or symptoms that are appropriate to treat with cannabis, cannot be regarded as being treated less favourably by reason of their disability or lack of it. Imposing a medical need requirement before being authorised to use cannabis is entirely reasonable, given the potentially harmful consequences of cannabis use.

Information gathering — right to privacy

Section 13 of the charter recognises the right of persons not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with. A number of provisions of the bill require or authorise the collection, use or disclosure of personal information. In particular:

The bill provides for the licensing of persons to undertake cultivation or manufacturing. In making or renewing such applications a person can be required to provide a range of information, undergo an inspection of premises and be subject to a police record check (see sections 27, 28, 36, 37, 48, 49, 56, 58) which is directed at assessing the suitability of that person and their associates (see sections 5 and 31, 40, 52, 61). This includes information about associates. Licensees must report certain events (section 99), including new associates.

The resources secretary is required to give an application for a cultivation licence or renewal (sections 28, 38) to the Chief Commissioner of Police and health secretary, and the health secretary is required to give an application for a manufacturing licence or renewal (sections 50, 58) to the Chief Commissioner of Police and the resources secretary. The chief commissioner is required and authorised to report on matters concerning the application.

It is a condition of a cultivation licence and a manufacturing licence that the licensee does not employ persons to carry out an activity unless satisfied that the person is suitable to carry out that activity (sections 33, 54). Employees of licensed cultivators and licensed manufacturers must be issued with an identification certificate, which includes personal information such as their name and date of birth (section 35, 56), and must carry the certificate during the performance of any

activity authorised by the licence and produce the certificate on the request of a medicinal cannabis inspector (section 104).

In order for a patient to obtain medical cannabis for treatment purposes, an authorisation must be obtained from the health secretary through the process set out in part 9. The process will involve the provision of a range of personal information about the patient (section 78). Where a medical practitioner is applying for medical cannabis for research purposes, the medical practitioner must obtain an authorisation from the health secretary, which will involve the provision of personal information about participants in the trial (section 79). Similarly, to obtain an authorisation on the basis of exceptional circumstances authorisation, it will be necessary to provide a range of personal information (section 80).

Where an authorisation is given, a patient medicinal cannabis access authorisation is issued to the patient. This then enables the patient to produce the authorisation to the pharmacist to obtain the medicinal cannabis product in accordance with the terms of the authorisation (section 88), and have it administered (section 89). The authorisation will contain a range of personal information (section 87).

The health secretary is required to keep a register of practitioner medicinal cannabis authorisations (section 83).

Cultivation inspectors (section 112) and manufacturing inspectors (115) are issued with identification certificates which must be produced to a person who requests it.

I consider that the provisions are compatible with the right to privacy in section 13 of the charter. While the provisions involve an interference with privacy, the interference is neither unlawful nor arbitrary. The information is necessary in order to properly administer the scheme and will be subject to a range of safeguards as to how it is kept, used or disclosed, in accordance with the Privacy and Data Protection Act 2014 and the Health Records Act 2001.

Eligibility for licence or employment — right to equality and freedom of association

The right to equality in section 8 includes protection against discrimination on the basis of age, marital status, parental status or carer status. Section 16(2) of the charter provides that every person has the right to freedom of association with others.

Sections 105 and 106 have the effect of prohibiting persons under the age of 17 (i.e. of school age) from being employed in the cultivation or manufacturing of cannabis, other than where they are an apprentice or trainee undertaking an approved training scheme within the meaning of the Education and Training Reform Act 2006. While this amounts to prima facie discrimination I consider that it is reasonable and justified under section 7(2) of the charter. Cannabis is a drug of dependence and has the potential to cause considerable harm, particularly where it is used by young people. It is important that young people, particularly those who are still of school age, are protected from that potential harm and that their exposure even to lawful drugs is subject to close supervision.

The licensing provisions of the bill prohibit the secretary from granting or renewing a cultivation or manufacturing licence unless satisfied of certain matters, including:

(a) neither the applicant nor any of the applicant's associates have been found guilty of a serious offence in Victoria or elsewhere within certain specified time periods (sections 31(1)(b), 40(1)(b), 52(1)(b), 61(1)(b)); and

(b) the applicant and each of the applicant's associates is a fit and proper person to be concerned in or associated with activities conducted under the licence (sections 31(2), 40(2), 52(2), 61(2)).

Licences can also be suspended on the basis of the suitability of an associate of the licensee (sections 14, 63).

These provisions do not prevent a person from associating with others, in accordance with the freedom of association in section 16(2) of the charter, but associations with certain persons who do not meet the criminal history or fit and proper person criteria will result in a licence being refused, suspended or cancelled.

An associate is defined in section 4 to include persons with relevant financial or business interests as well as the licensee's spouse, domestic partner, parent, step-parent, sibling, step-sibling, child, step-child or adopted child. The provisions in the bill may indirectly discriminate against persons who are married or have a domestic partner, or are a parent or a carer. It requires that their close family members are fit and proper persons and do not have criminal histories. However, I consider that in the context of cultivating and manufacturing drugs, it is appropriate to impose such a restriction. It is critical that all risks of illegal activity are minimised as far as possible. Those who have associates, be it immediate family members or persons with shared business or financial interests, are at risk of being subject to pressure or exploitation by those associates. While it cannot be assumed that a person will necessarily be influenced by an associate, the risk of that occurring is higher where there is a close family relationship or shared financial or business interests. It is a very difficult risk to monitor. Accordingly, I consider it is reasonable and justified to restrict the ability of persons to obtain a licence based upon the criminal history and suitability of the licensee's immediate family members.

Entry, search and seizure powers

The bill provides for cultivation and manufacturing inspectors who are given a range of powers to monitor compliance with licences. This includes powers in sections 113, 116, and 118:

to enter premises occupied by a licensed cultivator or manufacturer, other than premises used as a residence;

to intercept, inspect and examine vehicles which an inspector reasonably believes is being used in connection with the cultivation or transport of cannabis;

to require production of, examine and seize documents;

to take samples;

to obtain or copy information from a storage device;

to seize cannabis if the inspector believes on reasonable grounds that the licensee has contravened the act or

licence, or the licence has been suspended or cancelled. Pursuant to section 127 seized cannabis can be disposed of or destroyed.

These powers are for the purpose of determining compliance with the act or a licence, and are able to be exercised without obtaining a warrant. They engage the rights to privacy, freedom of movement, and property and the right not to incriminate oneself.

Right to privacy

The powers are restricted to premises, vehicles and documents in circumstances in which a person is likely to have no or limited expectation of privacy, but to the extent that privacy is interfered with it is lawful, reasonable and not arbitrary. Accordingly, I consider that the powers are compatible with the right to privacy in section 13 of the charter.

Freedom of movement

Section 12 of the charter protects the right of persons to move freely within Victoria. The power to intercept vehicles impacts upon freedom of movement. However, I consider that any restriction upon movement that occurs by reason of the exercise of the powers is reasonable and justifiable for the purposes of section 7(2) of the charter. It is important that inspectors are able to monitor compliance insofar as it involves transporting cannabis, and this necessarily involves being able to intercept vehicles. The powers are limited to vehicles reasonably believed to be involved in the transport of cannabis and freedom of movement will only be able to be restricted for so long as it is necessary to conduct appropriate checks.

Right to property

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

I consider that the provisions are compatible with the right to property. To the extent that property is interfered with by the taking of samples or seizure of documents or other things, there is no unlawful deprivation of property as it occurs in accordance with the procedures set out in the bill.

Privilege against self-incrimination

Section 25(2)(k) provides that a person charged with a criminal offence has the right not to be compelled to testify against himself or herself or to confess guilt.

The ability to require a person to produce documents means that a person may be required to produce documents that are incriminating. Those documents may reveal a criminal offence and may be used in criminal proceedings. However, to the extent that this may engage the right in section 25(2)(k), it is limited to documents being produced for the purposes of monitoring compliance with a regulatory scheme. It does not require a person to make a written or oral statement.

Offence provisions — right to be presumed innocent

Section 25(1) of the charter provides that a person charged with a criminal offence has the right to be presumed innocent until proven guilty according to law.

Section 103 creates an offence of permitting a person, other than those specified persons, to enter licensed premises, without reasonable excuse. Section 109 creates an offence of hindering or obstructing a medicinal cannabis inspector, without reasonable excuse.

These provisions impose an evidential onus on an accused to adduce or point to evidence capable of establishing a reasonable excuse. I consider that insofar as there is any limit upon the right to be presumed innocent, it is reasonable and justifiable for the purposes of section 7(2) of the charter. There are a whole range of possible reasonable excuses and the particular reasonable excuse will fall within the knowledge of the accused. On the other hand, it is notoriously difficult for the prosecution to prove a negative such as absence of reasonable excuse. The provision only imposes an evidential onus, ensuring that once the accused has pointed to or adduced evidence of the excuse, the onus reverts to the prosecution to prove beyond reasonable doubt that the accused does not have a reasonable excuse.

Part 15 of the bill makes a number of amendments to the Drugs, Poisons and Controlled Substances Act 1981, including to amend offences to provide that a person is taken to be authorised under the act if they are authorised or licensed under the provisions of the bill. By reason of section 104 of the act, the accused will bear the legal burden of establishing on the balance of probabilities that they are authorised under the provisions of the bill. While this amounts to a limitation upon the right to be presumed innocent, it is reasonable and justified under section 7(2) of the charter. The bill provides for a scheme of authorisation which will make it relatively easy for a person to establish that they are authorised or licensed. In other jurisdictions, it has been held that the right is not breached where an act is generally prohibited save in specified circumstances or by persons of specified classes or with specified qualifications or with the licence or permission of specified authorities.

Right to a fair hearing

Section 24 of the charter protects the right of parties to civil proceedings to a fair and public hearing. The bill enables decisions about licences to be made on 'protected information', as defined in section 3 — that is not disclosed to the applicant (sections 28, 37, 49, 59). An applicant may apply to VCAT to review certain decisions in accordance with section 91. Where a decision is made on protected information, that information will not be provided to the applicant and VCAT will not be required to give full reasons. Rather VCAT must appoint a special counsel to represent the applicant's interests (section 93). While the procedure limits a person's access to information that will be before VCAT, I consider that the provisions are compatible with the right to a fair hearing in section 24 of the charter as the provisions achieve an appropriate balance between providing the applicant a reasonable opportunity to be heard and the need to protect such information. VCAT will have the power to determine whether in fact the information is protected information (section 94(1)), the applicant's interests are represented through the special counsel procedure (sections 93–96), and it will ultimately be up to VCAT as to what weight should be placed upon that information.

Hon. Jill Hennessy, MP
Minister for Health

Second reading

Ms HENNESSY (Minister for Health) — I move:

That this bill be now read a second time.

Speech as follows incorporated into *Hansard* under sessional orders:

This bill is an Australian first.

The Access to Medicinal Cannabis Bill allows for the lawful cultivation and manufacture of safe and reliable medicinal cannabis products to help Victorians in exceptional circumstances.

Many Victorians with terminal illnesses or life-threatening conditions want to use medicinal cannabis to relieve their pain and treat their conditions, but cannot do so legally. This isn't fair and it isn't right.

Many Victorians are aware of the case of one child, who was born healthy but contracted bacterial meningitis at four weeks old.

The condition left him with severe brain damage, epilepsy and cerebral palsy. His seizures would last up to an hour-and-a-half and doctors said there was nothing they could do. His parents were told to start planning his funeral.

Since then, the child has been taking medicinal cannabis oil three times a day and is seizure free and has a good quality of life.

This story is one of many. Too many parents are turning to the black market out of desperation to obtain medicinal cannabis to alleviate their pain and suffering.

The law needs to change, because families should not have to make the choice between obeying the law and treating their children.

The Andrews Labor government made a promise to enable access to medicinal cannabis to people in exceptional circumstances — a commitment fulfilled by this bill.

The current law is confusing and complex, and has not kept up with the views of the community, with surveys showing the overwhelming majority of Australians believe the use of cannabis for medicinal purposes should be legal.

The law currently compels Victoria Police and child protection officers to investigate parents and carers who are accessing black market cannabis. Parents, only trying to do the right thing by their child, have had police reluctantly knocking on their door. This isn't fair for families — or police officers.

One mother was convicted of cultivating and possessing cannabis that she supplied to her sick cousin who was suffering from cancer. These investigations only add additional stress to the patient and their families.

This legislation will end this nightmare once and for all. The government will provide a framework to enable these Victorians to legitimately integrate medicinal cannabis into their health regime, under the supervision of a doctor.

In December last year, the Attorney-General referred the matter of medicinal cannabis to the Victorian Law Reform Commission and asked them to advise how the law in Victoria can be changed to legalise and regulate the use of medicinal cannabis for patients in exceptional circumstances.

The Victorian Law Reform Commission reviewed and made recommendations on who should be eligible to use medicinal cannabis, prescribing practices and the regulation of the manufacturing and distribution of medicinal cannabis products.

The Victorian Law Reform Commission was extremely thorough in its investigation — completing extensive public consultations which included public consultation forums, written submissions and private consultations.

The commission also drew on expertise from the medical profession. They heard many compelling stories from people in the community about why medicinal cannabis should be made legal.

The Victorian Law Reform Commission's *Medicinal Cannabis* report was tabled in Parliament on 6 October 2015 with the government accepting all 42 recommendations, two accepted in principle.

The commission deserves thanks for the thorough and precise work that has gone into this report, which is now acting as a roadmap to legalising access to medicinal cannabis for Victorians in exceptional circumstances.

It is important we get the balance right between helping people access medicinal cannabis safely, and minimising medical risk. The views of the medical profession are essential to the successful implementation of a medicinal cannabis scheme in Victoria.

Consultations to date have been constructive with those involved from the medical profession, indicating a keen willingness to work with the government in the development and implementation of the framework.

Speaker, I now turn to the provisions of the bill.

To ensure Victorians are able to access medicinal cannabis in exceptional circumstances, the bill will:

- enable the Secretary of the Department of Health and Human Services to:
  - licence manufacturers;
  - authorise medical practitioners for the medicinal cannabis scheme;
  - authorise medical practitioners on a case-by-case basis for patients in exceptional circumstances, when those circumstances are outside of specified conditions and symptoms;
- enable the Secretary of the Department of Economic Development, Jobs, Transport and Resources to:
  - authorise the cultivation and extraction of high-quality cannabis for medicinal purposes by government and licenced commercial private entities;

as a priority, the bill provides that children with severe epilepsy will be eligible to access government-produced medicinal cannabis from a date to be proclaimed, most likely in early 2017. It empowers the Victorian government to prescribe other eligible patient groups to access commercially produced products on a later date to be proclaimed (most likely in 2018);

make consequential amendments to existing legislation including the Drugs, Poisons and Controlled Substances Act (1981) to ensure an integrated framework.

It is intended that medicinal cannabis products will not be available in a form that can be smoked, in line with the election commitment and the Victorian Law Reform Commission's report. This bill also does not lift the prohibition on cannabis used for non-medicinal purposes.

To support safe and secure supply of medicinal cannabis, this bill will enable the establishment of cultivation and manufacturing industries in Victoria. Establishing these industries may provide Victorians with new job opportunities as well as new revenue streams for growers and manufacturers.

This is a significant reform and it will take time to fully realise, with all of the checks and balances and clinical input in place to ensure that access is appropriate and safe. To allow for this, the bill enables a phased approach to implement the medicinal cannabis scheme safely and responsibly.

The role of the medical specialists, general practitioners, pharmacists and nurses is integral to successful implementation of the scheme. The bill establishes an independent medical advisory committee to provide ongoing advice about access to medicinal cannabis, regarding patient eligibility and the types of products that should be made available through the scheme.

Ongoing input from the medical profession will be sought to make sure that access is as safe as possible and the medical profession is well equipped to participate in the scheme.

Without commonwealth action, Victorians will not be able to access medicinal cannabis. That is why in developing the bill, Victoria has been working closely with the commonwealth.

The commonwealth's intended amendments to the Narcotic Drugs Act 1967 to enable cultivation of medicinal cannabis is a positive step — but Victoria needs to make sure this and other commonwealth actions will mean people can access medicinal cannabis.

Once again, Victoria has paved the way and we hope others can follow. Other jurisdictions are now considering enabling access to medicinal cannabis. It's the right thing.

We will continue to work with the medical profession, industry and people in the community to ensure access to medicinal cannabis is done so safely, securely and reliably.

Speaker, parents should not be forced to choose between breaking the law and breaking their child's heart. They deserve better.

The Access to Medicinal Cannabis Bill will relieve people's suffering and change lives across this state.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 24 December.

INTEGRITY AND ACCOUNTABILITY LEGISLATION AMENDMENT (A STRONGER SYSTEM) BILL 2015

Statement of compatibility

Ms ALLAN (Minister for Public Transport) 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 Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015.

In my opinion, the Integrity and Accountability Legislation Amendment (A Stronger System) Bill 2015, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The purpose of this bill is to implement a stronger system of integrity and accountability in Victoria by:

expanding the jurisdiction of the Independent Broad-based Anti-corruption Commission (IBAC);

providing the Auditor-General with powers to 'follow-the-dollar' during performance audits and the ability to effectively audit private sector organisations that exercise public functions and receive public funding;

resolving jurisdictional issues between integrity bodies; and

making further operational improvements to integrity and accountability legislation.

To do so, the bill makes various amendments to the Independent Broad-based Anti-corruption Commission Act 2011 (IBAC Act), the Audit Act 1994, the Ombudsman Act 1973, the Public Interest Monitor Act 2011, the Victorian Inspectorate Act 2011 and various minor amendments to a number of other acts.

Human rights issues

Amendments to the IBAC act

Expansion of the IBAC's jurisdiction

The bill expands the IBAC's jurisdiction to enable it to better identify, investigate and expose corrupt conduct by:

expanding the IBAC's remit to cover all corrupt conduct, while directing it to focus on more serious or systemic corrupt conduct (where it was previously

restricted to investigating only serious corrupt conduct) and expanding the definition of corrupt conduct; and

lowering the IBAC's investigation threshold from requiring that it be reasonably satisfied that conduct amounts to a relevant offence, to now requiring that the IBAC suspects, on reasonable grounds, that conduct constitutes corrupt conduct.

Expanding the IBAC's jurisdiction in accordance with the bill does not, of itself, engage any human rights. However, the expanded jurisdiction will mean that more individuals and a broader range of conduct will be subject to the IBAC's scrutiny and investigative powers, consistently with the purposes of the bill.

In my opinion, the IBAC's expanded jurisdiction and lower investigation threshold as provided in the bill do not alter the way in which the IBAC's existing investigative powers affect human rights protected by the charter or remove the legitimate objectives of those powers. For example, any interference with the right to privacy in section 13 of the charter arising from IBAC's exercise of its powers will still be lawful and not arbitrary. This is because the IBAC would not be properly equipped to perform its statutory functions of identifying, exposing and investigating corrupt conduct without its investigative powers, including the power to hold public examinations. Further, although the bill lowers the IBAC's investigation threshold, it does not remove any of the safeguards that apply to the exercise of the IBAC's powers. For these reasons, I consider that the IBAC's expanded jurisdiction is compatible with the rights protected by the charter.

Preliminary inquiry powers

The bill inserts a new division 3A into part 3 of the IBAC Act enabling the IBAC to undertake preliminary inquiries for the purpose of determining whether to dismiss, refer or investigate a complaint or notification.

The IBAC's new preliminary inquiry powers are limited to the power to request information from the relevant principal officer of a public body and the power to issue a witness summons to any person requiring the person to attend at a specified time and place on a specified date to produce documents or other things to the IBAC.

A principal officer must comply with a request for information relevant to a preliminary inquiry unless he or she advises the IBAC of a reasonable excuse for not doing so. A relevant principal officer who does comply with a request to provide information has the same protection and immunity as a witness in a proceeding in the Supreme Court.

In the context of a preliminary inquiry, the IBAC may also issue a witness summons to any person to produce documents or other things where the IBAC is satisfied that it is reasonable to do so, having regard to factors including the necessity of the information in determining whether to dismiss, refer or investigate a complaint or notification, and whether it is reasonably practicable to obtain the information by any other means. Failure to comply with a witness summons without reasonable excuse is an offence. However, the bill expressly provides that a claim of privilege is a reasonable excuse for not complying with a witness summons issued in relation to a preliminary inquiry. The IBAC will be able to issue a confidentiality notice in respect of a witness summons issued during a preliminary inquiry.

To the extent that the new powers require persons to disclose personal information during preliminary inquiries, the right to privacy in section 13 of the charter is relevant. Section 13 of the charter provides that a person has the right not to have their privacy unlawfully or arbitrarily interfered with. However, an interference with privacy will not be unlawful where it is permitted by a law which is precise and appropriately circumscribed. Interferences with privacy will not be arbitrary provided they are reasonable in the circumstances, just and proportionate to the end sought.

In my opinion, any interference with privacy caused by the IBAC's new preliminary inquiry powers will be lawful and not arbitrary. The powers balance the public interest in providing the IBAC with effective powers to determine whether an investigation to uncover corruption is warranted against the public interest in protecting the right to privacy. The IBAC has limited powers at the preliminary inquiry stage and many of its extraordinary investigative powers (e.g. the use of surveillance devices) are not available. Principal officers who provide information on behalf of public bodies are protected by a witness immunity. Further, unlike in examinations, a person who has been issued with a witness summons in relation to a preliminary inquiry can refuse to comply with the summons on the basis of claiming a privilege (such as the privilege against self-incrimination). The bill clearly sets out the process by which claims of privilege will be determined. Accordingly, in my opinion any interference with privacy occasioned by the preliminary inquiry powers is lawful and not arbitrary.

A witness summons issued in relation to a preliminary inquiry requires a person to attend a specified place at a specified time. To the extent that this limits the right to freedom of movement in section 12 of the charter, in my opinion, the limitation is reasonable and justifiable. The limitation is relatively minor in nature and the power to require a person's attendance to provide documents or things is key to the effectiveness of the preliminary inquiry process.

It is an offence to fail to comply with a witness summons issued during a preliminary inquiry without a reasonable excuse. This may be viewed as engaging the right to be presumed innocent in section 25(1) of the charter. This right can be engaged where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to establish that he or she is not guilty of an offence. However, the new offence does not transfer the legal burden of proof. The accused may point to evidence of a reasonable excuse, which will ordinarily be peculiarly within their knowledge. However, the burden of proof remains with the prosecution, who must prove the elements of the offence. I do not consider that the evidential onus in this provision limits the right to be presumed innocent, and courts in other jurisdictions have taken this approach.

Suppression orders

The bill inserts a new section 129A into the IBAC Act, giving the IBAC the power to issue a suppression order prohibiting or restricting publication of information or evidence given during a public examination. A suppression order may only be issued for a specific purpose, such as to prevent prejudice or hardship to any person, including harm to their reputation or safety.

The power to make a suppression order for the specific reasons set out in the provision is consistent with the qualification to the right to a fair and public hearing in section 24(2) of the charter.

Section 15(2) of the charter protects the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds. Under section 15(3)(a) of the charter, the right to freedom of expression may be subject to lawful restrictions reasonably necessary to respect the rights and reputation of other persons. To the extent that the right to freedom of expression could be considered relevant to new section 129A, in my opinion, the IBAC's power to issue a suppression order for the purposes set out in the bill would fall within the exceptions in section 15(3) of the charter.

Reasonable excuse exception

Clause 36 of the bill amends section 136 of the IBAC Act, which is an existing offence provision. Under section 136, a person who attends an IBAC examination must not, without reasonable excuse, fail to answer a question. The new amendment provides that it is not a reasonable excuse that a question does not relate to the direct involvement of the witness in identified corrupt conduct.

Provisions that create 'reasonable excuse' exceptions to offences may be viewed as engaging the right to be presumed innocent in section 25(1) of the charter by placing an evidential burden on the accused. However, the offence in section 136 does not transfer the legal burden of proof, and once the accused has pointed to evidence of a reasonable excuse, the burden shifts back to the prosecution to prove the elements of the offence. I do not consider that an evidential onus such as this provision limits the right to be presumed innocent, and the amendment to specify one matter which may not be invoked as a reasonable excuse does not alter that conclusion.

For these reasons, clause 36 does not limit the right to be presumed innocent.

Amendments to the Audit Act

The bill amends the Audit Act 1994 to extend the current performance audit regime to cover expenditure of all public funds, including auditing private bodies that expend public funds. Pursuant to the amendments, audits of 'associated entities' as defined in the bill may now be conducted, including using the existing powers in section 11 to require persons to appear and produce documents and to give evidence upon oath. Under existing section 14, failure of a person to attend, or produce any documents, or answer any lawful question when required to do so under section 11, is an offence. The existing procedure and safeguards that apply to performance audits, contained in sections 11A to 11G of the Audit Act, will also apply to audits of associated entities.

Existing section 11 of the Audit Act contains powers to compel persons to appear and be examined, and to produce documents. Consequently, a number of rights contained in the charter are potentially relevant:

the right to privacy in section 13 of the charter;

the right to protection against self-incrimination in section 25(2)(k) of the charter;

the right to a fair hearing in section 24 of the charter;

the right to freedom of expression in section 15 of the charter; and

the right to freedom of movement in section 12 of the charter.

To the extent that the Auditor-General requires a person to produce information or answer questions that result in the disclosure of personal information, the right to privacy of a person, protected by section 13 of the charter, will be relevant. The right to privacy may also be relevant to the requirement under section 11F that compulsory attendances are video recorded, however the purpose of this requirement is to ensure the integrity of the process and ensure that a person's appearance is accurately recorded.

The power to compel information may only occur for the purpose of carrying out the functions of the Auditor-General, namely the conduct of financial and performance audits in the Victorian public sector and the examination of bodies that receive public grants. As such, the exercise of the powers in section 11 can only occur only in defined and limited circumstances, and are subject to the existing safeguards in sections 11A to 11G. Further, in order to carry out the Auditor-General's functions, it is necessary for the Auditor-General to have access to all relevant information, and therefore the powers are conferred for a legitimate objective. In my view, to the extent that section 11 does require a person to disclose personal information, any interference with privacy caused by to the operation of this section will be lawful and not arbitrary.

Section 25(2)(k) of the charter provides that a person charged with a criminal offence is entitled not to be compelled to testify against himself or herself or to confess guilt. In my view, section 11 of the Audit Act does not limit the right to protection against self-incrimination. This is because the common law privilege against self-incrimination is not abrogated. While there is an offence for refusing to answer questions when required to do so, it is only an offence to fail to answer 'lawful' questions. Consistently with the principle of legality, sections 11 and 14 will be interpreted narrowly so as not to abrogate the privilege against self-incrimination at common law. Accordingly, as a person can refuse to answer questions on the grounds that to do so would incriminate himself or herself, the right to protection against self-incrimination is not limited. Additionally, I note that existing section 11C provides that a person may be represented by a legal practitioner and section 11G provides that a person appearing has the same protection and immunity as a witness has in a proceeding in the Supreme Court.

Existing section 11F(3) of the Audit Act prevents unrecorded information said by a person during a compulsory appearance from being used in evidence against any person in any proceeding before a court or tribunal. This is subject to section 11F(4), which enables a court to admit such evidence if the court is satisfied that there are exceptional circumstances. In my opinion, the right to a fair hearing protected by section 24 of the charter is not limited by section 11(4), because a court has an obligation to ensure an accused has a fair hearing in deciding questions about the admission of evidence.

In requiring persons to attend a specified place at a specified time, new section 11 limits the right to freedom of movement in section 12 of the charter. However, I consider that the limitation is reasonable and justifiable, given the important

purposes it serves of enabling the Auditor-General to properly carry out functions under the act. Moreover, the limitation is relatively minor in nature, given that a person's movement will only be restricted for a limited amount of time. Similarly, to the extent that the right to freedom of expression may apply to being required to divulge information, any restriction to a person's freedom of expression occasioned by section 11 of the Audit Act is reasonably necessary for the protection of public order in accordance with the exception in section 15(3) of the charter.

Although the bill extends the audit regime to enable private bodies to be audited, the bill retains and does not increase the scope of the current powers in section 11. For the reasons given above, in my view these powers do not limit human rights. As such, the extended powers of the Auditor-General are compatible with the rights contained in the charter.

Improved information sharing and reporting across the integrity and accountability system

The bill amends a number of acts to broaden the information sharing powers of integrity bodies and increase the number of agencies that are subject to mandatory reporting obligations. These amendments include:

extending the obligation to report corrupt conduct to the IBAC (that currently applies to a number of statutory entities) to apply to the heads of public sector bodies, the Chief Executive officers of local councils and the heads of the administrative departments of Parliament. The bill also provides the IBAC with the power to issue directions in relation to notifications, including specifying the form, content and manner of notification, and what matters must be notified (including the ability to exempt particular matters from notification);

allowing the Auditor-General to share information obtained in the course of an audit with Auditors-General of other Australian jurisdictions, except cabinet information and information relating to matters of a commercial, business or financial nature, the disclosure of which is likely to expose a person unreasonably to disadvantage, to enable the efficient auditing on areas of issues of mutual relevance;

broadening the list of bodies and law enforcement agencies to which the Ombudsman and Auditor-General may provide or disclose any information received where appropriate, and where that information is relevant to the performance or duties of those bodies or agencies;

inserting a new power into the Ombudsman Act 1973 under which the Ombudsman may provide or disclose information obtained for certain specified purposes. These purposes include providing information to the public (not including information that might identify a person) related to the commencement or progress of an investigation; providing information to an appropriate person, body or authority where it is considered necessary to prevent or lessen the risk of harm to a person's health, safety or welfare; or providing information (not including information that might identify a person) to an authority necessary to assist it to improve its practices and procedures; and

Amending section 17 of the Public Interest Monitor Act 2011 to specify the limited circumstances in which a Public Interest Monitor may provide or disclose information received or obtained in the course of the performance of duties and functions or the exercise of powers under that act.

To the extent that the information that may or is required to be disclosed in accordance with these provisions of the bill includes personal information, the right to privacy of a person, protected by section 13 of the charter, will be relevant. In my view, however, any disclosure of personal information pursuant to new provisions will not constitute an arbitrary or unlawful interference with privacy.

The provisions are clearly set out in the relevant acts and are appropriately circumscribed. Further, the provisions are not arbitrary as they are for purposes that are relevant to and necessary for the proper functioning of the duties and functions of the relevant bodies, and the integrity and accountability system as a whole. The circumstances involving the reporting of matters to these bodies and the sharing of information between bodies are defined and limited.

The bill also amends the Ombudsman Act 1973 to no longer require that complaints to the Ombudsman be made in writing. This amendment promotes the right to equality in section 8 of the charter by removing any barrier that the writing requirement may have presented to persons in seeking to make disclosures to the Ombudsman.

Conclusion

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

Jacinta Allan, MP
Minister for Public Transport
Minister for Employment

Second reading

Ms ALLAN (Minister for Public Transport) — I move:

That this bill be now read a second time.

Speech as follows incorporated into *Hansard* under sessional orders:

This bill will implement the government's integrity and accountability election commitments.

During the 2014 election, the government committed to addressing the barriers which prevent the Independent Broad-based Anti-corruption Commission, or IBAC, from investigating corrupt conduct in Victoria effectively. The government also committed to allowing the Auditor-General to 'follow the dollar' so that the Auditor-General can effectively audit the use of public funds to deliver public services. The bill fulfils these commitments and also makes a number of other changes to improve the operation of Victoria's integrity and accountability regime.

The bill is the first tranche of the government's integrity and accountability reforms. The government will continue its review of Victoria's integrity and accountability system

during 2016 and 2017 to identify further opportunities to improve its effectiveness. It is critical that all Victorians can have confidence that public officials and bodies conduct themselves, and use public funds, with the highest degree of integrity and accountability.

To inform its continuing review, the government will, in parallel with the introduction of the bill or shortly afterwards, release a discussion paper on aspects of the Victorian integrity and accountability system. The papers invite public comment and will set the scene for the government's future reform program.

I now turn to the bill.

The reforms to IBAC's corrupt conduct jurisdiction

IBAC was established in 2011 as the independent body responsible for identifying, exposing and investigating corrupt conduct in the Victorian public sector. It became fully operational in 2013.

Recent IBAC investigations such as Operation Ord, which involved allegations of corruption at the Department of Education and Training, have demonstrated the importance of having an effective anti-corruption body in Victoria.

However, since IBAC was established, concerns have been raised by IBAC and stakeholders that IBAC's corrupt conduct jurisdiction is too narrow and its investigative threshold is too high to enable IBAC to investigate corruption in Victoria effectively.

The bill makes a number of changes to address these concerns.

IBAC's remit is currently limited to serious corrupt conduct, preventing it from investigating less serious corrupt conduct. The bill will expand IBAC's remit to include all corrupt conduct. This will remove a significant barrier to the commencement of investigations by IBAC. Instead, IBAC will be directed to prioritise investigations that will uncover serious or systemic corrupt conduct.

The bill also lowers IBAC's investigative threshold. The current standard, which requires IBAC to be reasonably satisfied that an allegation involves corrupt conduct before it can investigate, will be replaced by allowing IBAC to investigate an allegation that it suspects on reasonable grounds involves corrupt conduct. This change removes the requirement that IBAC must have prima facie evidence of a relevant offence, and reduces the amount of evidence that IBAC needs to gather, before it starts an investigation. The bill will also enable IBAC to make an assumption about a suspect's state of mind, which will remove the need for IBAC to be satisfied about a suspect's intent to commit an offence before IBAC starts an investigation into corrupt conduct.

The bill implements the government's election commitment to allow IBAC to investigate corrupt conduct involving the common law offence of misconduct in public office. This offence is a 'catch-all' offence that can be used to start an investigation where the conduct does not otherwise constitute an offence currently within IBAC's corrupt conduct jurisdiction (i.e. statutory indictable offences and the common law offences of attempting to pervert the course of justice, perverting the course of justice, and bribery of a public official). The offence of misconduct in public office includes misconduct by act or omission. The misconduct may be intentional or reckless, but it must be serious enough to warrant criminal punishment, in light of the public officer's role and responsibilities.

Examples of misconduct in public office that IBAC may be able to investigate include where a public officer:

> deliberately falsifies accounts to conceal or obtain a benefit;
>
> enters into a secret commission or profit sharing arrangement with another person while acting in an official capacity;
>
> colludes with other public officers to share profits with tender recipients and conceals the overvaluation of tenders;
>
> uses their public office to deceive a member of the public to gain a financial advantage; and
>
> misuses their power to harm, oppress or disadvantage a person.

These are serious matters that may warrant investigation by IBAC. When a person's misconduct is less serious, such that it appears to warrant disciplinary action, it will continue to be the responsibility of that public officer's employer, the Ombudsman or another appropriate body to address that conduct.

At present, IBAC's corrupt conduct jurisdiction is limited to:

> public officers who act corruptly, and all persons whose conduct adversely affects the honest performance of public functions by a public officer;
>
> public officers or bodies whose conduct knowingly or recklessly breaches public trust or involves the misuse of information or material acquired in the course of their functions; or
>
> a conspiracy to engage in any of this conduct.

This excludes situations where a person's conduct causes a public officer to act in a way that harms public administration, without the public officer him or herself being knowingly complicit in any wrongdoing.

The bill will expand IBAC's corrupt conduct jurisdiction to enable IBAC to investigate conduct by any person who intentionally adversely affects the effective performance (as opposed to the honest performance) of public functions by a public officer, where the public officer themselves is not knowingly complicit in any wrongdoing. This will overcome a gap in IBAC's current corrupt conduct jurisdiction, which only extends to public sector officers who are acting corruptly (e.g. an officer accepting a bribe to award a licence) and all persons whose conduct adversely affects the honest performance of a public officer's public functions (e.g. a person bribing an official to award a licence).

To fall within this new provision, the person's conduct will also need to result in the person or their associate obtaining a benefit, such as a licence, permit or other financial or proprietary gain, or appointment to a statutory office, that they would not have otherwise received. IBAC will also need to be able to link the corrupt conduct to a relevant criminal

offence, such as fraud or bribery, to start an investigation relying on this expanded jurisdiction.

The bill will provide IBAC with a clear power to conduct preliminary inquiries to determine whether a matter should be dismissed, referred to a more appropriate body or fully investigated by IBAC.

This will formalise IBAC's ability to request information from the public sector, and allow IBAC to summons a person to produce a document or thing before a formal investigation has commenced. Because IBAC will be able to issue a summons before starting an investigation, the bill allows a person who is summonsed to rely on the privileges and immunities available under law, such as the privilege against self-incrimination, as a reasonable excuse not to answer the summons.

The bill will enable IBAC to consider allegations about corruption that occurred between the time of IBAC's establishment and the passage of the bill, and before the IBAC Act commenced. It will allow IBAC to reconsider matters that it previously dismissed or referred on the basis that they did not meet the threshold of 'serious' corrupt conduct. To avoid unnecessary duplication, IBAC will not be able to reconsider matters that the Ombudsman has already investigated. The current safeguards and thresholds in the IBAC Act that apply to investigations of corrupt conduct which occurred before the IBAC Act commenced will continue to apply.

Giving the Auditor-General 'follow-the-dollar' powers

The Auditor-General has an essential role in ensuring not only that public funds are spent in line with the appropriations made by Parliament, but also that those funds and other public resources are spent and used effectively to the benefit of Victorians.

Since the passage of the Audit Act 1994 there have been significant changes to how public services are delivered. This bill introduces reforms that will improve the transparency of and accountability for the use of public monies and resources.

This bill introduces explicit 'follow-the-dollar' audit powers. The bill empowers the Auditor-General to examine the effectiveness, economy and efficiency of activities performed on behalf of the public sector by non-public sector entities in the course of performance audits.

The bill extends the act's existing safeguards, procedural fairness requirements and protections to non-public sector entities. It also prevents the Auditor-General from publishing information in an audit report that could unfairly damage the commercial interests of a provider.

In addition to 'follow-the-dollar' powers, the bill introduces other reforms.

Collaborate with other Auditors-General

This bill will expressly enable the Auditor-General to collaborate with other Australian Auditors-General but prohibits the sharing of cabinet and commercial information, and protects private interests.

Consultation with PAEC on audit specifications

The Audit Act currently requires the Auditor-General to develop specifications for performance audits in consultation with the Public Accounts and Estimates Committee (PAEC) and the authority subject to the audit.

In order to streamline this process the bill limits consultation with PAEC to audits that:

a. involve an associated entity (i.e. follow-the-dollar);

b. involve collaboration with other Auditors-General;

c. were not included in the Auditor-General's annual plan or have materially changed since tabling of the plan; or

d. PAEC requests to be consulted about (given the Auditor-General's relationship with the Parliament).

Provision of audit reports to the secretary, DPC

The bill expressly provides for the Secretary of the Department of Premier and Cabinet to receive a copy of a proposed audit report. This recognises the secretary's responsibilities for the performance of the Victorian public service and in advising the Premier and Special Minister of State in relation to integrity and accountability matters.

Resolving jurisdictional issues

One of the government's election commitments is to resolve the jurisdictional issues between IBAC and other integrity bodies such as the Auditor-General and the Ombudsman. This involves streamlining the referral of matters and information sharing between these bodies.

The bill will achieve this by allowing the Auditor-General and the Ombudsman, in appropriate circumstances, to share information with a broader range of Victorian government departments, agencies, other Australian Auditors-General, regulators and parliamentary committees. It will also reduce the administrative burden on the Ombudsman and the Auditor-General by requiring them to only notify the Victorian Inspectorate about misconduct by integrity and accountability bodies, rather than any conduct as is currently the case.

It will give the Ombudsman greater operational flexibility to deal with protected disclosures referred to her under the Protected Disclosure Act, which will free her office to fulfil its other core functions and to more efficiently deal with protected disclosures.

Further work will continue to resolve these jurisdictional issues between integrity and accountability agencies in 2016/17.

Mandatory notifications to IBAC

The bill will expand the range of persons and bodies who are required to notify IBAC when they suspect corrupt conduct is occurring. At present, only certain officer holders such as the Ombudsman and the Auditor-General have mandatory notification obligations.

As a consequence of this change, heads of departments and CEOs of local councils (amongst others) will be required to notify IBAC of any matter which they suspect on reasonable grounds involves corrupt conduct occurring or having occurred. This will enable IBAC to more effectively gather intelligence and expose corruption across the Victorian public sector. IBAC will be empowered to issue directions on what matters need to be disclosed and about how notifications should be made. However, the directions will not apply to independent officers of Parliament such as the Auditor-General and the Ombudsman. In addition, IBAC will have discretion to exempt specified matters from the mandatory notification obligations.

Other improvements to the Ombudsman's legislation

The bill will remove the requirement that complaints to the Ombudsman must be in writing. This currently acts as a barrier to accessing the Ombudsman's services, particularly for vulnerable people. The bill will also update the act by replacing outdated gender-specific language with gender-neutral language.

Other operational and technical improvements

The bill will make a range of additional amendments to the IBAC Act and other integrity legislation, for example to clarify IBAC's powers of delegation, to allow IBAC to apply to the Magistrates Court (in addition to the Supreme Court) for search warrants and to clarify IBAC's power to issue suppression orders in public hearings.

It will also strengthen the current oversight arrangements of integrity and accountability bodies with amendments to legislation governing the Public Interest Monitor (PIM) and the Victorian Inspector. These will, for example, enable the PIM to disclose information to staff assisting the PIM and to another PIM without unnecessary restriction, and provide the PIMs with immunity from liability for acts or omissions undertaken in good faith while performing public functions, consistent with the Victorian Inspectorate's immunity. They will also provide the Victorian Inspector with a preliminary inquiry power and clarify his monitoring powers in relation to IBAC.

The reforms in this bill represent the first tranche of reforms to Victoria's integrity and accountability system. They are significant reforms which will give IBAC, the Auditor-General and other integrity and accountability bodies the tools they need to carry out their functions into the future. This will ensure that Victorians can continue to have confidence in public administration in this state.

I commend this bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 24 December.

TRANSPARENCY IN GOVERNMENT BILL 2015

Statement of compatibility

Ms ALLAN (Minister for Public Transport) 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 Transparency in Government Bill 2015 (the bill).

In my opinion, the bill, as introduced to the Legislative Assembly, is compatible with the human rights as set out in the charter because no human rights protected by the charter are relevant to the bill.

The Hon. Jacinta Allan, MP
Minister for Public Transport
Minister for Employment

Second reading

Ms ALLAN (Minister for Public Transport) — I move:

That this bill be now read a second time.

Speech as follows incorporated into *Hansard* under sessional orders:

This bill is an important step towards promoting regular public reporting of performance data by Victoria's ambulance and fires services, and Victoria's public hospitals. It establishes a new statutory framework to facilitate the regular release of ambulance and fire services' response times to emergency incidents; the mandatory annual release of important performance agreements, known as a statement of priorities, between the government and the boards of Ambulance Victoria, public health services and denominational hospitals; and the regular release of performance data by public health services and denominational hospitals.

The bill will deliver upon the government's commitment to ensure greater transparency in the delivery of public health and emergency services. It will also address the need to improve the public reporting of emergency services' response times, as outlined in the 2015 Victorian Auditor-General's Office Emergency Service Response Times report.

The information required to be reported under this bill is about the performance of public services that are of critical importance to Victorians. Victorians have a right to clearly understand the performance of these services, and have a right to do so without having to go through a Freedom of Information process to access this information. This bill will ensure the enduring and easy access to this information for the public.

This government is committed to providing greater transparency about the way that these crucial services operate. The men and women who work in these agencies perform an invaluable service for our community and we are grateful for

it. The need for greater transparency arises precisely because their service is of such importance to Victorians. Victorians are entitled to understand how their critical services are performing.

Overview of the bill

The bill provides a framework for the release of three different kinds of information:

response times for Ambulance Victoria, the Country Fire Authority (CFA) and the Metropolitan Fire and Emergency Services Board (MFESB);

statements of priorities agreed to by Ambulance Victoria, public health services and denominational hospitals; and

performance data for public health services and denominational hospitals against the performance indicators in their statements of priorities.

Response times

Response times for Ambulance Victoria, the CFA and MFESB will be published online every quarter for prescribed emergency incidents.

Response time reports will provide Victorians with the 50th and 90th percentile response times to an emergency incident in a municipal district (or local government area (LGA)). This level of reporting detail ensures that Victorians have an accurate impression of historical response times in their community.

Total response times will be included in the reports. This will provide Victorians with an understanding of the time it takes from the point at which the Emergency Services Telecommunications Authority (ESTA) receives a call for assistance to the first arrival at the scene by the relevant agency. Nothing in the bill will prevent a report from depicting which aspects of the total response time can be attributed to the relevant agency and ESTA respectively.

The government acknowledges that response times are not the sole indicator of how effective or how well an agency is performing and that a range of factors can affect an agency's response time performance, such as geographical and seasonal variations. For this reason, the bill expressly clarifies that further information can be included in these reports, to promote greater transparency by contextualising the information and providing meaningful commentary. This will ensure that, if necessary for the public to clearly understand response times in their context, agencies will be able to provide the necessary contextual information to the public.

The bill recognises that there are likely to be times when the resources of an emergency service are devoted to addressing a major emergency, such as major bushfires during the fire season. In such circumstances, the bill allows the minister to delay the publication of quarterly reports until a major emergency has been sufficiently addressed before reporting is resumed. The bill also recognises the potential impact of sustained and prolonged industrial action on the ability to collect and prepare response time data, and also allows for delayed publication in such circumstances. The bill ensures that there is transparency when these exceptions are relied on by requiring the minister to publish a statement so that the public is aware that a report will be delayed.

Statements of priorities

The bill will introduce a requirement for all statements of priorities for Ambulance Victoria, public health services and denominational hospitals to be published online by 1 November each year.

Statements of priorities are important documents that outline an annual agreement between the board of a health service and the relevant minister. They set out strategic priorities and agreed objectives for each financial year in terms of financial sustainability, services access and performance, safety and quality and service delivery, with accompanying performance indicators and performance targets.

Denominational hospitals are not legislatively required to agree to a statement of priorities, but where they choose to do so, the bill also requires their publication.

If a statement of priorities is not agreed in time to be published by 1 November for the relevant year, the bill ensures that the minister will publish reasons for the delay and will ensure the publication of the statement of priorities as soon as practicable after agreement is reached.

Hospital performance data

The bill will require public health services and denominational hospitals with statements of priorities to publish quarterly performance reports against certain performance indicators in those statements.

The minister responsible for administering the Health Services Act 1988 will issue a notice specifying which performance indicators from each statement of priorities must be included in these quarterly reports. These indicators are to be chosen from the prescribed performance categories, such as safety and quality performance or access and timeliness performance.

In some cases, it will not be practical for certain performance indicators to be reported against on a quarterly basis. For example, data for a particular performance indicator might be collected by an independent contractor on a yearly basis. The bill enables the minister to specify an alternative reporting timetable, and requires publication of the reasons for the variation.

Where a public health service or denominational hospital has not agreed on a statement of priorities, the bill facilitates the reporting of health performance data by allowing the minister to publish a quarterly performance report against the performance indicators specified in the notice issued by the minister. If the public health service or denominational hospital later agree to a statement of priorities, the minister will publish a quarterly performance report based on the performance indicators in the agreed statement of priorities and that have also been specified in the notice issued by the minister.

Finally, as with emergency services, the minister will be permitted to delay reporting of hospital performance data in cases where it would unreasonably divert resources from a major emergency or as a result of prolonged or sustained industrial action.

Conclusion

This bill will facilitate better access to important information to the public. It will improve the public scrutiny of critical services that every Victorian values. The need for improved transparency in the reporting of this information is well recognised, as demonstrated by a number of VAGO's reports. The bill will also promote a culture of transparency in the reporting of government information, providing Victorians with access to data about the government services which are so vital in day-to-day life and critical for the preservation of life and property.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 24 December.

BUILDING LEGISLATION AMENDMENT (CONSUMER PROTECTION) BILL 2015

Statement of compatibility

Mr WYNNE (Minister for Planning) 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 Building Legislation Amendment (Consumer Protection) Bill 2015 (the bill).

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

Overview

The main purposes of the bill are to amend the Domestic Building Contracts Act 1995 (the DBCA) and the Building Act 1993 (the Building Act) to enhance consumer protection in relation to domestic building work, including providing for new processes for resolution of disputes and improving the regulation of building practitioners.

Human rights issues

Limiting access to a court or tribunal

The bill provides that a party to a domestic building work dispute must refer the dispute to the dispute resolution service for conciliation before a party is entitled to commence proceedings in VCAT or a court. If the dispute is assessed as unsuitable for conciliation or is unable to be resolved by conciliation, the chief dispute resolution officer will issue to the parties a 'certificate of conciliation'. Clause 7 inserts new section 56 into the DBCA which provides that a party to a dispute must not make an application to VCAT unless a certificate of conciliation has been issued. Clause 8 inserts new section 57A into the DBCA which provides that a party to a domestic building work dispute may not commence action in a court unless a certificate of conciliation has been issued or the party has been granted leave by the court to bring the proceedings. Further, clause 15 requires the tribunal to make an award of costs against an unsuccessful party to a dispute if the dispute had been referred for a conciliation and conference and that party refused to participate or did not participate in good faith, subject to exceptions.

Right to a fair hearing (s 24)

Section 24 of the charter provides that a party to a civil proceeding has the right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The right to a fair hearing also encompasses the established common-law right that each individual has unimpeded access to the courts of a state, and extends this to tribunals. The right is limited if a person is precluded from having effective access to a court or tribunal, in that they are barred from properly presenting their case.

It is my view that the mandatory conciliation scheme does not limit the right to fair hearing, as it only precludes a person from accessing a court or tribunal prior to engaging in conciliation. Effective access to a court or tribunal is still preserved once parties have participated in conciliation or the conciliation service decides that the dispute is not suitable for conciliation. An aggrieved party can seek review at VCAT of any issue of a dispute resolution order or a notice of breach of such an order. Further, a court retains discretion to grant leave to a party to commence an action in a court prior to the issue of a certificate of conciliation or participation in the conciliation process.

The mandatory cost orders that apply in VCAT cannot be considered as constituting a bar to effective access, as costs are only awarded in relation to non-participation in conciliation, or bad faith participation. Further, VCAT is excused from making an award of costs if it would be unfair to do so, having regard to various factors. This provision does not apply to a party seeking to access VCAT for a legitimate purpose who had participated in good faith in the conciliation process.

Even if it were considered that this scheme limited the right to fair hearing, it is my view the right is a reasonable limit. There is a strong access to justice rationale in implementing a mandatory conciliation scheme. The current conciliation service for domestic building disputes has a 90 per cent resolution rate but its voluntary nature and inability to compel parties to participate or enforce compliance with negotiated outcomes limits its effectiveness for the parties involved. Mandatory conciliation has proven to be a highly successful form of alternative dispute resolution across a number of regulated industries, including workers compensation disputes and retail tenancy disputes. Conciliation will also allow disputes to be resolved at significantly less cost than taking action at VCAT or a court, including alleviating unnecessary burden on the courts for disputes which are more appropriately resolved by alternative dispute resolution. Accordingly, I am of the view that any impediment to a person's access to a court is reasonably justified and that no less restrictive alternative is reasonably available. The new mandatory conciliation scheme is therefore considered compatible with the charter.

Information gathering powers

The bill inserts new part 4 into the DBCA to provide, among other things, for the appointment of an assessor to carry out a

range of functions, including the primary function of assessing whether a domestic building work is defective or incomplete in circumstances where the DBCA provide for such an assessment to be made.

An assessor is provided with the following powers —

> Power of entry (new section 48D): an assessor who is directed to inquire into a dispute may at any reasonable time enter and examine any relevant part of the building site at which the work that is the subject of the dispute is being, or has been, carried out. If the building site is being used as a residence, an assessor may only enter with consent of the occupier. However, a failure to provide consent may be a ground for the issue of a certificate of conciliation that the dispute was not resolved by conciliation and that the occupier did not participate in good faith.
>
> Powers of examination (new section 48E): an assessor may cause any domestic building work to be demolished, opened or cut into if reasonably required to facilitate an examination of the work. An assessor may also take photographs of building work.
>
> Power to require production of information and/or documents (new section 48F): to the extent that is reasonably necessary to determine whether domestic building work is defective or incomplete, an assessor may require a person at a building site to give information to the assessor (either orally or in writing), produce documents to the assessor or give reasonable assistance to the assessor. It is an offence to refuse to comply without reasonable excuse. A reasonable excuse includes claiming protection against self-incrimination; however, this protection does not extend to the production of documents.

These powers are relevant to the following human rights:

> the right to privacy through interference with a person's private sphere or home by way of compelled entry and taking photographs;
>
> the right to property through permitting interference, including demolition, with a person's domestic building work; and
>
> the right not to be compelled to testify against himself or herself or to confess guilt, by abrogating the privilege against self-incrimination in relation to production of documents.

Right to privacy

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

The bill will authorise assessors to enter places, including private residences, and to undertake examinations of a building site that may interfere with the right to privacy of a resident. I note though that these powers are directed to obtaining information relevant to the performance of functions by authorised persons responsible for monitoring and enforcing compliance with the Building Act, as opposed to private information.

In my view, while the exercise of the entry power may interfere with the privacy of an individual in some cases, any such interference will not be arbitrary. The purpose of the entry and inspection power is strictly prescribed, which is to assess whether domestic building work is defective or incomplete where required under the DBCA and the Building Act, as well as under the regulations made under these acts. While the primary purpose of this function is to obtain information to be used in the fair resolution of building disputes, it can also lead to the reporting of contraventions of the above acts and regulations, which can enliven the making of a dispute resolution order by the chief dispute resolution officer. This serves a broader public interest which is to further compliance with the regulatory scheme, ensure just outcomes to disputes as quickly and cheaply as possible and that domestic buildings are built to appropriate safety standards. The entry and inspection powers are strictly confined and contain a range of safeguards, including requiring the occupier to give consent if the site is being used as a residence. The powers are only enlivened in certain circumstances, which is where a person has sought to refer a dispute for conciliation and the chief dispute resolution officer has directed for the appointment of an assessor to examine a domestic building work. Any resulting interference with privacy will occur lawfully under these provisions.

In relation to the requirement to provide information or take photos, not all information required under these clauses will be of a private nature. However, insofar as these provisions do require disclosure of private information, it will not be arbitrary as the information must relate to matters necessary to determine if the building work is defective or incomplete.

Right to property

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

The assessor's powers to demolish, open or cut into any domestic building work is limited to 'building work' as set out in section 5 of the DBCA and can only be exercised if reasonably required to facilitate an examination of the work. It is unlikely in my view that any exercise of this power will result in any real deprivation of property, as any demolition or cutting of a building work is to allow for the assessor to examine the work for defects or state of completeness; however, should it result in any deprivation of property, I am satisfied it would occur in accordance with law as the scope of this power is prescribed with sufficient precision.

Right to protection against self-incrimination

Section 25(2)(k) of the charter provides that a person who has been charged with a criminal offence has the right not to be compelled to testify against himself or herself or to confess guilt. The right applies in relation to incriminatory material obtained under compulsion, and extends to cover information that may have been obtained prior to any charge being laid.

The right to protection against self-incrimination generally covers the compulsion of documents or things which might incriminate a person. New section 48H limits this protection by not excusing a person from producing documents that would tend to incriminate that person. This provision enables

an assessor to access pre-existing documents that are reasonably necessary to determine whether domestic building work is defective or incomplete, in the context of furthering the resolution of a domestic building work dispute. I note that the protection against self-incrimination is still preserved for oral testimony and that the assessor is unable to compel a person to bring into existence a written document.

It is my view that new section 48H is a reasonable limit on human rights under section 7 of the charter. While the protection in section 25(2)(k) is considered a fundamental right of an accused in relation to the criminal process, at common law the protection accorded to the compelled production of pre-existing documents is considerably weaker than the protection accorded to oral testimony or to documents that are brought into existence to comply with a request for information. This is particularly so in the context of regulated industry, where documents or records are required to be produced during the course of a practitioner's participation in that industry and exist for the dominant purpose of demonstrating that practitioner's compliance with his or her relevant duties and obligations. The duty to provide documents in this context is consistent with the reasonable expectations of these individuals as persons who operate within a regulated scheme.

Further, the ability to require such information is necessary for the overall effectiveness of the mandatory conciliation scheme, which serves the objective of cost-effective resolution of disputes. It is essential to the effectiveness of the mandatory conciliation scheme that the assessor be able to make full inquiry of all relevant matters and have access to pre-existing documents. While criminal charges may eventually result from information obtained by an assessor, it is relevant to note that the role of an assessor is to assess the quality of building work and not to monitor compliance or initiate criminal proceedings.

I am of the view that there are no less restrictive means available to achieve the purpose of enabling an assessor to have access to relevant documents, as providing an immunity for documents would unreasonably obstruct the role of the assessor and the aims of the scheme, as well as give the holders of such documents an unfair forensic advantage in relation to criminal and disciplinary investigations. Accordingly, I consider that this clause is compatible with the right not to be compelled to testify against oneself in the Charter.

Powers of a manager

Clause 41 inserts new division 3 into part 6 of the Building Act to provide for the appointment of a manager of business in relation to a private building surveyor in certain circumstances where it is necessary to protect the interests of other persons (such as where a private building surveyor has requested the appointment, died, been imprisoned, had his or her registration suspended or cancelled, become insolvent, become a represented person under the Guardianship and Administration Act 1986 or has otherwise ceased to perform the functions of a private building surveyor). New section 83I empowers a manager of a private building surveyor's business to enter and remain on, or in, land or buildings used in connection with the surveyor's business during normal business hours or otherwise with consent. The manager is also empowered to gain control of all documents relating to clients, take possession of or secure any relevant document or thing, operate any equipment or facilities on the land or in the building, and take possession of any computer program or equipment reasonably required for a purpose relevant to the management of the business. The manager is also granted access to the private building surveyor's accounts for remuneration.

New section 83K provides a manager of a private surveyor's business, or a person acting at the direction of the manager, is not liable for anything done or omitted to be done in good faith in carrying out a function of the manager under this division (or in the reasonable belief that a function is being carried out).

The rights to privacy (s 13), property (s 20) and fair hearing (s 24) in the charter are relevant to the above powers of statutory management.

Rights to privacy (s 13) and property (s 20)

As the powers relate to the private building surveyor's surveying business, and do not extend to be exercised with respect to any other facets of the private building surveyor's affairs, there is unlikely to be a limit on a person's human rights. Further I am of the view that any resulting limits, should they occur, would be reasonably justified. It is common in other regulated schemes, such as conveyancers and the legal profession, for managers to be appointed in circumstances where a private practitioner ceases to operate and as result, the practitioner's clients are exposed to risk of financial loss or other harms as a result of their engagements with that practitioner. The bill strictly prescribes the grounds in which a manager may be appointed, and requires the appointment to be necessary in order to protect the interests of other persons. A manager is subject to confidentiality obligations as a result of information obtained as a result of the manager's appointment and can only exercise powers in relation to the affairs of a client of the business with that client's consent. Any person adversely affected by the decision to appoint a manager is able to seek a review of that decision at VCAT. Accordingly, I am satisfied that these statutory management powers are compatible with the rights to privacy and property.

Right to fair hearing (s 24)

New section 83K affects the circumstances in which a person may bring legal proceedings against an appointed manager in relation to particular matters. A broad statutory immunity from liability may limit the right to hearing by imposing a bar to access to the courts for persons seeking redress against those who enjoy the immunity.

Any limit caused by this immunity to be reasonably justified under section 7(2) of the charter. The immunity is designed to protect the public interest in maintaining the independence of officials who are appointed to perform regulatory and administrative functions. The provision of immunity in this clause supports independent decision-making in relation to the carrying out of a necessary regulatory function, being the appointment of a manager to a business where the practitioner has ceased to operate and it is necessary to protect the interests of other persons. It is essential that a manager be able to pursue their public duties without the fear of tort liability, which may be heightened in the case of a business subject to statutory management. This will ultimately facilitate the making of decisions that are in the interests of persons connected to a business under statutory management. Further, the immunity only extends to cover actions or admission

made in good faith, and liability will still arise for any action or omission undertaken dishonestly or not in course of a legitimate function.

Accordingly, I am satisfied that that the statutory management model and powers provided to a manager are compatible with the charter.

Privileged complaints

To follow the above discussion, the bill also provides for statutory immunity from liability in relation to complaints lodged with the authority. Clause 25 inserts new section 183B into the Building Act which provides that a person is not liable in any way for any loss, damage, or injury suffered by another person solely because the first person lodged a complaint in good faith with the authority in relation to a registered building practitioner or produced or gave a document of any information or evidence to the authority for the purposes of this part.

In my view, this new section does not limit the right to a fair hearing. Its purpose is to ensure that individuals can make complaints and comply with their statutory obligations without fear of being subject to defamation proceedings or proceedings arising from breach of confidence. The authority is subject to confidentiality requirements, so consequently complaints and information provided to the authority will not affect a person's reputation given that such things will not be made public until such time as a formal finding, if any, is made against the person. Further, a complainant would be afforded the protection of qualified privilege under the common law in defence to any defamation claim arising from the complaint. Accordingly, it is unlikely that this immunity would operate to bar a legitimate cause of action. The provision ensures that a consumer or other person who is aggrieved by the conduct of a building practitioner or other contravention of the legislation is not deterred from being full and frank with their disclosure of information. Accordingly, new section 183B does not limit the right to a fair hearing.

Suspension of registration on ground of inability to practice and appointment of manager

Clause 25 inserts new section 181 into the Building Act to provide the Victorian Building Authority with the power to suspend a person's registration for not more than three years or cancel the person's registration if it is satisfied that a registered building practitioner is incapable of practising as a building practitioner because of physical or mental infirmity. Clause 41, as described above, inserts new section 83B which provides that a manager may be appointed for a private building surveyor's business if the surveyor has become a represented person under the Guardianship and Administration Act 1986. A represented person is a person subject to a guardianship or administration order by way of a disability which makes them unable to make reasonable judgements about certain matters.

Right to equality (s 8)

Section 8(3) of the charter provides that every person is entitled to equal protection of the law without discrimination and has the right to equal and effective protection against discrimination. Discrimination is defined by reference to the protected attributes in section 6 of the Equal Opportunity Act 2010 and includes disability.

In my view, these provisions do not limit the right to equality. A practitioner's registration is suspended or a surveyor's business is made subject to statutory management because of their inability to make reasonable judgements about certain matters, rather than because of their disability. The provisions recognise the fact that such a person cannot carry out the functions and responsibilities required of these roles, and the interests and safety of other persons may need to be safeguarded as a result. I note that any decision made under either of the above clauses is reviewable under the bill and that registration can be restored or an appointed manager terminated if the affected building practitioner or surveyor recovers to full competence.

Reverse onus provisions

The bill provides for the following offences which contain an exception in the form of an excuse:

> a person must not, without reasonable excuse, refuse or fail to comply with a requirement of an assessor (clause 6, inserting new section 48G into the DBCA);
>
> a person must not, without reasonable excuse, hinder or obstruct an assessor exercising any power (clause 6, inserting new section 48I into the DBCA); and
>
> a person must not, without reasonable excuse, hinder, obstruct or delay a manager in carrying out the manager's functions under this Division (clause 41, inserting new section 83U into the Building Act).

Right to be presumed innocent (s 25(1))

The right in section 25(1) of the charter is relevant where a statutory provision shifts the burden of proof onto an accused in a criminal proceeding, so that the accused is required to prove matters to establish, or raise evidence to suggest, that he or she is not guilty of an offence.

These offences contain excuses (also known as exceptions) which place an evidential burden on the accused, in other words, the accused is required to present or point to evidence that suggests a reasonable possibility of the existence of facts that would establish the exception or excuse. In my view, the use of the above evidential onus provisions on the accused to establish an exception does not transfer the legal burden of proof and are not severe enough to limit the right in section 25(1). The exceptions relate to matters which are peculiarly within an accused's knowledge and would be unduly onerous for a prosecution to disprove at first instance. Once the accused has pointed to evidence of a reasonable excuse, the burden shifts back to the prosecution who must prove the essential elements of the offence to a legal standard. I am of the view that there is a negligible risk that these provisions would allow an innocent person to be convicted of any of these offences. Accordingly, I am of the view that these offence provisions are compatible with the charter.

Hon. Richard Wynne, MP
Minister for Planning

Hon. Jane Garrett, MP
Minister for Consumer Affairs, Gaming and Liquor Regulation

Second reading

Mr WYNNE (Minister for Planning) — I move:

That this bill be now read a second time.

Speech as follows incorporated into *Hansard* under sessional orders:

This bill represents the first tranche of reform to Victoria's building system that will:

> restore confidence for both consumers and building practitioners and underpin further growth in the state's $28 billion building industry;
>
> achieve quality built outcomes;
>
> ensure timeliness in all processes; and
>
> deliver clear and accessible pathways for consumers to resolve disputes and ensure that their homes are built to the required standard.

Most domestic building projects in Victoria are completed to a high standard and to the satisfaction of consumers. Our building industry would not be as robust as it is, if this were not the case. However, things do go wrong, and when they do, the system fails consumers. This cannot continue without putting at risk one of the main strengths of Victoria's strong economic performance, our construction industry.

This bill seeks to address what we know is a longstanding issue. It will do this by providing for earlier intervention to prevent problems or disputes arising in the first place. It also establishes a new system to respond as early, quickly and inexpensively as possible so that where a dispute does arise it will be resolved in a manner that is fair and balanced for both consumers and building practitioners.

The Victorian Auditor-General's Office (VAGO) May 2015 report on Victoria's Consumer Protection Framework for Building Construction has once again criticised the current system for providing inadequate protection to consumers.

This bill responds to VAGO's report, as well as earlier reports, including a report of the Victorian Ombudsman in 2012. It also delivers on the government's election commitment to increase protection of consumers from home building malpractice.

In its 2015 report, VAGO recommended:

> review of the practitioner registration and discipline regimes;
>
> review of the arrangements governing the engagement of building surveyors to ensure independent and objective performance of their statutory functions;
>
> dispute resolution that ensures easy, low-cost and timely access, with powers to compel participation in conciliation and enforce compliance; and
>
> consumer education providing access to necessary information and advice.

This bill delivers reforms in each of these areas and does it in a manner that is fair to both consumers and building practitioners.

However, this is just the start. The government acknowledges that further reforms are needed to respond to VAGO's findings and to strengthen consumer protection and improve regulation. For this reason, the government intends to bring forward a second tranche of legislation in 2016 that will include changes to the building permit system and the registration of corporations amongst other measures.

I will now outline the major provisions of the bill.

The bill will amend the Building Act 1993 and the Domestic Building Contracts Act 1995 to implement essential reforms to the domestic building consumer protection framework and generally improve the regulation of building in Victoria.

Resolution of domestic building work disputes

Part 2 of the bill sets out new procedures for more timely and less costly resolution of domestic building work disputes.

The bill creates a new process for the conciliation and resolution of disputes to be delivered by a new service to be known as Domestic Building Dispute Resolution Victoria. It is modelled on similar bodies, such as those used in workers compensation disputes and retail tenancy disputes to resolve disputes in a quick and fair manner.

The new service will be administratively linked to Consumer Affairs Victoria. However, it will reach its decisions independently from the director of Consumer Affairs Victoria. It will be headed by a person known as the chief dispute resolution officer who will be supported by suitably qualified conciliators and technical assessors capable of examining domestic building work. This new service will be funded from the existing Domestic Builders Fund, which is administered by Consumer Affairs Victoria.

In line with VAGO's recommendations, conciliation at Domestic Building Dispute Resolution Victoria will be mandatory before an application can be made to VCAT or a court. Save for injunctive relief, participation in conciliation or the issue of a certificate stating that the dispute was not suitable for conciliation or could not be conciliated will be required before a party can access the more costly dispute resolution procedures associated with a full hearing before VCAT. This should significantly reduce the costs for both consumers and builders, as well as the stresses that come with formal legal proceedings.

The emphasis of the dispute resolution process will remain on the conciliation of disputes through bringing the disputing parties to agreement. Parties to a dispute will be assisted to reach agreement and resolve the dispute by the conciliators and assessors. Assessors will examine and report on the domestic building work if requested by the chief dispute resolution officer.

The bill introduces a new measure to resolve disputes where the parties cannot reach agreement through conciliation — dispute resolution orders. Dispute resolution orders will be able to be issued by the new chief dispute resolution officer to require rectification of defective or incomplete work, or payment to a builder, or payment into a trust fund pending completion of rectification work. The bill also provides for the establishment of the trust fund for this purpose.

In the most extreme cases, a dispute resolution order will also be able to be used to compel a builder to meet the cost of rectification by an alternative builder where the building work is so poor that it would not be reasonable to allow the original builder to attempt rectification.

Where a party refuses to participate in conciliation, or refuses to participate in good faith, the dispute will still be considered. If an assessor is appointed and a dispute resolution order is issued, the party that does not participate in good faith will be liable for the costs of the preparation of the report, and if they apply to VCAT for a review of the order and are unsuccessful, costs will be awarded against them.

While a party who is required to comply with a dispute resolution order will have a right to seek review of the order at VCAT, there will be strong incentives to both parties to accept the outcomes of conciliation and the dispute resolution order, if one has been issued. VCAT will have the power to make costs orders if it finds the review application frivolous or lacking in substance, or if the party seeking review does not get a better outcome compared to that achieved through conciliation and the dispute resolution order. As a further incentive, breach of a dispute resolution order by a builder will also be a ground for disciplinary action.

As it is intended that the new measures focus on getting building outcomes, the bill also provides that a consumer can terminate the contract with the builder if the dispute resolution order is not complied with, and seek compensation at VCAT. The builder will have a similar right.

Regulation of building work and building practitioners

Part 3 of the bill deals with regulation of building work and building practitioners.

The performance of the Building Practitioners Board, which is currently responsible for determining registration and discipline of registered building practitioners, has been criticised by both VAGO and the Victorian Ombudsman. Although VAGO have acknowledged some improvements are being made, clearly the separation of registration and disciplinary functions from the Victorian Building Authority's (the authority) general regulatory functions is not working.

The bill therefore abolishes the Building Practitioners Board and transfers the board's registration and disciplinary functions to the authority. This means that the authority will be responsible for regulation, registration and discipline of building practitioners and monitoring and enforcement of compliance with the Building Act and regulations. This will integrate these important functions into the VBA.

The bill also strengthens the regulatory powers of the authority to better position the authority to meet its obligations under the Building Act and deliver best practice regulation to the building industry in Victoria. For example, the authority will be given new powers to direct builders to fix non-compliant or defective building work. The current arrangements under which the authority may act are complex and time-consuming and need to be streamlined. The new arrangements encourage early intervention to fix problems before they become disputes.

Registration of building practitioners

To address VAGO's criticisms that there is no mechanism by which to assess the ongoing competence of building practitioners once registered, the bill provides for improved registration standards including the introduction of time-limited registrations.

Practitioners will now be required to seek renewal of registration within five years and will need to demonstrate ongoing competency through, for example, having complied with any prescribed continuing professional development requirements.

VAGO also found that the current registration system does not ensure that the only practitioners who are registered are qualified, competent and of good character.

The bill therefore allows the authority to attach conditions to registration. This means that registrations will be able to be more effectively restricted to what work the authority considers a practitioner is competent to perform. Currently the Building Practitioners Board can only impose such restrictions following disciplinary action. This will make the registration system more capable of reflecting the particular competencies of different building practitioners and address the VAGO finding.

Further, to make it clearer to consumers and practitioners what work a person is qualified to perform, the bill also provides for scopes of work for registration categories and classes to be prescribed.

Finally, the bill replaces the current good character test with a broader 'fit and proper person' test. The current good character test is both limited in scope and inconsistent with the grounds for discipline, which focus on whether a person is a fit and proper person to practise. A practitioner can be disciplined if it is shown that he or she is not a fit and proper person to practise.

Professional standards will be reinforced through new codes of conduct for building practitioners. It will be possible for the authority to approve or endorse different codes of conduct for different categories and classes of building practitioner. It is expected that codes of conduct will cover matters such as acting in the public interest, complying with legislative requirements, avoiding conflicts of interest, acting independently, and not performing functions outside competence or areas of expertise. A failure to comply with a code of conduct will be grounds to discipline the building practitioner. The authority will consult with industry before making or approving the contents of any code.

A practitioner will have the ability to seek internal review of registration decisions by the authority, along with a right to appeal to VCAT.

The bill also includes a new provision that will enable a building practitioner to surrender their registration with the consent of the authority. Currently practitioners cannot surrender their registration which means that if a practitioner does not pay his or her renewal fee, their registration status is shown as 'suspended'. This has negative implications and has been of particular concern for those practitioners who are retiring from the workforce.

Improved and timely disciplinary processes and sanctions

Practitioners and consumers need a disciplinary system that delivers more timely outcomes and gives them greater certainty. The bill provides new measures that will do this and which will also address VAGO's findings that the disciplinary system is not protecting consumers, as current sanctions are ineffective in deterring practitioner misconduct.

The most significant change is the introduction of a more efficient 'show cause' disciplinary process. 'Show cause' will replace the current slow, costly and inefficient inquiries system which also allows practitioners who are not competent to continue to work, increasing the risk of further defective work. The new streamlined process will also assist practitioners as it will be clear from the outset what penalties are proposed.

Under the new process, if the authority reasonably believes, after investigation, that there are grounds for disciplinary action it will be able to require a registered building practitioner to 'show cause' why a disciplinary sanction should not be imposed. A 'show cause' notice will be issued setting out that the authority proposes to take disciplinary action, the disciplinary action proposed, the registration in relation to which the action is proposed, the ground, an outline of facts and circumstances and an invitation to the practitioner to show cause in 14 days (the 'show cause' period) as to why the proposed action should not be taken.

At the end of the 'show cause' period and following consideration of any representations by the practitioner, the authority must decide within 28 days whether a ground exists to take disciplinary action. The bill provides strict timelines to ensure that there are no unnecessary delays in the process.

Practitioner rights will be safeguarded because they will be able to seek an internal review of disciplinary decisions by the authority, followed by a review at VCAT.

Additionally, the bill introduces more effective disciplinary sanctions including the power for the authority to impose a condition on a registration, to suspend a registration or to 'partially' suspend a registration. This flexibility ensures that building practitioners receive appropriate sanctions but that consumers are not disadvantaged as it may be possible that the builder is undertaking several projects and only work on one of them is defective. It is also consistent with the government's focus on getting better and faster outcomes for consumers.

The grounds for disciplinary action will also be expanded and made clearer to take into account the new dispute resolution system and to ensure that practitioners will be held to account if they do the wrong thing. New grounds for discipline will include failure to comply with:

a dispute resolution order;

a code of conduct;

a direction of the authority or VCAT; or

a condition on the person's registration.

Not completing any continuing professional development requirements will also be a ground for discipline.

There is currently only one ground for immediate suspension. New grounds for immediate suspension will also be specified. This means that, in addition to the current ground that an immediate suspension is in the public interest, a practitioner will no longer be able to practise if they are bankrupt or insolvent, they have contravened a prescribed provision of the Building Act, the Domestic Building Contracts Act or a prescribed law, they have been convicted of an indictable offence involving fraud, dishonesty, drug trafficking or violence, they have not paid a required amount, or they are no longer being covered by the required insurance.

An application for review to VCAT will automatically stay the disciplinary decision except for decisions to immediately suspend registration, as it may not be in the public interest for these practitioners to continue to operate. In that case, a building practitioner may apply to VCAT to have an immediate suspension stayed, but the Authority must be given the opportunity to be heard.

Building surveyors

To address the potential for a conflict of interest for building surveyors identified by VAGO, the bill prohibits a builder from appointing the relevant building surveyor on behalf of the owner in relation to domestic building work. It also prohibits a building surveyor from accepting an appointment in this way. This measure is expected to reinforce the independence of the building surveyor and to give the consumer more control over their building work.

Consumers will also be given better information early in a building project to assist them to make more informed decisions, particularly about the appointment of the building surveyor. The builder will be required to give the consumer an information sheet that sets out the roles and responsibilities of each party to the building project, including the consumer, builder and building surveyor.

Major disruptions to building work can occur where a private building surveyor, who has been appointed as relevant building surveyor, ceases to operate whether due to suspension, incapacity or some other cause. This results in detriment to consumers and builders alike while a consumer tries to find a new building surveyor to appoint.

To address this situation the authority will be able to appoint a statutory manager to manage the private building surveyor's business. There will be strict circumstances, specified as to when this can occur.

The authority and building surveyors will also be given stronger powers to direct builders to fix defective work. Section 37 of the Building Act currently permits the relevant building surveyor, or person on their behalf, to direct a person in charge of building work to bring non-compliant work into compliance.

This is an important tool in early intervention and the prevention of defective, non-compliant work and will be strengthened by making it mandatory for the relevant building surveyor to issue a direction to fix work, to ensure that it is compliant with the requirements of the Building Act, building regulations and the building permit.

The builder will be responsible for ensuring the work is fixed and it will be an offence (as well as a ground for discipline) not to comply with a direction within the period for compliance, or if none is specified, within a reasonable time.

The aim is to achieve greater instances of rectification of non-compliant building work by builders, without the need for the relevant building surveyor to issue building notices or orders which can only be issued to owners.

Builders will have a right to seek review of directions to fix at the Building Appeals Board.

An authorised person or performance auditor from the authority will have the same power to issue directions under this section as a relevant building surveyor.

The bill also provides measures to assist building surveyors carry out their functions. A new checklist to be completed and certified by the building surveyor will assist them to ensure that all required documents are lodged with the council. It is also intended that this new checklist process will place a higher degree of formality around the lodgement process and achieve improved compliance with document lodgement requirements.

There have been instances where domestic building consumers have been left without domestic building insurance cover because the identity of the builder who is party to the domestic building contract and the builder who is named on the certificate of insurance differ. The existing requirements on the building surveyor, to check that there is insurance coverage because the parties to the contract and the certificate of insurance are the same, will be tightened.

This improves the protection of domestic building consumers but also of building surveyors because in the past they have been held liable by VCAT in instances where domestic building consumers have not been covered by domestic building insurance due to disparity between the contracting party and the party named on the insurance certificate.

Other improvements to regulation

Each building practitioner in the chain must ensure that the building work that they are engaged to perform is compliant and covered by a building permit. Every building practitioner or professional involved in a building project should be held accountable for their actions and input. We have seen, following the investigation into tragic deaths from the wall collapse in Swanston Street, that the current system does not provide sufficient incentives for people who control the carrying out of building work to effectively oversee compliance with regulatory requirements.

This will be rectified with a new provision that prohibits an owner of land from permitting any building work to be carried out on their land which requires a building permit, unless a building permit has been issued and is in force, and that the building work is carried out in accordance with the Building Act, the building regulations and the building permit.

However an owner of land will not commit an offence if the owner engages a building practitioner or architect to carry out the building work on their land.

A building practitioner or architect who is engaged to carry out building work, whether by an owner of land or by another building practitioner or architect, must ensure that, in respect of building work for which they have been engaged, a building permit has been issued and is in force, and the building work is carried out in accordance with the Building Act, the building regulations and the building permit.

The bill will also allow the authority to accept and register an undertaking from a registered building practitioner and to enforce such undertakings in a court. These undertakings, like those given under the Australian Consumer Law, are also enforceable against officers of corporations.

Strengthened regulation of owner-builders

Genuine owner-builders should be able to build homes or renovate on their own land. The bill protects this right but also strengthens regulation so that owner-builder provisions cannot be used as a loophole to avoid regulation and registration requirements for builders. It also better equips people who want to be owner-builders, so that they understand all the risks and responsibilities of being an owner-builder.

The time period allowable between owner-builder jobs will be increased from the current three years to five years. This will bring Victoria into line with other jurisdictions.

Further, unlike other building sites, it is currently not possible for the authority to carry out a performance audit of an owner-builder site. Consumer protection issues can arise if a dwelling is subsequently sold to a third party by an owner-builder. The bill addresses this anomaly and gives the authority the same performance audit power and power to direct for owner-builder sites as it has for other building work.

Conclusion

Building disputes can ruin people's lives and builders' livelihoods. While we know that the vast majority of building practitioners act professionally and consumers get their homes built to the required standard, we also know that when things go wrong, the system is failing consumers and builders alike. Dispute resolution in particular is too complex, too costly — emotionally and financially — and takes too long to resolve. These are not new issues; they have been known for some time.

Victoria needs a building system that is much clearer for consumers and builders. We cannot allow the current system to continue. The reforms contained in this bill are the start of the government's program to fix the flaws. The program has started with the measures that are best able to strengthen consumer protection and ensure the quality of building projects in Victoria is the best in Australia.

The measures focus on dispute prevention by strengthening registration requirements and improving the regulatory powers of the authority and building surveyors. Where disputes do arise, early dispute resolution through mandatory conciliation as recommended by VAGO and new binding dispute resolution orders will help solve them faster and more affordably. A more efficient and timely discipline process and sanctions will act as powerful disincentives to building practitioners doing the wrong thing.

The package of measures has been designed to get positive outcomes for consumers and builders and underpin the future growth of the industry. We know that more is required and more measures to improve the regulatory regime will follow in 2016. We have been consulting with consumer groups and industry groups about measures to further improve the building system and strengthen consumer protection. Measures under consideration include expanding the registration requirements to corporations and making

information on building practitioners' registration and disciplinary history more accessible to consumers.

VAGO have also raised concerns about the building permit levy system and the role of local government. Measures to address these issues will also be considered. We also know that the building permit system needs more flexibility to stop any unnecessary delays in building work. Measures that respond to this issue will also be brought forward.

The government is committed to tackling the longstanding flaws in the building system. This bill is the first step in our program of reform.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 24 December.

LEGISLATIVE COUNCIL STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Minister for Energy and Resources

Message from Council seeking agreement to following resolution considered:

Council's resolution:

That this house requests the Legislative Assembly to grant leave to the Minister for Energy and Resources, the Honourable Lily D'Ambrosio, MP, to appear before the Legislative Council environment and planning committee to give evidence and answer questions in relation to the committee's inquiry into onshore unconventional gas.

Ms ALLAN (Minister for Public Transport) — I move:

That this house refuses to consent to the Legislative Council's request for the Minister for Energy and Resources to appear before the Legislative Council environment and planning committee to give evidence and answer questions in relation to the inquiry into onshore unconventional gas.

Given the time I will make a few brief comments which go to the issue of the well-established precedents on these matters which all members of the house would be aware of and which at different stages of their time in this place they would have supported in various forms. It is a long-held principle in our system that one house cannot compel a member of another house to appear before it. That is entirely the point, and those opposite may wish to turn their backs on that long-held practice for the benefit of their oppositionist position. I am pretty confident that I do not recall one minister when the opposition was in government who appeared in this way before an upper house committee. I can well understand, having had the experience of opposition, the bluff and bluster that is coming from those opposite on this matter.

As I said, there are well-established practices and also practices around what is regarded as interfering with the function of executive government. To compel a minister from this chamber to attend in this way flies in the face of that long-established precedent. That is why we are proposing that the house refuse this request.

An honourable member interjected.

Ms ALLAN — As the member said, it is up to the discretion of the minister whether they wish to attend or not. If I can give some gratuitous advice to those members of the Legislative Council who are wishing to pursue this course: perhaps if they had asked nicely and perhaps if they had gone through appropriate channels, that may have been pursued.

We also have to see this within the context of the inquiry, which comes from the government's own work. It is unfortunate that the opposition is wanting to politicise that issue. There is a broad range of community concerns on this matter. We are not going to partake of an action that flies in the face of the appropriate way to deal with these matters, and that is why we are urging the house to refuse this request from the Legislative Council on this matter.

Mr SOUTHWICK (Caulfield) — I rise to make some comments on the motion that this house request the Minister for Energy and Resources to appear before the environment and planning committee to discuss the onshore unconventional gas report. The Leader of the House has made some comments that there is no precedent for this and that if we had asked nicely maybe we would have got somewhere. It was pretty clear: it was a motion put to the Legislative Council, and the Legislative Council supported the motion, which was agreed and passed in that house. It was also agreed by the committee to ask the minister to appear before the house. That committee is an all-party committee made up in part of Labor members, so there were two opportunities in which Labor members could have rejected this but in both instances it passed.

The third point regards there being no precedent. In fact in 2007 the then Minister for Consumer Affairs, Minister Robinson, was asked by the Legislative Council to appear before a committee looking at liquor control reform in his capacity as minister, so there is a precedent for this. In not appearing before this committee the Minister for Energy and Resources has been given protection by the government.

What is even more interesting is that this motion was set to be debated during the last parliamentary sitting week and was conveniently rejected. We now learn that that was a deliberate attempt to delay this debate because the report was only weeks away. The report was only released on Tuesday of this parliamentary sitting week. It is now Thursday, two days later, and we are debating this motion. The opportunity to get the minister to appear before the house was deliberately delayed in that fashion. I am sure that if we are able to get this motion to pass today, the committee would be happy to reconvene to hear this evidence.

What we learn from all of this is that there are good reasons why the government has protected the minister. It has protected the minister because it has under-resourced a committee, and there is evidence from the current report that it has done so. If members look at the report that was handed down two days ago, they will see that it says:

> In my view, the decision of the government to effectively block the appearance of the Minister for Energy and Resources, the Hon. Lily D'Ambrosio, at the inquiry points to their lack of seriousness and lack of genuine support. This was a government-initiated reference after all and there is precedent for the appearance of lower house ministers at upper house inquiries (e.g. Minister Tony Robinson, 2007).

It also says that there is more that the committee could have done to develop an understanding of the industry. It says the committee could have travelled and looked at other jurisdictions, such as Queensland and New South Wales, and also had some more scientific evidence to look at the other jurisdictions on coal seam gas.

The fact that this committee was under-resourced and the fact that this committee protected the minister gave us a report that is inconclusive and that gives no actual direction. There are more minority reports in this committee report than we saw in Tom Cruise's movie *Minority Report*. The reason we see this is that the minister is being protected from appearing. There is obviously a hidden agenda with all of this. The hidden agenda was revealed in James Campbell's *Herald Sun* article on 7 December, which says, 'The Andrews government sets up a secret committee to tackle looming gas prices hike'.

This article says that while this parliamentary inquiry was taking place before a committee operating under a reference from the current government, the government had a secret interdepartmental committee looking at onshore gas. What is evident here is that the government was not serious in the first place about this parliamentary committee. It was running its own agenda. It has an interdepartmental committee that is investigating and reporting on this issue. One might think this government has held the Parliament in contempt by under-resourcing the committee. It has been using taxpayers money — it is a funded committee. It has certainly used the Parliament's resources in running this committee.

All members in this house have been on their feet on many occasions and have said how important the Parliament's committee work is and how they enjoy being able to look at policy and come up with ideas that could potentially shape Victoria into the future. But when we have a parliamentary inquiry like this one into onshore gas, when it is not funded properly, when the minister does not turn up and when we find that the government is already doing the work anyway, that is a real kick in the face to everybody who sits on that parliamentary committee.

The government has not taken this parliamentary committee seriously. It was not ever intending to get a proper result. I think we deserve that the minister go before this committee, tell us what was going on in this interdepartmental committee, tell us what work it has done and give us the good oil on what has actually been going on. Obviously there is an agenda that Victorians do not know about. There is an agenda that has been hidden from the public, and I think the public deserves to know what the government's agenda is when it comes to onshore gas.

Members of this committee have suggested that they want a complete ban. Ms Shing, a member for Eastern Victoria Region in the other place, and Mr Leane, a member for Eastern Metropolitan Region in the other place, have suggested an onshore ban. Mr Somyurek, a member for South Eastern Metropolitan Region in the other place, is suggesting that he wants it to proceed. The government is quite unsure in terms of what it wants, and now we have this secret agenda. All of us, including industry and the public, need to know what the government's actual agenda is with this. We cannot have it running its own secret agenda. We need to know. That was the intention of this inquiry in the first place. It was an election commitment to run this inquiry. One would have thought it would have been properly funded, properly resourced and that the minister would have at least had the decency to front the committee.

Mr CARROLL (Niddrie) — It is my pleasure to make some comments on the motion. Let us be very clear, the member for Caulfield talked about protection rackets. There is only one protection racket happening right now, and that is for the member for Malvern. He

is in this protection racket right here and right now. Let us clear that up right here and right now. Let us go to the very heart of it. This was an election commitment of the Andrews Labor government.

We recognise that there is broad community concern about unconventional onshore gas, which is why we made the election commitment. It is why we are now having an open and transparent parliamentary inquiry, and it is incredibly important that the committee in conducting its inquiry hears from experts, reviews the scientific evidence and consults with the community, as all parliamentary committees do. I have sat on parliamentary inquiries with the member for Caulfield, and he knows the great work they do. He spoke about it. Let us let the inquiry get on and do its job. This will include working closely with key stakeholders, whether they be farmers, councils, regional communities, industry groups or environmental groups, so that all concerns can be addressed.

Let us be very clear about the precedents as well. During the Baillieu-Napthine-Shaw government I cannot remember a lower house minister being called to the upper house. We knew it was a government struggling, so we went a bit easy on it. I know the member for Box Hill is reading Joel Deane's book entitled *Catch and Kill — the Politics of Power* to work out how to run a good government. He should get back to reading it. He should include a review on his website. I love his updates. That book is about a great government, and the Andrews government is following in that vein, which is very important.

Let us get to the precedents. In the *Melbourne University Law Review*, volume 20, page 403, Geoffrey Lindell from the Melbourne University law school says that a standing committee can compel ministers from its own house to appear in front of a committee but not from the other house. He says a Legislative Council standing committee has the power to ask a member of the Legislative Assembly to appear before a committee but cannot compel a member of the Legislative Assembly to do so.

This point is also mirrored in the commonwealth Parliament. *Odgers Australian Senate Practice* says:

> … the Senate may not summon members of the House of Representatives …

For a member to appear, the Senate must send a message to the lower house requesting that leave be given for the member to attend. This gets to the crux of it — even if leave is granted, it is up to the member's discretion whether or not they wish to attend the committee hearing. So there you go. You have the precedents, and you have the former government's record on this. Let us get back to the task of delivering.

On Mr Davis, if we are really to crack open the nutshell, we know what Michael Kroger said about him and his policy efforts. We know what Robert Doyle said about him. It is very important that governments get on with delivering policy, so we are very proud in making sure that this motion does not succeed.

Mr CLARK (Box Hill) — I rise to support the member for Caulfield and to take issue with some of the inaccurate statements made by the Leader of the House. Indeed the Leader of the House's arguments have been undermined by the remarks of the Parliamentary Secretary for Justice remarks, the member for Niddrie. The starting point for this is absolutely clear. The other house cannot compel a member of this house to appear before one of its committees, at least not without the agreement of this house. But that is not the issue. The member for Niddrie in fact quoted from *Odgers Australian Senate Practice*, which made exactly clear the fact that the appropriate procedure to follow is what is happening here, that there be a message sent from the other place to invite the Minister for Energy and Resources to appear. If the member for Niddrie or the Leader of the House were to look at other documents relating to commonwealth practice, they would see that on many occasions ministers in the House of Representatives voluntarily appear before Senate committees without even requiring a message and resolution of the house.

But out of an abundance of caution there is this motion here to seek leave of this house for a member to appear. It is absolutely no infringement of this house's privileges if this house grants leave for one of the members in this house, who is a minister of the Crown, to appear before the other place, so let us have no argument whatsoever about it violating the privileges of this house or about it violating parliamentary tradition or practice. Tradition and practice have been complied with to the letter, arguably even beyond the letter of what is required.

The real issue that needs to be answered is: why will the minister not appear before the Legislative Council committee, bearing in mind that the committee, which is a committee which includes government and opposition members, has requested the minister to appear to assist that committee to undertake its work? Bear in mind also, as the member for Caulfield made very clear, that the matter being considered by this committee is a reference from the government itself. The committee is responding to a request from the government to inquire into and report on this matter.

The committee formed the view that its inquiries, its recommendations and its report would be assisted if the minister appeared before it to give evidence. So the question the government has to answer is: what does it have to hide? Why is it refusing to allow one of its own ministers to appear before the committee, at the committee's request, to assist it with an inquiry the government itself asked that committee to undertake?

The member for Caulfield has made absolutely clear the importance of the issue, the embarrassment the government is in in relation to its handling of the issue and the contempt with which the government has treated the parliamentary committee by letting the committee almost run its course and then getting a separate governmental process underway. This is the opposite of the integrity, accountability and transparency the Labor Party talked so eloquently and so long and loud about prior to coming to office. This is the Labor Party trying to prevent one of its ministers being exposed to scrutiny, having to respond to questions from an all-parliamentary committee — presumably in a public hearing — and having to account to the committee and, through the committee, to the community about where she and the government stand in relation to this issue. So let us have none of this nonsense about this message and this process being contrary to parliamentary practice. It is fully in accordance with longstanding parliamentary practice. It dots every i and crosses every t to make sure that there can be no argument but that parliamentary practice has been complied with.

The motion moved by the Leader of the House should be defeated, because this house should be willing to grant leave for the minister to appear before the committee. The minister should have already appeared voluntarily before the committee and given evidence, and the government should stop trying to hide and cover up on this issue.

Mr BROOKS (Bundoora) — It is a pleasure to join the debate on this motion. Firstly, it is important in considering this matter to understand the importance of the separation between this house and those in the other place. It is an important function of the way our Parliament works that the two houses act independently and separately.

Members will know that that is set out in various forms. *Odgers' Australian Senate Practice* points out that the Senate may not summon members of the House of Representatives. It is a long-held principle in the Westminster system that a member from one house will not appear in another. This was stated by John Hatsell in 1818:

> The leading principle … between the two houses of Parliament, is that … they shall be, in every respect, totally independent of the other. From hence it is, that neither house can claim, much less exercise, any authority over a member of the other …

There have been instances where ministers have appeared in front of committees of the other place. In the last term of Labor government a couple of ministers may have appeared before inquiries in the upper house, but the important thing is for us is to carefully consider, not so much as particular political parties but as members of the Assembly, whether a sufficient argument has been made for the appearance of one of our members before a committee of the other place. Has a strong case been put that this house agrees that we should send one of our members to the other place? In this debate no sufficient argument has been made. If we look at the debate on the motion moved in the upper house asking for this house to grant leave for the minister to appear before that committee, Mr Davis, a member for Southern Metropolitan Region in the Council, failed to put a very strong argument for the minister needing to appear before that committee.

I was looking forward today to hearing from those opposite the argument for, the case for and the reasons for us granting leave for the minister to appear, but we failed to hear it. What we did hear from the member for Caulfield was what I suspected was the case but which certainly was not evident in Mr Davis's comments in the other place — that is, this is really a bit of a political fishing expedition. They want to drag our minister from this house into the other place for political purposes rather than for the higher moral ground issues that we might have taken from Mr Davis's comments in the debate on 25 November.

This is obviously a very political and very weak attempt by those opposite to drag a minister before a committee of the other place to try to extract some political advantage out of doing so. It is a move that should be rejected by this house. Any motion requesting that a member of this house appear before the other place needs a convincing argument. People need to know exactly why we would send one of our ministers, or one of our members for that matter, to the other place. That case has not been made in any way. We are yet to hear an argument. Unless we hear a cogent argument for it, I will be supporting the motion put forward by the Leader of the House.

Mr KATOS (South Barwon) — I rise to make a contribution to the debate on this motion. The community that I represent in the South Barwon electorate, particularly the Surf Coast end of the South Barwon electorate, has a petroleum exploration licence

(PEP) over it, PEP 163, so there is the ability to have mining for unconventional gas there, although a moratorium is in place. The community I represent has made it clear that they do not want exploration for unconventional gas or mining in the South Barwon electorate or indeed the Surf Coast. They will be extremely disappointed by the government's attempt to prevent the minister from appearing before this committee. As the member for Caulfield said, the committee has been underresourced, and we want it to do its job properly. The only way that this committee can do its job properly is to have the minister appear before the committee and give answers.

Some people will be disappointed, particularly Alison Marchant from Frack Free Moriac, that the government is seeking to prevent the minister from appearing before the committee, because that is all that we are seeking to do. We want the committee to be able to do its job properly and for the minister to appear and give evidence. It is not a fishing expedition, as the member for Bundoora said. We just want the committee to do its job properly, and my community certainly expects that. I will be supporting the member for Caulfield and the manager of opposition business: we want to see the Minister for Energy and Resources appear before this committee.

House divided on motion:

Ayes, 46

Allan, Ms	Kilkenny, Ms
Andrews, Mr	Knight, Ms
Blandthorn, Ms	Lim, Mr
Brooks, Mr	McGuire, Mr
Bull, Mr J.	Merlino, Mr
Carbines, Mr	Nardella, Mr
Carroll, Mr	Neville, Ms
Couzens, Ms	Noonan, Mr
D'Ambrosio, Ms	Pakula, Mr
Dimopoulos, Mr	Pallas, Mr
Donnellan, Mr	Pearson, Mr
Edbrooke, Mr	Richardson, Mr
Edwards, Ms	Richardson, Ms
Eren, Mr	Scott, Mr
Foley, Mr	Sheed, Ms
Garrett, Ms	Spence, Ms
Graley, Ms	Staikos, Mr
Green, Ms	Suleyman, Ms
Halfpenny, Ms	Thomas, Ms
Hennessy, Ms	Thomson, Ms
Howard, Mr	Ward, Ms
Hutchins, Ms	Williams, Ms
Kairouz, Ms	Wynne, Mr

Noes, 38

Angus, Mr	Morris, Mr
Asher, Ms	Northe, Mr
Battin, Mr	O'Brien, Mr D.
Blackwood, Mr	Paynter, Mr
Britnell, Ms	Pesutto, Mr
Bull, Mr T.	Riordan, Mr
Burgess, Mr	Ryall, Ms
Clark, Mr	Ryan, Ms
Crisp, Mr	Sandell, Ms
Dixon, Mr	Smith, Mr R.
Fyffe, Mrs	Smith, Mr T.
Gidley, Mr	Southwick, Mr
Guy, Mr	Staley, Ms
Hibbins, Mr	Thompson, Mr
Hodgett, Mr	Tilley, Mr
Katos, Mr	Victoria, Ms
Kealy, Ms	Wakeling, Mr
McCurdy, Mr	Walsh, Mr
McLeish, Ms	Watt, Mr

Motion agreed to.

DISTINGUISHED VISITORS

The SPEAKER — Order! It is my pleasure to welcome to the gallery the Honourable Tony Smith, Speaker of the Australian House of Representatives. I thank him for the generosity he has extended to me. All of us welcome him and wish him and his family a safe festive season.

RULINGS BY THE CHAIR

Answers to questions without notice

The SPEAKER — Order! Yesterday I committed to review the answer provided by the Minister for Roads and Road Safety to a supplementary question asked by the member for Mount Waverley. I have now reviewed the content of the minister's answer and have determined that it was not responsive to the question that was asked. In accordance with sessional orders, the minister must provide a written response to my office by 2.00 p.m. on the next sitting day.

QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

Police numbers

Mr T. BULL (Gippsland East) — My question is to the Minister for Police. Can the minister confirm that as a result of this government's cut in police numbers, this Christmas Lakes Entrance and the Gippsland Lakes area will have no extra police provided despite a quadrupling of the population in that area?

Mr NOONAN (Minister for Police) — I thank the member for his question. Indeed his question is wrong. There is no cut, as he has put it. In fact what this government has done is provide Victoria Police with a record budget. In addition to that, we have provided almost 700 additional police personnel by way of funding in our first year of government. I have provided

those figures to the house, but I would say that earlier this week, in fact on Monday, we got our first custody officers out of the academy. We will actually have 200 in stations by June of next year. The member will know that they will move right across the state.

Mr Walsh — On a point of order, Speaker, on the issue of relevance, the question was very specifically about police resources for Lakes Entrance over the Christmas period. I ask you to bring the minister back to answering that question.

Ms Allan — On the point of order, Speaker, and I appreciate The Nationals are a bit embarrassed about how they have been set up in the coalition party room tactics today, but the Minister for Police was being entirely relevant. The question was about police resources. It made an entirely false allegation that the minister is more than adequately dispatching, and I ask that he be allowed to continue.

The SPEAKER — Order! The Chair does not uphold the point of order.

Mr NOONAN — Opposition members do not seem to understand that if you put custody officers in police stations, you will release sworn officers for frontline duties. They do not seem to get it. Members opposite either do not want to get it or they are in complete denial of the fact that they actually supported our policy when they were in government — it is just that we announced it first. That is exactly what we did.

Mr R. Smith — On a point of order, Speaker, the minister is debating the question. The fact of the matter is that the question went to resources in the member for Gippsland East's area for this Christmas. I fail to see, and I think anyone in the house would fail to see, how custody officers who have not even left the academy and non-sworn officers are going to help resources this Christmas.

Mr Pakula — On the point of order, Speaker, as the Leader of the House pointed out, the preamble forms part of the question, and the preamble went to police resources generally. The minister is dealing with that, but he is also dealing with the fact that the employment of custody officers releases police to go, as he said, right across the state. He is being entirely relevant to the question that has been asked.

The SPEAKER — Order! The Chair does not uphold the point of order.

Mr NOONAN — We are very proud of that policy. We committed $148 million in our first budget. When you go out and speak to the police, and I encourage the member to speak to police in his area, they will tell you how pleased they are with this policy. They are pleased with it because it will release police back out on the front line. That is what this policy will do.

Mr T. Bull — On a point of order, Speaker, on relevance, the minister has been speaking for more than 2 minutes. He has 47 seconds to go. The people who live in Lakes Entrance and on the Gippsland Lakes and all the people who will be holidaying in that area over Christmas deserve an answer that mentions Lakes Entrance and the Gippsland Lakes. I ask you to bring the minister back to answering the question that was asked.

The SPEAKER — Order! There is no point of order.

Mr NOONAN — Without prolonging the pain for the opposition, what I would say to the member is that he has asked this question by way of letter, I think, or through the Parliament. I recall providing a response to the member in relation to Gippsland East, and that response relates to the fact that the Chief Commissioner of Police, under section 10 of the act, is responsible for the deployment, but in relation to additional police, additional police will be provided over the holiday period in line with years past.

Supplementary question

Mr T. BULL (Gippsland East) — I am happy to have another go. Can the minister confirm — —

Honourable members interjecting.

The SPEAKER — Order! The Chair must be able to hear the question. So must the public in the gallery, especially our esteemed visiting Speaker, and indeed the media. Therefore I call on all members to be silent.

Mr T. BULL — Can the minister confirm that the Orbost police, who patrol the major Gippsland traffic route to the Mallacoota, Marlo, Eden and Merimbula Christmas holiday spots, have had their numbers cut from 12 to just 3 — 3 — as a result of his failure to hire more sworn police?

Mr NOONAN (Minister for Police) — I thank the member for his follow-up question, and again, it seems to be lost on the opposition that the police act makes it very clear that the chief commissioner is responsible for the deployment of police to certain locations. These were changes made under the previous government to the police act. The chief commissioner determines the deployment to specific locations.

In relation to the Gippsland East electorate, I will make it clear that my understanding is that the police have made a judgement to deploy additional resources to that area in line with years past to cope with the additional influx of tourists during the holiday period.

Ministers statements: police enterprise bargaining agreement

Mr ANDREWS (Premier) — I am very pleased to rise to inform the house that an in-principle agreement has been reached between the government and the Police Association Victoria to resolve the Victoria Police enterprise bargaining agreement. Police are on the front line, keeping Victorians safe every hour of every day in every part of our state. They face, regrettably, unprecedented threats — —

Mr Battin interjected.

The SPEAKER — Order! The member for Gembrook is warned.

Mr ANDREWS — They face unprecedented threats, and they are responding in an unprecedented way to challenges in our contemporary society. In recognition of this, the government has moved quickly to deliver certainty for Victoria Police.

Mr Battin interjected.

The SPEAKER — Order! The member for Gembrook is warned again. The Chair will not warn him again.

Mr ANDREWS — We have avoided the delay and antagonism and disputation that was a highlight of previous administrations — failed previous administrations. This agreement — a balanced and fair agreement — will provide a pay increase of 2.5 per cent a year in line with the government's fair pay guide; an additional payment of 0.5 per cent annually to increase pay and conditions linked to service delivery improvements; and higher penalty rates for those who work between midnight Friday and midnight Sunday and on public holidays.

This is a balanced agreement, a fair agreement and an agreement reached without industrial disputation — the first in many, many years. I congratulate the Minister for Police, who has led this process with distinction. I thank the Police Association for its positive and constructive response to these negotiations, and of course, despite the infantile interjections from those opposite, I thank the men and women of Victoria Police for the work they do to keep us safe. This is a fair reward for their passion and commitment and service.

Police numbers

Mr KATOS (South Barwon) — My question is to the Minister for Police. Can the minister advise the house whether Waurn Ponds police station, the biggest station in the Geelong growth corridor and a hub for traffic police on the Princes Highway, currently has a full complement of sworn police officers to cope with the enormous influx of Christmas traffic?

Mr NOONAN (Minister for Police) — What a great day it is for Victoria Police today, what a great day. They have a government that will actually work with them — unlike those opposite, who did not care, did not listen, did not do anything. That is what the police got under them.

Honourable members interjecting.

The SPEAKER — Order! The member for Mordialloc is warned.

Mr Clark — On a point of order, Speaker, this was a very specific and direct factual question about police numbers at the Waurn Ponds police station. I ask you to bring the minister back to answering the question.

The SPEAKER — Order! The minister is entitled to set the framework. The minister will continue, and the minister is encouraged to remain responsive to the question as put by the member for South Barwon.

Mr NOONAN — Look, Speaker, it is a bit hard to contain oneself when it is a good day for Victoria Police.

Honourable members interjecting.

Mr NOONAN — Those opposite might not like the fact that we will work with Victoria Police, but that is just the way it is going to go now. That is just the way it is going to go, because we remember where we were last year — and I am sorry to draw on the same article that I had last year from 20 May. The headline is 'Vic Police protest over staff shortages'. And where did this occur?

Mr Eren — Geelong!

Mr NOONAN — It happened in Geelong. I thank the member for Lara.

The SPEAKER — Order! A point of order. The minister will resume his seat.

Mr Lim interjected.

The SPEAKER — Order! I have no choice but to warn the member for Clarinda.

Mr Clark — On a point of order, Speaker, the minister is continuing to debate the issue and defy your guidance. I ask you to bring him back to answering the very specific and important question asked by the honourable member.

The SPEAKER — Order! The minister is entitled to set the framework, but he is now invited to come back to answering the question.

Mr NOONAN — The question related to policing in Geelong, and I am making it very clear that 200 off-duty police officers in May last year went out on the grass and protested about the sort of treatment they were getting from those opposite. Where was the member for South Barwon on that day? Where was he? Nowhere!

Honourable members interjecting.

Mr NOONAN — He has found his voice in opposition.

Mr Clark — On a point of order, Speaker, the minister is now beginning to treat the Chair with contempt. I ask you to instruct him to either answer the question or sit down.

Ms Allan — On the point of order, Speaker, I ask that you rule that point of order out of order. It was a highly exaggerated and unnecessary point being made by the manager of opposition business. The question went to police matters in Geelong. The minister was being entirely relevant in his answer, and, repeating the comment of the member for Clarinda, you just does not like the answer. That is the problem.

Mr Walsh — On the point of order, Speaker, in support of the manager of opposition business's point of order, twice now on points of order you have said the minister is entitled to set the framework. Twice he has ignored you. He has been speaking for more than half his time. I ask that you bring him back to actually answering the question asked by the member.

The SPEAKER — Order! The Chair does ask the minister to come back to answering the question.

Mr NOONAN — Very clearly in our first budget we have made an investment in policing on the Bellarine Peninsula and Geelong. Why? It is because we listened. We listened very carefully. Whilst the opposition bleats, moans and carries on, we have started with our program of training custody officers. Where will those custody officers go? At the determination of the Chief Commissioner of Police they will go to Geelong. They are additional resources that are coming. I have to compliment the members on this side that represent Geelong because they absolutely have a fair dinkum go instead of hiding when it matters. That means that in addition the member for Bellarine has secured $30 000 for crime prevention.

Honourable members interjecting.

The SPEAKER — Order! The member for Warrandyte will come to order, and so will the member for Eildon.

Mr NOONAN — The member is working with police and with her community in relation to improving crime prevention outcomes in that community.

Mr R. Smith interjected.

The SPEAKER — Order! The member for Warrandyte is warned.

Mr NOONAN — So we will not be lectured by those opposite who went into hiding when it mattered. We will make the investments that are needed and will work with the chief commissioner in relation to future resources.

Supplementary question

Mr KATOS (South Barwon) — Given that Waurn Ponds police station currently has just 17 sworn police officers available for duty from that station, which is barely half the minimum complement required, can the minister confirm that this station will not be anywhere near full strength for this Christmas as a result of his cuts to police numbers?

Mr NOONAN (Minister for Police) — I thank the member for his follow-up question in relation to Waurn Ponds and the area of greater Geelong. Let me read a quote from 20 May last year:

> It's up to the police commissioner and the police command to allocate those resources across the state to meet the needs of making our community safer.

Mr Andrews — Who said that?

Mr NOONAN — I thank the Premier for asking that question. In fact who said that was the former Premier, Denis Napthine. That is what he said in relation to the issue of police resources in Geelong. We have made additional investments. Those investments are already in place . There are 15 additional police across Geelong and the Bellarine Peninsula. We are

investing in more custody officers, who will go into the region and continue to work with the chief commissioner.

Ministers statements: hospital admissions

Mr ANDREWS (Premier) — I rise to update the house on a Council of Australian Governments meeting which will begin this evening and go into tomorrow in Sydney. This is a genuine chance for governments to work together, not so much to bicker about hospital funding but to instead agree on Victoria's plan to cut avoidable hospital admissions and to save up to $1.5 billion a year. So it is a real choice. Instead of arguing and bickering about hospital funding, let us work together, let us work really hard — nowhere near as hard as our nurses and doctors, I might add, and our ambulance paramedics and all of our other hospital staff — not to quarrel about hospital funding but to instead be concerned about patient care and hospital care.

There are 300 000-odd patients — the MCG full three times over — who are avoidable admissions to hospitals across our nation each and every year. There is a detailed plan being put forward by Victoria in work that we have led since the last Council of Australian Governments meeting under former Prime Minister Abbott in Sydney. Victoria, with assistance from Tasmania, has led that policy development. There is a special and important chance to do something positive; have a real partnership, to make sure it is about patients first and the politics a distant second.

That is what needs to be done here, and I am confident — —

Honourable members interjecting.

Mr ANDREWS — Those opposite who cut hospital funding, those opposite who would not know anything about putting patients first — they mock and they laugh.

Honourable members interjecting.

Mr ANDREWS — Federal cutbacks — we need to acknowledge, all of us, that they are too deep and they are unsafe. I am confident that the new Prime Minister will acknowledge that, and what is more, all of my colleagues will adopt Victoria's leading plan — innovation and reform from the innovation and reform capital — to put patients first instead of politics.

East–west link

Mr GUY (Leader of the Opposition) — In beginning I was going to just wish you a merry Christmas. To all the staff and indeed all the members of the chamber: merry Christmas to all of you.

The SPEAKER — Order! Thank you, muchas gracias.

Mr GUY — My question is to the Premier. After promising Victorians not a cent would be paid to scrap the east–west link and now we find the bill is over $1 billion, I ask: will the Premier — —

Mr Dimopoulos interjected.

The SPEAKER — Order! The member for Oakleigh is warned. The member will not be warned again. The Chair must be able to hear the question. I ask the Leader of the Opposition to start again. He may not have to repeat the Christmas greetings, which we welcome.

Mr GUY — My question is to the Premier. After promising Victorians that not a cent would be paid — not a cent — to scrap the east–west link, now we find the bill is over $1 billion. Will the Premier now table — —

Honourable members interjecting.

Questions and statements interrupted.

SUSPENSION OF MEMBERS

Members for Oakleigh and Buninyong

The SPEAKER — Order! The members for Oakleigh and Buninyong are to withdraw from the house for the period of 1 hour.

Honourable members for Oakleigh and Buninyong withdrew from chamber.

QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

East–west link

Questions and statements resumed.

Mr GUY (Leader of the Opposition) — Will the Premier now table all legal advice received since coming to government on which he based his comments that no compensation would be paid?

Mr ANDREWS (Premier) — You could always spend $22.8 billion building a dud road, couldn't you? That would be real leadership.

Mr Guy interjected.

Mr ANDREWS — The problem for the Leader of the Opposition is that he can shout all he likes, and it is so unfair to the member for Malvern for the Leader of the Opposition to ask this question today.

Honourable members interjecting.

The SPEAKER — Order! Members will come to order when the Chair is on his feet. That also applies to the Leader of the Opposition and the Premier.

Mr Guy — On a point of order, Speaker, 30 seconds have gone and the issue is around relevance. It is a simple question about tabling legal advice the Premier received. Will he do it or will he not?

Mr ANDREWS — On the point of order, Speaker, in actual fact 24 hours have gone, not 30 seconds. Members opposite would not ask a question about this yesterday. I am about to refer to the Auditor-General's report, which I think is more than relevant to this matter. I will quote from that Auditor-General's report at length.

The SPEAKER — Order! The Chair does not uphold the point of order.

Mr ANDREWS — You could always spend $22.8 billion on a road that makes traffic worse. But do not take my word for it, do not take the government's word for it. Listen to what the Auditor-General says:

> … key decisions during the project planning, development and procurement phases were driven by an overriding sense of urgency to sign the contract before the November 2014 state election.

The Auditor-General's report also states:

> Signing the contract in these circumstances was imprudent and exposed the state to significant cost and risk.

Mr Guy — On a point of order, Speaker, of relevance, my question was around legal advice, and the Premier still, with half his time gone, has not mentioned legal advice once. Can you please bring him back to the question about tabling legal advice that he received, on which he based his comments that no compensation would be paid?

The SPEAKER — Order! I ask the Premier to come back to answering the question.

Mr ANDREWS — I have been asked about the east–west link, and I am quoting from the Auditor-General's report tabled — —

Mr Guy interjected.

Mr ANDREWS — The Leader of the Opposition would very much like to get away from it, but there is no getting away from the fact that the Auditor-General has found that the business case did not provide a sound basis for the government's decision to commit to the east–west — —

The SPEAKER — Order! The Premier will resume his seat.

Mr ANDREWS — There is no getting away from that.

The SPEAKER — Order! There is a point of order. The Premier will resume his seat.

Mr Clark — On a point of order, Speaker, the Premier is defying your ruling that he return to answering the question. I ask you to ask him to do so.

Mr Pakula — On the point of order, Speaker, the Leader of the Opposition's question went to two matters. It went to the costs associated with the project and to the question of legal advice. The Premier is dealing very fulsomely with the costs of entering into this contract, and it is quite a cheek for the opposition given that it never tabled legal advice in four years in regard to Ventnor or anything else.

The SPEAKER — Order! Whilst the Premier is entitled to refer to the Auditor-General's report and set the framework, I do ask the Premier — —

Mr Battin interjected.

Questions and statements interrupted.

SUSPENSION OF MEMBER

Member for Gembrook

The SPEAKER — Order! The member for Gembrook had been warned. He will now leave the house for the period of 1 hour.

Honourable member for Gembrook withdrew from chamber.

QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

East–west link

Questions and statements resumed.

The SPEAKER — Order! I ask the Premier to come back to responding to the question.

Mr ANDREWS (Premier) — As I was saying, Speaker — and I am mindful of your ruling — there is very detailed commentary by the Auditor-General about just how imprudent, just how improper the conduct of the previous government was. On the issue of legal advice, as the Leader of the Opposition has asked, I am happy to get advice from my department on that matter, and I will come back to him.

Mr Richardson interjected.

Questions and statements interrupted.

SUSPENSION OF MEMBERS

Members for Mordialloc and Warrandyte

The SPEAKER — Order! The member for Mordialloc will leave the house for the period of 1 hour, and he will do so quietly.

Mr R. Smith interjected.

The SPEAKER — Order! The member for Warrandyte has been warned. He too will leave the house for the period of 1 hour.

Honourable members for Mordialloc and Warrandyte withdrew from chamber.

QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

East–west link

Questions and statements resumed.

The SPEAKER — Order! The Chair understands that neither the public nor the media can actually hear some of the questions or responses. Therefore the Chair will apply standing orders to ensure that an important part of this democracy — namely, debate in question time — can be heard by members of the public and the media.

Supplementary question

Mr GUY (Leader of the Opposition) — On a supplementary question, at the 2014 election the Premier promised Victorians that scrapping the east–west link would not cost a dollar because the contracts were not worth the paper they were written on. Given the Premier knew that that was not the case, will he now apologise to Victorians for lying to them?

Mr Pearson interjected.

Questions and statements interrupted.

SUSPENSION OF MEMBERS

Members for Essendon and Eildon

The SPEAKER — Order! The member for Essendon will withdraw from the house for the period of 1 hour.

Ms McLeish interjected.

The SPEAKER — Order! The member for Eildon will withdraw for the period of 1 hour. Merry Christmas to both.

Honourable members for Essendon and Eildon withdrew from chamber.

QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

East–west link

Questions and statements resumed.

Mr ANDREWS (Premier) — I am asked about election promises. I can recall in 2010 a certain group that promised not to build the east–west link. Then of course they decided to rush through their dodgy, botched contracts and side letters. Cowards to the end.

Mr Burgess interjected.

Questions and statements interrupted.

SUSPENSION OF MEMBER

Member for Hastings

The SPEAKER — Order! The member for Hastings will withdraw from the house for the period of 1 hour.

Honourable member for Hastings withdrew from chamber.

QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

East–west link

Questions and statements resumed.

Mr ANDREWS (Premier) — Absolutely an act of cowardice. They would not take it to the Victorian community. They would not take it to the election. Instead they backed up the truck — —

Ms Couzens interjected.

The SPEAKER — Order! I warn the member for Geelong. I will not warn the member again.

Mr Guy — On a point of order, Speaker, in the way of relevance, it is a very simple question about apologising to the Victorian people, particularly on the point of cowardice, that no-one was told it was a billion-dollar bill.

The SPEAKER — Order! The Premier is invited to come back to answering the question.

Mr ANDREWS — Those opposite signed contracts on the eve of the election. They signed side letters on the eve of the election. They paid out every cent because they were afraid of the Victorian community and would not take it to the Victorian community. Cowards, the lot of them.

Ministers statements: ambulance services

Ms HENNESSY (Minister for Ambulance Services) — I rise to inform the house about the delivery of another key Andrews Labor government election commitment, and that is that today we have released *Victoria's Ambulance Action Plan*. What we have released today is a plan focused on improving services and saving lives. It is about ending the ambulance crisis that we inherited upon coming into government, and arresting the decline in response times where we saw Victoria's performance fall to the worst on the Australian mainland.

Under the action plan, which for the first time in Victoria was developed in collaboration with paramedics, not against them, and with Ambulance Victoria, the union and health service representatives, we have charted a path to improve response times, in particular for those with life-threatening emergencies. We have made a commitment to improve workplace morale and paramedic health and wellbeing, and we have made a commitment to improve the way ambulance works within the broader health system. Today we have also announced that we are bringing forward a $60 million Response Time Rescue Fund to commence immediately to invest in these initiatives. Investments include freeing up ambulances to respond to life-saving emergencies, and putting in 25 per cent more clinicians to support Ambulance Victoria's secondary triaging service. We are investing in 26 extra vehicles for Ambulance Victoria to improve paramedic productivity and the availability of ambulances to respond to emergencies.

We are establishing new paramedic coordinators in rural and regional communities, and we are developing a country first responder program to train community volunteers to provide basic life support. We are also investing in our paramedics to improve their health, wellbeing and training.

The action plan that we have released today is all about providing the right care to the right people at the right time. It builds on the $99 million investment we made in last year's budget and marks a significant initiative in ending the ambulance crisis.

Political donations

Mr HIBBINS (Prahran) — My question is to the Premier. Will the Premier be raising the issue of political donations reform with the Prime Minister and other state premiers at any stage of tomorrow's Council of Australian Governments (COAG) meeting?

Mr ANDREWS (Premier) — I thank the member for Prahran for his question. Clearly he has an interest in these matters, and he is entitled to pursue them in whatever forum he sees fit. But I would just say to him in respectful terms that the COAG agenda, which is one that is agreed to by all heads of government but led by the commonwealth, I might add, will focus on the following issues. Standing items around counterterrorism and making sure that we do everything we can as parliaments, as governments and as communities across Australia to keep Australia safe will be on the agenda.

Also on the agenda is the issue of family violence, where I will take the opportunity to raise Victoria's leadership on this at the end of a period when we have Victorians Against Violence. That is something the Minister for the Prevention of Family Violence and women in this state should be very, very proud of and indeed this Parliament should be proud of. We heard from Rosie Batty and so many others in our last sitting week. That will be on the agenda, and we will take the opportunity to talk about the leading way in which we are addressing these issues.

Another issue that will be talked about and will be a subject of the agenda is a more collaborative effort — and I want to welcome the commonwealth government's increased interest in this matter — using and utilising Ken Lay's skills on the issue of ice. It is a real challenge for all of us, but of course it is a greater challenge for so many families who are grappling with this poison and the fact that it gets people in its clutches. It is so highly addictive that we do need a national response. We will also be talking about a range of reforms of the federation priorities, things like Victoria's innovative plan — our leading plan to drive down the number of avoidable hospital admissions and make sure that we are not wasting precious health dollars.

Mr Hibbins — On a point of order, Speaker, I welcome the Premier's comments about the broader COAG agenda, but it was a very specific question about the issue of political donations reform and whether he would be raising that with the Prime Minister and other state premiers. I ask you to ask the Premier to come back to actually answering the substantive question.

The SPEAKER — Order! The Chair does not uphold the point of order.

Mr ANDREWS — I am very pleased to provide the member for Prahran and all honourable members with not just a narrow focus but indeed the entire agenda, and I will keep on going because they are all very important issues. We will be talking about health reform and Victoria's innovative plan to drive down the number of avoidable hospital admissions. That is great for patients, and the member for Brighton could not agree more. I thank her for her support in a spirit of festive bipartisanship. She is on board. Let us hope those a bit closer to the front get on board too.

We will talk about higher education, particularly vocational education and training, and how we can better work to support every Victorian, and every Australian indeed to get the skills they need for the job they want. We will talk also about, and hopefully make progress on, a whole range of other national reform priorities. I am sure that taxation will be talked about, although I must say to the member for Prahran — and he probably will agree with me here — that this debate was started about health reform and that is where it should stay. It should not be diverted into other discussions of jacking up the GST and putting it on food. You will not make that tax fair; you just cannot make it fair. These are the issues that will be discussed, and I proudly say to the member for Prahran that Victoria will be there leading the way, as Victoria always does.

Supplementary question

Mr HIBBINS (Prahran) — My supplementary question is the Premier. I will take his previous answer to be a no. So given that the Premier will not commit to raising this issue at COAG, can the Premier give an undertaking to this house that in the absence of a national agreement on reform of political donations that his government will take action to reform Victoria's political donations laws, including a reduction in disclosure limits, including real-time disclosures and including restrictions of donations from property developers or other industries?

Mr ANDREWS (Premier) — I thank the member for Prahran for his supplementary question. I have often said that COAG is a misunderstood forum. People often say that it is all negativity at COAG. I think there is a bit of that negativity here as well. They are apparently upset that we are going to talk about hospitals, schools, ice and family violence and making sure that Victoria plays a leading role in national reform.

The member for Prahran can be in no doubt at all that this government will drive reform and good outcomes — fair outcomes — to benefit people in our great state and the nation, such as our prosperity and our safety. That is the Victorian way, and in a spirit of festive bipartisanship, if the member for Prahran would like a briefing after the meeting, I am happy to arrange one for him.

Questions and statements interrupted.

DISTINGUISHED VISITORS

The SPEAKER — Order! It gives me pleasure to welcome to the gallery the former member for Prahran, Clem Newton-Brown.

QUESTIONS WITHOUT NOTICE and MINISTERS STATEMENTS

Questions and statements resumed.

Ministers statements: TAFE funding

Mr MERLINO (Minister for Education) — This has been a year that we have spent saving TAFE from the wreckage inflicted by those opposite. We have been saving and reopening TAFE campuses across regional Victoria and metropolitan Melbourne. In a new initiative to restore our TAFE system, I am pleased to advise the house that the expression of interest (EOI)

for the Glenormiston campus opened this week. The EOI will be open for 100 days to attract a variety of interested parties who can restore this iconic property in the Western District to the community — a community who have made it clear that the site should be saved to support education and training in the area.

Unlike those opposite, who closed Glenormiston campus down with no regard for the students who relied on it, no care for the staff or the community who wanted to keep it open — —

Mr Clark — On a point of order, Speaker, the minister is now commencing to debate the issue. I ask you to bring him back in compliance with sessional order 7.

Mr MERLINO — On the point of order, Speaker, the new initiative is the EOI to reopen Glenormiston. You cannot talk about that if you do not put it in the context that Glenormiston was closed under the previous government, and that was the point I was making.

The SPEAKER — Order! The minister is entitled to provide a framework. The minister has done so. I now ask the minister to come back to the question.

Mr MERLINO — We listened to the community about the need to save this essential campus for the people of western Victoria. We will reopen Glenormiston, just as we will reopen Greensborough, just as we have reopened Lilydale. Those opposite ripped the heart out of TAFE. The people of Victoria can absolutely see that over the course of the last 12 months we are saving TAFE, we are reopening campuses and we will continue to do so. There is a lot more to do, but we will save TAFE for the people of Victoria.

Government performance

Mr GUY (Leader of the Opposition) — My question is to the Premier. Given that the Premier said before the election that metro was fully funded, and it is not; that taxes would not rise, and they have; that debt would not be added to, and it was; that Labor would run a surplus budget, and it has not; that there would be no compensation for east–west link, and there has; and that it would not rort parliamentary staff, and it did, I ask the Premier: why is his government constantly lying to Victorians?

Honourable members interjecting.

The SPEAKER — Order! Government members and opposition members will come to order. If members wish to remain in the house for the remaining 5 minutes, members will come to order. The Premier on a substantive question put by the Leader of the Opposition.

Mr ANDREWS (Premier) — I do not know how substantive it was, but anyway!

I thank the Leader of the Opposition for his question. I was perhaps a little premature when I talked about that festive mood of bipartisanship. Sadly, the member for Brighton is with the program, but not many others. It is interesting that the Leader of the Opposition likes to talk about metro; that is all he did. That is all he did. He liked to talk about getting on and creating jobs; that is all he did. He likes to talk about state taxes and debt — talk about them. If only all he had done was talk about driving up debt! But he did a little better than that; he drove it up all right and had nothing to show for it.

The Victorian people gave to this government the greatest of gifts and endorsed our positive and optimistic plan for our state's future, and we have wasted not one moment in delivering on each and every element of that plan. Those opposite are unhappy with the verdict of the Victorian community and in fact think the Victorian community got it wrong.

The SPEAKER — Order! The Chair would appreciate it if the Premier could speak through the microphone. On occasions when the Premier turns his back on the Chair, the Chair is unable to hear the Premier.

Mr Guy — On a point of order, Speaker, on relevance, I raised six points — metro, taxes, debt. I notice the Premier has referred to all of them except the last one, which is rorting parliamentary staff. I wonder if he might refer to that one as well.

Mr M. O'Brien interjected.

The SPEAKER — Order! The member for Malvern should cooperate with the Leader of the Opposition on his point of order.

Mr ANDREWS — I thank the Speaker for his guidance, and I thank the Leader of the Opposition. Maybe that festive spirit of bipartisanship might be alive; then again, perhaps not. Perhaps it is all about negativity on that side. Perhaps they think the Victorian community got it wrong. Perhaps they think that four years of indolence should have been rewarded, that four years of sloth should have been rewarded. The Victorian community never gets it wrong. To us it has given a great gift, and we will deliver on each of the commitments we have made.

On questions of probity I understand there are some investigations ongoing, and we would not want to comment on those. So I think I have acquitted the Leader of the Opposition's positive and optimistic list and taken the opportunity to talk about the fact that we will deliver on each of the commitments we have made, because that is what the Victorian community is entitled to and that is the way we operate.

Supplementary question

Mr GUY (Leader of the Opposition) — I wonder if the Premier could stand here today and tell this Parliament honestly: has he kept all his promises to firefighters, motorists, the deceived residents of Waverley Park, ratepayers in Sunbury, Peter Mac cancer patients and Adem Somyurek?

Mr ANDREWS (Premier) — I thank the Leader of the Opposition for his question. What a high note for him to finish his year on! It is sometimes thought and often said that it would be better to be regarded as a fool and keep your mouth shut rather than open your mouth and remove all doubt. That is what the Leader of the Opposition has just done.

Honourable members interjecting.

The SPEAKER — Order! It is funny sometimes, but I ask the Premier to continue in silence.

Mr ANDREWS — With questions like that, yes, the Leader of the Opposition has confirmed that it would have been better to stay silent and then there would have been some doubt about his foolishness.

Ministers statements: economy

Mr PALLAS (Treasurer) — In the spirit of the season, 'tis the season to be jolly and I see too many long faces in front of me. I rise — and I bring news of great economic joy — to advise this house about the Andrews government's commitment to creating jobs, improving integrity and also restoring competence to the Victorian economy. Yesterday we found out that Victoria has the highest consumer sentiment of any mainland state at 106.8, up from 92 last year. Twelve months ago Victoria began to emerge from a very dark place, a very deep dark tunnel, but hard work and integrity helped turn it around.

Mr Clark — On a point of order, Speaker, you have previously made clear that under sessional order 7 ministers statements are not simply an occasion for the government to provide information at large to the house — they have to be informing the house about government initiatives, policies and achievements. So far the Treasurer is embarking simply on a dissertation about various economic facts. I ask you to bring him back to compliance with the sessional orders.

Mr PALLAS — On the point of order, Speaker, I have just taken the house to the highest consumer sentiment for any mainland state, released yesterday. It is new information, and it is critically important in the progress that the state is making in creating jobs, improving integrity and restoring confidence to the Victorian economy.

The SPEAKER — Order! The Treasurer is entitled to provide a framework and set the scene. The Treasurer has done that. I ask the Treasurer to come back.

Mr PALLAS — The Victorian economy has turned around and is improving quite dramatically. Virtually every metric shows that our state economy is in a stronger position than under those opposite. State final demand has grown 4.2 per cent. Retail trade is up 5.4 per cent. Building approvals are up 28.7 — —

Mr Clark — On a point of order, Speaker, the Treasurer does not appear to have understood your guidance. He is not at liberty to go through a recitation about economic statistics. His obligation is to inform the house about new government initiatives, projects and achievements. These are the sessional orders that the government has brought to the house. These are the sessional orders with which ministers must comply, in accordance with the motion brought by the Leader of the House. The Treasurer needs to relate any economic statistics that he refers to to government initiatives, projects and achievements. So far he has not done so. I ask you to bring him back to compliance.

Mr Pakula — On the point of order, Speaker, the member for Box Hill could not be more wrong. The Treasurer is outlining a range of positive statistics in regard to consumer sentiment. The former government always claimed positive statistics as an achievement, and its members are now seeking to deny the Treasurer the same opportunity. These positive statistics are a result of many actions of the government. The member for Box Hill might not like to describe them as an achievement, but that is exactly what they are.

The SPEAKER — Order! The Treasurer is to continue in conformity with sessional orders.

Mr PALLAS — The statistical evidence is in, and it is quite compelling. It shows a government that is making every post a winner, unlike those opposite, the dead men smirking over there, who sit and take every opportunity to talk the state down. What we know is

that we are getting on with delivering the vital infrastructure that the state needs. Yesterday's Victorian Auditor-General's Office report shows that those opposite are not even worthy of sitting on the opposition benches.

Honourable members interjecting.

The SPEAKER — Order! I warn the Deputy Premier and the member for Malvern. The time for questions without notice has now expired.

Mr Morris — On a point of order, Speaker, I refer to sessional order 12 and the requirement to respond to questions on notice within 30 days. I am seeking responses to 206 questions. They were asked on or before 20 October. There are 78 questions to the Minister for Health; 78 to the same minister in her capacity as the Minister for Ambulance Services; 42 to the Minister for Education; 1 to the Minister for Ports; 1 to the Minister for Public Transport; 3 to the Minister for Housing, Disability and Ageing in his capacity as the Minister for Equality; and 3 to the same minister in his capacity as Minister for Creative Industries. I have a full list of the questions here, but obviously I will not read them into the record. I am happy to pass them on to your staff.

The SPEAKER — Order! The Chair will follow through on these matters for the member for Mornington.

Mr Morris — On a further point of order, Speaker, I refer again to sessional order 12, which establishes the need for the government to respond to questions on notice and to the context which is provided to the answers under standing order 58. Over the course of this year I have asked a series of questions, and I am happy to make the many question numbers available if required. So far I have received responses to 2134 of them. The responses are invariably similar. The answer to question 3615, which was a pretty straightforward question, related to property disposals in a particular municipal district, is typical. The answer states:

> I am informed that given the member has asked 77 questions of this nature, to retrieve/research this information would place an unreasonable burden on the time and resources of departments.

Clearly that is not responsive. I am aware that the standing order does not require answers to be responsive, but I think this answer is also not in the spirit of the sessional order. I know many other members have received similar responses. I am seeking your advice, perhaps in the new year; it is certainly not an urgent matter. If 77 questions are too many, what is a reasonable number? If it is a relatively straightforward matter versus a complex matter, does that number vary? I would appreciate your consideration of that matter and perhaps a ruling in due course.

The SPEAKER — Order! The Chair welcomes the point of order made by the member for Mornington. The Chair will raise these matters in the Standing Orders Committee and follow them through and have a further discussion with the member for Mornington early next year.

Mr Wakeling — On a point of order, Speaker, similar to the member for Mornington, I would like to draw your attention to standing order 12 on responses. I would like it noted that the Minister for Education is yet to respond to 153 questions that are outstanding. I would like to draw that to your attention and for that to be passed on to the relevant minister.

The SPEAKER — Order! The Chair will equally follow that matter through for the member for Ferntree Gully.

CONSTITUENCY QUESTIONS

Bayswater electorate

Ms VICTORIA (Bayswater) — (Question 6666) My constituency question is for the Minister for Education. Bayswater North Primary School representatives have come to me as their local member frustrated and disappointed at the lack of progress on their rebuilding works. The coalition government committed approximately $2.4 million for rebuilding works in mid-2014, and both political parties committed further funding at the end of last year. The principal, assistant principal and school council president attended two 'bricks and mortar' sessions with the building project team from the Department of Education and Training in mid-2014. Following this they had a consultation session in November last year. They believe building works should have commenced by now, but it seems the project has stalled without ever really beginning.

The school community is still awaiting formal approval of the building plans, and no start date has been confirmed. I ask the minister: what is the latest information regarding the start date for the building works at Bayswater North Primary School? I am sure he can appreciate the frustration caused by this long, drawn-out process. This project is highly anticipated by the whole school community, especially the students. It seems the minister is not exactly building the education state, is he?

Dandenong electorate

Ms WILLIAMS (Dandenong) — (Question 6667) My constituency question is for the Minister for Industry, who is also the Minister for Energy and Resources. I ask the minister to provide me with information about *Towards Future Industries — Victoria's Automotive Transition Plan*, which was launched by the Andrews Labor government this week. I would like to know how this plan will impact on and assist automotive businesses and workers in Dandenong. The south-eastern suburbs are home to about 64 per cent of Victoria's auto supply chain and about 60 per cent of its workers. The people of Dandenong were upset and angered by the federal Liberal government's decision to drive out the automotive industry and the jobs and economic activity it generated. They are glad to see the Andrews Labor government offering a way forward and a plan to assist them to transition to new high-value industries. I ask the minister to provide detailed information about the government plan launched this week and how this plan will directly help Dandenong businesses and workers move forward.

Gippsland East electorate

Mr T. BULL (Gippsland East) — (Question 6668) My constituency question is to the Minister for Education, and the information I seek is whether the minister has agreed to visit Bairnsdale Secondary College or to receive a delegation from the school after an invitation from the school council almost four months ago, on 24 August. Last week when I visited the school with the shadow Minister for Education, the member for Ferntree Gully, we were advised by a school council member that a response to this invitation to visit had not been received, not even an interim response. After four months of waiting I provided a second copy to one of the minister's staff members two sitting weeks ago, but we still have no answer. On the recent visit the need for stage 2 to be funded was highlighted, as was committed to by the coalition after stage 1 was funded and built under the previous government. The need came to a head recently when the substandard section of the school received significant storm damage, with water gushing through the roof and into the library and out of light fittings and down walls. I hope the minister finds time to respond.

Bentleigh electorate

Mr STAIKOS (Bentleigh) — (Question 6669) My question is to the Minister for Education. Will the minister visit East Bentleigh Primary School to discuss with the school community the school's capital works needs? East Bentleigh Primary School is a growing school. It now has steady growth because families are attracted to the many fantastic things on offer, like the Stephanie Alexander kitchen garden, which teaches children valuable lessons of sustainability as well as healthy eating and cooking, and the monthly farmers market that not only is a great fundraiser for a school but also pays tribute to the area's market and gardening heritage. But of course the school has a very old and tired main building, and that main building is the gateway to the school. The school needs some funds to maintain that building and indeed to give it a fresh face, so I ask the minister to visit the school.

Evelyn electorate

Mrs FYFFE (Evelyn) — (Question 6670) My constituency question is to the Minister for Roads and Road Safety. The Lilydale Country Fire Authority brigade has made an approach to VicRoads to consider installing signal changers at the intersection of Hardy Street and Anderson Street in Lilydale. This request was denied after an initial review of its feasibility. The decision means that the Lilydale CFA frequently has to use the wrong side of Hardy Street to try to exit the station faster to attend emergencies. Part of the problem is that parking on Hardy Street used by Yarra Ranges Council staff effectively reduces it to single-lane traffic. Consequently, any vehicles entering Hardy Street from Anderson Street do not realise that CFA vehicles are approaching and are unable to manoeuvre out of the way because of the parked cars. We are a high bushfire risk danger area, and any delay in response by the CFA can be disastrous. On behalf of my constituents and the CFA volunteers, I ask the minister to treat these valid concerns for the installation of signal changers with urgency. I also ask him to look at the markings on the road for the keep-clear signs.

Yan Yean electorate

Ms GREEN (Yan Yean) — (Question 6671) My question is to the Minister for Families and Children. I ask: can the minister reassure the fabulous volunteers at the Diamond Creek Men's Shed that she has reviewed the men's shed funding guidelines and that the next round of funding will not preclude applications from existing sheds, such as theirs, which is growing in popularity, seen firsthand by me, the member for Eltham and indeed the Premier? It needs more shed space to further grow its great work.

Melbourne electorate

Ms SANDELL (Melbourne) — (Question 6672) My question is to the Minister for Sport. Yarra Park in

East Melbourne is an important community asset on the Victorian heritage register. It was until recently managed by the City of Melbourne, but since this Parliament passed legislation in 2009 removing control from the council and giving it to the Melbourne Cricket Club, the damage to the park continues, particularly to the roots of important trees and also in the creation of dirt tracks. My question is: does the government have a plan to address this unacceptable degradation of the park, or will it concede that control needs to be returned to the council so that it can address this situation directly?

Macedon electorate

Ms THOMAS (Macedon) — (Question 6673) My question is to the Minister for Police, who is also the Minister for Corrections. My question is: can the minister provide me with an update on Victoria Police's consideration of options for the long-vacant former Daylesford police station? As the minister knows, the Daylesford Neighbourhood Centre has sought to acquire the former Daylesford police station for community use since 2012. The minister advised me in May that the disposal of police assets is determined and assessed by need and by the Chief Commissioner of Police and that Victoria Police was considering options for the future use of the property. I look forward to a response and to continuing to work with my community to support the fantastic work of the Daylesford neighbourhood house.

Burwood electorate

Mr WATT (Burwood) — (Question 6674) My constituency question is to the Minister for Education. Given that the new guidelines for special religious instruction state that programs designed to create an atmosphere of praise or worship in a particular faith and music-based programs provided by visitors to or volunteers at schools where the lyrics are praise or worship focused are forms of special religious instruction, I ask: would the singing of the carols *Silent Night*, *Away in a Manger*, *We Three Kings*, *The First Noel*, *Joy to the World*, *O Come All Ye Faithful*, *Hark! The Herald Angels Sing*, *O Holy Night* and *The Little Drummer Boy* during Christmas celebrations at schools be classified as special religious instruction and therefore be prohibited?

Frankston electorate

Mr EDBROOKE (Frankston) — (Question 6675) My constituency question makes a lot more sense than that. My question is for the Minister for Health. I ask the minister to assist Frankston City Council members with a query on hospital parking fees. In a council meeting last Monday, a Frankston councillor, Suzette Tayler, said she got hit with a $9 fee after parking for 1 hour and 10 minutes. She and other councillors say the fees are exorbitant and the hospital needs to be pulled into line. Councillors have voted to take the matter up with the health minister, but I am aware that the minister may have already taken note of this issue as it certainly is not a new one. It is obvious to Frankston locals that the ministers of the Andrews government are much more accessible and familiar with our community, and I know that the Minister for Health would be happy to oblige.

Mr Watt — On a point of order, Acting Speaker, the member for Dandenong specifically asked a minister to 'provide me with information' and 'provide me with detailed information'. The member for Macedon asked for an 'update', and the member for Frankston asked for the Minister for Health to 'assist' Frankston city councillors. None of the three questions fits within the guidelines given to us by the Speaker on Tuesday, and I ask you to rule them all out of order.

The ACTING SPEAKER (**Ms Blandthorn**) — Order! I will refer the matter to the Speaker for his review.

BAIL AMENDMENT BILL 2015

Second reading

Debate resumed from 9 December; motion of Mr PAKULA (Attorney-General).

Ms WILLIAMS (Dandenong) — I rise to speak on the Bail Amendment Bill 2015. When I finished yesterday I was summing up why I think the bill is sound and sensible. As I said yesterday, the bill will largely affect serious offenders who have a history of failing to answer bail — those charged with state terrorism offences and child offenders. I note from the comments made by those opposite that the parts of the bill pertaining to children are probably the most contentious, but I maintain my position that keeping children out of the criminal justice system is by far the best outcome for our community and for young people in our community so that we can give them the best possible chance throughout their lives in the hope that they will not be impeded by decisions made at a stage of life when I think it is fair to say that rational thought and reasoning are not at their best. On the basis of the comments I have made previously on this bill, I support the bill and commend it to the house.

Ms WARD (Eltham) — Acting Speaker, I rise to speak on the Bail Amendment Bill 2015, and I take this opportunity to wish you a happy Christmas. This is another good bill that puts forward the Labor government's concerns about our community and puts at the forefront how we want to keep our community safe.

We want to make sure that the people who are going about their day-to-day business can do so knowing that they are safe and that they have a government that is looking out for their best interests. This is why we have introduced amendments which will indeed strengthen bail laws where an accused is suspected of having links to terrorism or is charged with a serious offence and has a history of failing to appear on bail. I think that this is particularly important, because there are people who do abscond from bail or who continue to engage in behaviours that are not to the benefit but are in fact are to the detriment of our community. It is in the interests of the community that those people are prevented from doing so.

This government is committed to keeping our community safe, and many reforms have been submitted to this Parliament. In fact it has been an incredibly busy year. This is my first year in Parliament, but I do have experience in politics, so I know how busy we have been and how much work has been undertaken by this government. I congratulate the Attorney-General for the tremendous amount of work that he has undertaken this year, and I also congratulate his staff for the support I know that they give him.

We have also seen Labor's commitment to keeping our community safe by an increase in police numbers. We heard earlier today in question time about the recently finalised enterprise bargaining agreement with the police force. I commend the Minister for Police for his work. In fact I will read out some recent comments made about him by John Silvester in the *Age*:

> So when we interviewed Victoria's Police and Corrections Minister Wade Noonan after a year in the job it was one of the first things we noticed — he is a good listener.
>
> And this is a quality he has used wisely in his first 12 months controlling two of the most sensitive portfolios in the Andrews' government.

John Silvester goes further and calls the police minister 'smart and humble'. I think that this is a really good descriptor of not just our police minister, who is a terrific minister and a great bloke, but of the theme and the feel of our whole government and the way in which we are listening and going about our business of not only representing our communities but also keeping them safe.

What I find of particular interest in this bill is its undoing some of what I consider to be the negative work of the previous government, particularly removing children from the offence of breaking a condition of bail. This is incredibly important. Children are not always responsible for their actions and do not always understand the ramifications of their actions. Children can be put in situations where they make really bad choices, so to continue to subject children to punitive measures is not acting in their best interests and does not help in any way with any level of reform.

We need to examine our remand system and our justice system and continue to work with juvenile offenders to identify the causes of their crimes as well as the reasons they commit crimes and make bad choices. We need to work with children to improve their choices and quality of life, and to improve the support services around them so that they do not reoffend. Imprisoning children — putting them in detention — does not help us as a government or as a society. It does not address the core issues of why they are offending.

For the previous government to subject kids to these kinds of punitive measures was incredibly short-sighted. I was shocked to hear how many children have been incarcerated or remanded because of this policy. It is absolutely heartbreaking to think that children could be locked up consistently and continually. In fact I find it incredibly hard-hearted. I do not understand how a caring government, a government that cares about its community and about the future of its children, could take such a draconian measure. I do call it draconian, and I think it is a symptom of the knee-jerk reaction that we saw with the previous government, the members of which would jump in and respond to populist comments and make ad hoc and irrational decisions.

I think we could see with question time today and question time throughout this week that opposition members have made knee-jerk responses that are primarily based on the front page or page 3 of the *Herald Sun*. There has not been much intellectual rigour at all, as we saw during the four years of their legislative activity. There was not a lot of intellectual rigour and deep policy thought that addressed the key issues that were confronting community. In fact those opposite made things harder and more difficult for people, and this is exactly what we see with locking kids up.

By locking kids up you do not make things better; you only make things worse. Locking kids up causes a cycle of reoffending; it makes them more likely to reoffend and to become recidivists. Locking kids up is crazy

policy. It is not only morally wrong but also economically wrong. The amount of money put into incarcerating a kid is huge. We should be investing in children, spending time with them and helping to ensure that they have a good education, a safe framework around them and safe and stable accommodation. These are the things that governments need to invest in.

Governments do not need to invest their time, labour and thoughts in how to lock children up and how to continue locking them up. That does not help anybody. Again it is an indication of the lazy politics and lazy policy of the previous government. It is easy to write a couple of lines about locking kids up if they have made wrong choices or done the wrong thing around their bail; it is harder to create thoughtful policy which addresses the actual issues that that kid is facing that have drawn that kid to make the wrong choices and to do the wrong thing. The hard work is actually in solving the problem. It is an easy solution to lock people up. It is a solution that requires no thought. It does not require consultation. It does not require policy analysis. It does not require research. It does not require hard work.

What we have seen repeatedly from members of the opposition and what we saw from them in government was that they are policy lazy. We have seen this throughout this year in question time: they are policy light. Very few questions have been about policy; they have all been about what they have read that day or the day before in the *Herald Sun*. It is time for the opposition to start looking at innovative ways to help our community, innovative ways to enhance the way we go about our day-to-day lives and innovative ways to enhance the justice system that do not rely on locking people up. There are more answers to this. They are hard answers to arrive at; these are hard problems to solve. They take deep commitment and deep thought. They take a lot of consultation. It takes time to talk to the people who are at the ground level.

I take this opportunity to commend Bernie Geary, the outgoing child safety commissioner, who has supported this legislative change and who is an absolutely fantastic man. You will not find a kinder man or a stronger advocate for children than Bernie Geary. His has been a fantastic voice for young people and children in supporting them, standing up for them and fighting not only for their rights but also for them to be looked after, cared for, cherished and nurtured. He has fought long and hard to make children as safe as they possibly can be. I commend him for the tireless work he has done. I know he has worked incredibly hard. I wish him very well in his retirement, although knowing Bernie as I do, I am sure that it will only be a part retirement, that he will be out there continuing to fight for children and young people, making sure that they get a better deal and that they get the support structures around them that they need. Thank you, Bernie.

In closing, I commend the bill and celebrate the fact that it is an example of yet more legislation that this government is putting forward. It is yet another indicator of how proactive this government is and how seriously it takes the work it does. We really want to make considered and thoughtful legislation that is for the betterment of our community, that shows how much we care and that will help our state grow and develop to be stronger than ever — and certainly to shut the door on the bad decisions that were made by the previous government. I commend the bill to the house.

Debate adjourned on motion of Ms RICHARDSON (Minister for Women).

Debate adjourned until later this day.

ASSISTED REPRODUCTIVE TREATMENT AMENDMENT BILL 2015

Second reading

Debate resumed from 25 November; motion of Ms HENNESSY (Minister for Health).

Mr WAKELING (Ferntree Gully) — It gives me pleasure to rise to contribute to the debate on the Assisted Reproductive Treatment Amendment Bill 2015. As the lead speaker for the coalition, I indicate from the outset that both the Liberal Party and The Nationals have afforded their members a free vote in regard to this bill.

The bill before the house changes the current practice in regard to donor-conceived children accessing information regarding their donor — namely, their father. The bill implements the recommendations of the former parliamentary Law Reform Committee report into this issue. As the minister indicated earlier this month, the bill provides all donor-conceived persons with the right to obtain identifying information about their donors from the central register, regardless of when the gametes from which they were conceived were donated and regardless of whether the donor consents. The nub of this bill is the implementation of changes to allow children to access information regardless of the view of the donor father.

By way of background, there have been various forms of legislative change around this issue. Assisted reproduction started off effectively under a system

where donors were anonymous and where there were few record-keeping requirements for organisations that undertook the collection of donations. The Infertility (Medical Procedures) Act 1984, which came into effect in 1988, established a central register to record donor-conceived births and donors from 1988 onwards. The legislative change that came into effect in 1988 introduced the requirement to record donors.

In 1995 the Infertility Treatment Act 1995 was passed, with effect from 1 January 1998. The act provided more comprehensive requirements in relation to counselling, the availability of information for donors and donor-conceived people and requirements in relation to donor registers. It also enabled donor-conceived people conceived after 1 January 1998, when they reach 18 years of age, to access information about their donor, subject to counselling requirements. The 1998 changes brought in, for the first time, the ability of donor-conceived children to access information about their parent. For children conceived prior to 1998, there was no specific entitlement.

In 2008 the Assisted Reproductive Treatment Act 2008 was passed by the Parliament. I was a member of Parliament at that time, and that act, following on from the Victorian Law Reform Commission report, amended assisted reproductive technology (ART) and surrogacy laws, including removing the statutory requirement that a woman be either married or in a de facto relationship with a male to access ART treatment within Victoria. That is an example of some of the changes that were taking place. The act also established the VARTA, the Victorian Assisted Reproductive Treatment Authority, and provided for the keeping of the voluntary register by the Victorian Registry of Births, Deaths and Marriages. That act took effect on 1 January 2010.

In March 2012 the parliamentary Law Reform Committee tabled its report entitled *Inquiry into Access by Donor-Conceived People to Information about Donors*. From memory that committee was chaired by the then member for Prahran, Clem Newton-Brown, and I believe the Minister for Emergency Services, Minister Garrett, was the deputy chair. That inquiry received around 80 submissions and made 30 recommendations. The first recommendation of that committee was that the Victorian government:

> … introduce legislation to allow all donor-conceived people to obtain identifying information about their donors.

What it was recommending was that Parliament consider the creation of legislation that would allow any child conceived prior to 1 January 1998 to access information about the donor father. The Victorian government assessed the recommendations of the committee, and its response came in the form of legislation that went before the previous Parliament. The government's response was to allow for children to access information about their donor, but only when the donor consented to the release of that information. The turning point between the then government's response and the committee's recommendation was the question of consent of the donor. The then government took the view that it should be a requirement of a donor to consent. The current government obviously sees fit to introduce legislation before the house to implement the recommendations of the committee's principal report in 2012.

With respect to the number of donors and the number of donor-conceived people, we as a society do not know the specific figures due to some of the incomplete records kept prior to 1988. We know that between 1988 and 1998 there were 2712 children conceived with donations which made use of 2402 sperm donations and 586 donors, including 236 egg donors and 350 sperm donors. Between 1998 and 2011 there were 2787 births registered with 1453 from sperm donations and 1146 from egg donations. There were 1299 donors, of which 848 were egg donors and 451 were sperm donors. That is information that has been recorded and provided by the Victorian Department of Health and Human Services.

The current system provides for three classes of legislation with respect to donors and their ability to access information about their biological father. Prior to 1988 there was anonymity; between 1988 and 1998 non-identifying information was automatically made available to recipient parents and donor-conceived people, donor-conceived people and their parents had the right to access identifying information about the donor only in instances where the donor consented, and donors had the right to access information about their donor offspring with the consent of the donor offspring; and since 1988 identifying donor information has been automatically available. This is a vexed issue and an issue many people in the community will have a differing view on. The coalition has afforded a free vote to its members. The first part of my presentation will outline the respective issues, and then I will conclude by placing on the record my own personal view.

There are some instructive articles which I think demonstrate some of the differing views. In an article published by the ABC on 29 June 2015, Tom Nightingale quotes Lauren Burns. Lauren was conceived with a sperm donation, and before discovering the identity of her biological father she had questions that could not be answered. She explains:

> I suppose that as human beings, as we look in the mirror we often notice attributes, it might be your looks or it might be personality or interests or aptitudes that we can trace back to other people in our family …
>
> For donor-conceived people, half of that is literally missing and they might have no idea what their ethnicity is or what their heritage is, both in a social and a medical context.

As I said, there is obviously a range of views. An organisation that has expressed significant concern about the changes is the Australian Medical Association. The association has taken the view that it is concerned about any move to retrospectively create laws that deal with this issue around the release of information. The article states that the organisation's Victorian branch president, Dr Tony Bartone, said that people's anonymity should be protected as:

> 'The decision was made … on one of anonymity being protected. Whether or not contact ensues is really secondary' Dr Bartone said.
>
> 'It's the release of that information which identifies the donor'.

It further states that Ms Burns, in response to those concerns, indicated:

> 'There's also potential for a bit of a conflict of interest in that a lot of the donors who were recruited into the programs actually work in the medical professions as well, so we don't know where there might be a personal conflict of interest —

and many medical students were encouraged to participate in the program, given the scientific nature of and advancing sciences with respect to in-vitro fertilisation (IVF) and assisted reproductive technology.

The article reports a sperm donor, Roger Clarke, saying that when he participated in the program:

> 'They certainly gave me the option at the time to decide whether I wanted my anonymity protected …
>
> 'It asked, "Would you ever be prepared to meet any of your offspring, yes or no", and I was quite happy to tick the 'yes' box on that'.
>
> Mr Clarke has met two of the five children his donated sperm helped to create.
>
> 'In my view, the balance must lie with the rights of the child', he said.
>
> 'The issue of anonymity is a very sensitive one for many donors and there are many who are quite disturbed by the idea that this anonymity might be cast aside.
>
> 'But in all of that I believe that the rights of the child must prevail to the extent that each child born from donor conception ought to have the right to know who their biological parents are'.

An article in the *Age* of 22 November highlights two conflicting views on this issue. It states:

> One woman, who did not wish to be named, told the *Sunday Age*: 'There's half of your identity that you know nothing of and that's huge. If my donor doesn't want contact, I'll respect that — I'm not going to stalk them or anything. Just having a name or medical records will make a big difference'.
>
> …
>
> Ian Morrison —

who was a donor —

> said his decision to donate in the mid-1970s would come as no surprise to his relatives and immediate family but it was nonetheless unfair for the government to change the law. 'Regardless of what they consider it to be these days, I signed a contract back in the mid to late '70s which essentially said I've got anonymity. Now to have somebody come back … and say: 'Well that contract doesn't stand anymore and we're going to change it' is something that I find staggering' …

Just from those two articles you can see that there are conflicting opinions among donors and conflicting opinions among those in the community who are directly affected by this situation. As I said, it is a fraught situation but access to information is keenly sought by donor-conceived children who have not had the opportunity to identify their biological fathers. Obviously there are also donor-conceived children who do know who their biological fathers are, and they also have views on this issue.

When the Assisted Reproductive Treatment Further Amendment Bill 2013 came before the previous Parliament I had the opportunity, along with other members of the then government, to meet with donor-conceived children and donors. That was a very instructive and informative meeting. The donor-conceived children put a position to members of Parliament that they should have the right to access this information regardless of the view of the father. The donors who were at the meeting, from memory, had already released their information and provided their details to their children. Instructively, one of them said, 'If a father out there doesn't want to release their details, they shouldn't be forced to do so'.

We effectively had a mini-debate — it was controlled and instructive — going on between donors and donor-conceived children around this issue in one of the meeting rooms in the Parliament. I think that, if anything, it demonstrated that this is a polarising — polarising is not the best word — it is an issue that people have very strong opinions on. For many it is a very personal issue. For me, which was demonstrated very early, it is one that you are never going to get right. Regardless of what position you adopt, there is going to

be somebody out there who is not happy with the decision that you make.

Ms Thomas interjected.

Mr WAKELING — I am interested to hear the comments coming from the other side. As I indicated at the start, both opposition parties have afforded free votes for each member, so each member will have the capacity to speak in this place on the views that each individual member adopts. As the lead speaker for the coalition, I am not putting a party position, because there is no party position; each individual member will speak on their own behalf. But I do have a firm view, and I will express my view. In the opening comments I have made I have sought to put on the record the respective views that many on this side of the house will have, and each member is free to record their vote accordingly and to record their views in this house if they choose to.

I now come to some of the views I have on this issue, and I am mindful that others wish to speak. I want to place on the record that, whilst acknowledging the very fraught nature of the bill for both sides of the debate, I will not be supporting the bill currently before the house. I wish to explain why.

Firstly, the bill before the house effectively overrides a contract that was in place between donors and relevant authorities when they made an agreement to donate. Regardless of people's views, if somebody has in good faith entered into a contract under which participating in the program was done on an anonymous basis, regardless of our view and whether we believe the information should remain anonymous, the point is when the person made the donation, they did so on the basis that they would be anonymous. If at the time of making the donation the person was advised that at some later point in time — 30 years down the track — a government may seek to change the law to override the commitment that was being made to them at that point about being an anonymous donor, and the donor knew that information, they would have then participated in the program knowing that at some later point in time the agreement that was reached about their anonymity might be overturned. That is the first issue that is obviously of concern to me.

The second issue is that at that time the Parliament had the capacity to legislate that any donation should not be anonymous. This system operated for nearly a decade, and the Parliament of the time saw fit that people who participated in this process voluntarily could do so on the basis that it was anonymous. Respecting the fact that in the late 1980s legislation was introduced and changed, when that legislation and subsequent legislation in 1998 was introduced, at no point was anything done on the basis of retrospectivity. Clearly community attitudes had changed on the issue, and parliaments under various colours and at various points in history made legislative change, but every legislative change they made was prospective — and applied prospectively because it was done on the basis that it was respectful of the previous participation of those donors and that they had participated on the basis of an understanding of what the legal requirements were at that point in time.

The third area of concern for me regards the issue of donors who have now seen fit to participate in this process and want to find out who their donor-conceived children are. We are now seeing the reverse — situations where not just the children are seeking to find out information but the donors are seeking to find information.

I personally was disturbed to learn that, as a consequence of some of the changes that were made by the reforms under the previous government that will clearly be exacerbated under these changes, there were in fact three children contacted to be advised that, given the fact that they are a donor-conceived child, the donor is seeking to make contact and asking whether they would be interested in receiving that contact. That is the legislative regime that has been put in place. What was not dealt with in that circumstance was the emotional aspect, because these three individuals were unaware that they had been donor conceived. This is a very difficult situation for those individuals involved. I would have thought as a society that, if a child was donor conceived but the parents who raised them never advised that child they were donor conceived, the most appropriate way to deal with that issue would be for that child or adult, as the case may be, to at first have the opportunity to have a discussion with their family.

What in fact happened was that they found out by way of a phone call or letter provided by the Registry of Births, Deaths and Marriages and were asked by a bureaucrat, as part of a bureaucratic process, 'Given the fact that you are donor conceived, would you like to meet your father?'. I am sure that any of us would have been shocked to think that the first indication you would have of being a donor-conceived child was when you got a letter from a bureaucrat. This is part of the challenges that people will grapple with with this legislation. I am respectful of the fact that people in this house will have a range of views. As I said, it is not a party vote. I am not going to impose my view or my will on others. Everyone will vote according to their own level of conscience, at least on this side of the

house, but that is certainly something I am concerned about.

Putting those views aside, I want to finish with what brought it home for me. On Monday I contacted a constituent, someone I know very well in my community who was a donor. I know he was a donor because he privately told me he was a donor when this issue came before the house three years ago. I rang this person and said to him, 'I know this is a difficult discussion to have, but out of respect for you I am contacting you to advise that this bill is before the house. I am seeking to know, as someone who is directly affected by the potential legislation, what your view is on the bill'. I will not name the resident. He knows that I will refer to him but will not provide his details. His words to me were that he was 'furious'. He was furious because, when he donated in the 1970s or early 1980s he did not do it through a business or through someone's home, he did it in a hospital with doctors and nurses, and because the whole way through the process of donating he was reminded by the hospital that the donation was anonymous. Effectively he was told, 'After donating today, you will never have to deal with this issue again'. He subsequently told his wife that when he was younger he had donated sperm, and he dealt with that issue with his wife; but the difficulty he says he is now in because of this legislation is he is going to have to sit down with his adult children and explain that he is a donor.

Some people might think that is fine. Some people might think that is an impost he should not have to bear. My personal view is that if somebody donated at a time when they were advised it was anonymous and then in 2012 the previous government allowed for him or others to opt into a system where they chose to participate in the process, I have no problem with that. But there are some people who do not want to participate in the process, and the previous legislation that was brought in during the last Parliament guaranteed that person would not be forced to participate. It said, 'If you still don't want to participate, you are not bound to do so'. It was a halfway step to try to cater for all concerned. This legislation does not provide that for him.

As I said, there are going to be people in this chamber who have a range of views on that. Some might say that he should deal with it. Some might say it is completely acceptable. Some will say it is completely unacceptable. As I said, there is no right or wrong answer in this. There are no winners or losers out of this, because there are going to be people affected.

The final point I want to make is that I understand the challenge children have in not knowing their father, but there are lots of children out there who do not know their father. That is not because they were donor conceived but for a whole range of reasons. In my own family I know someone that only met their father once and only found out they had a father who was different in their late 50s. That is completely unrelated, but it is similar to this. This is an issue that affects many Victorians. There are many Victorians who do not know who their father is. I am not saying that is acceptable, but it is a challenge that many Victorians face.

On behalf of the coalition, as I have said, we have been afforded a free vote. With respect to my personal views, which have been confirmed by the comments I have made with respect to one of my constituents, I will not be supporting the legislation.

Ms THOMAS (Macedon) — I feel very privileged to rise today to speak on the Assisted Reproductive Treatment Amendment Bill 2015. Many factors contribute to an individual's identity and sense of self, which in turn contribute to wellbeing. Importantly, as has been discussed in debates this year, sexual preference and gender identity are fundamental to who we are, and for many years the expression of behaviour outside heterosexual and binary gender norms has been subject to legal discrimination and social isolation. For others, faith and cultural background is central to identity, and here in Victoria we have always prided ourselves on our support for cultural diversity. For Indigenous Victorians, as we know, connection with country and culture are intrinsically linked to both identity and wellbeing. For other people, work, political beliefs and their expression, even the sports we play, the clubs we support, the music we listen to and the food we eat are all expressions of identity. However, underpinning all of these factors is our genetic make-up. From the colour of our eyes to the length of our feet to risk factors for cancer, heart disease and myriad other diseases, we look to our genes for answers. Biology plays a very large part in determining who we are.

As I said, I feel very privileged to speak on this bill, because this is a bill that puts the rights of children first when it comes to assisted reproductive technologies (ART). As the minister outlined in her second-reading speech, Victoria has been a world leader in ART. This bill recognises that the science may have been ahead of the social impacts at the time. The bill addresses a historic inequity that means that donor-conceived Victorians conceived from donations made after 1998 can access identifying information about their donors

while people conceived from donations made before 1998 can receive that information only with donor consent.

As members know, this bill addresses recommendations that were made in the 2012 parliamentary Law Reform Committee report entitled *Inquiry into Access by Donor-Conceived People to Information about Donors*. During that inquiry committee members found that prior to 1998 donor conception was unregulated and entirely in the hands of the medical profession. A culture of secrecy was pervasive, with donors and recipient parents required to sign anonymity contracts, and parents were advised not to disclose the manner of their child's conception to the child or to others. It is very hard for me to understand why this was ever thought desirable. However, thankfully we now have learnt from the past and from failed adoption practices.

Despite the unanimous nature of the committee's recommendations, the Liberal government's response and subsequent legislation chose to further entrench an unequal system of rights, retaining the division between the two groups: those who were conceived with gametes donated after 1998, who have full access to identifying information about their genetic heritage; and a second class of those who were conceived with gametes donated before 1998, who can receive information only with donor consent. This two-tiered system has created confusion and distress for some donor-conceived people. Labor opposed this two-tiered system at the time, and the then shadow Minister for Health, a member for South Eastern Metropolitan Region in the other place, Gavin Jennings, introduced a private members bill. I know the inquiry chaired by the former member for Prahran had a profound effect on the current Minister for Emergency Services and the member for Ivanhoe, who were members of that committee. Those members, along with the then shadow Minister for Health, should feel very proud that this bill is in the house today.

The bill is one of a number of sweeping social reform bills introduced by the Andrews government, and I am very proud to be a member of a government that is legislating in this way. I take this opportunity to note that the opposition has allowed its members a free vote on every social reform bill to come before the house so far this year. I think this points to a failure of leadership on the part of those on the other side of the house. This is not a debate about differing rights; this is a debate that puts the rights of children conceived through donor sperm at the centre.

In response to some of the issues raised by the previous speaker, the member for Ferntree Gully, I say this. When men were making sperm donations in the 1980s the key question they needed to ask themselves was what was the likely result of their making a sperm donation. If they did not think about that and if their doctors did not think to discuss that with them, then I am sorry that they are now in a situation where the knowledge that a child may well have been born is a surprise to them. To me that was quite the obvious outcome of making sperm donations at that time.

Sitting suspended 1.00 p.m. until 2.01 p.m.

Ms THOMAS — As I was saying about the bill before we broke for lunch, the government made a clear election commitment to right the wrongs of the two-tiered system. With the resources of government, we have been able to consult more broadly and expand on that first private members bill that was brought to the other house, as I said, by a member for Southern Eastern Metropolitan Region in the other place, then the shadow Minister for Health and now the Special Minister of State, to ensure the best possible chance of a donor-conceived person finding their records if they exist.

I want to address also some of the concerns expressed by men who at the time donated sperm anonymously. Some donors did express reservations about the government's commitment because in the past those donations were made on the basis and expectation of anonymity. Concerns were also raised about the potential impact of the disclosure of identifying information on the donors and their families. We heard some of those concerns expressed by a previous speaker.

In response to the feedback, a number of changes were made to the proposal outlined in the discussion paper. These include creating greater protection for donors and their families by allowing donors to lodge a contact preference that will also prevent contact with their children under the age of 18. This will enable donors to manage any impact on their family life. This is in addition to counselling that the Victorian Assisted Reproductive Treatment Authority must offer donors where there is an application for that information.

The discussion paper also suggested that the voluntary register be abolished and replaced with a donor-linking collection. In response to strong feedback from stakeholders, the voluntary register will be retained, but it will be moved to the Victorian Assisted Reproductive Authority, and it will hold a broader range of material to assist with donor linking. I want to be quite clear on

this point. While the exact information to be released and classified as identifying information will be part of the regulation under this bill, it is not intended that an address or phone number would be released to an applicant without consent. I understand that there were some concerns about that, and that needs to be clarified.

As I said, the government firmly believes that this bill, which puts the rights of children conceived through donor sperm at the centre, is about addressing some historical wrongs. In conclusion, I want to read a letter to the editor which was in the *Age* of 7 September. Under the general heading 'Sperm donation — Everyone has a right to know their heritage' there was this letter from Barbara Burns of Templestowe:

> I told my two donor-conceived children about their conception when they were 21 and 24. This was a huge thing and was harder because I knew they were legally not entitled to information about their donor. After telling, on the surface nothing changed, but underneath things were awkward and painful. The heart of the problem was not being allowed to find out anything about their biological father. Genetic heritage is important in establishing identity and is something that everyone has a right to. Through perseverance and the help of good people the girls found their donor. The difference is like dark and light. They have had their questions answered and are at peace.

On that note, I commend the bill to the house.

Mr NORTHE (Morwell) — It gives me pleasure to rise this afternoon to speak on the Assisted Reproductive Treatment Amendment Bill 2015. I say from the outset that I really do hope the debate on this bill this afternoon is conducted in a respectful manner. This bill is about a sensitive and emotive matter, and it is very important. I hope all members respect that. Of the members who have spoken on this bill previously, I also say from the outset that I have an opposing view to that of the member for Ferntree Gully. He spoke really articulately on his rationale and the reasons for coming to his position. That should be respected because it is a difficult bill in the sense that there will be people who will be happy if this passes and there will be people who will not be happy with it. We have an obligation to do what is right and just and what we believe in. I know that for members on this side of the house, having a free vote is really important. There will be different views and opinions but as long as the debate is conducted in a respectful manner that is the appropriate thing to do.

I was a member of the then Law Reform Committee which conducted the inquiry into donor-conceived people having access to donor information. I am not sure if the former member for Prahran is still here; he was in the house earlier. Clem Newton-Brown did a remarkable job, a wonderful and respectful job, as the chair of that committee. The five members of that committee — which included the now Minister for Emergency Services, the member for Ivanhoe, and a member for Northern Victoria Region in the other place at the time, Donna Petrovich — had a really difficult task because what we were inquiring into at the time were effectively three sets of rules depending on when gametes were donated.

The legislation was changed in the late 1990s, and we saw that from 1 January 1998 donor-conceived persons would have unconditional access to identifying information about their donors. That is fair and right and it is just. People who are donor conceived certainly have that right and that was reflected in legislation at the time. The problem was that there were two other sets of rules. Those people who were conceived using gametes donated before 1 July 1988 had no right to any information about their donors. People conceived using gametes donated between 1 July 1988 and 31 December 1997 could access information about donors if the donors consented to release of that information.

So it was a challenging inquiry for the members of the committee. We had to make some difficult decisions in grappling with a three-tiered system. Donor-conceived people are donor-conceived people but, depending on when they were born, different rules applied. On the one hand, prior to 1 July 1988 there is no doubt that men who donated sperm did it altruistically; they did it for the right reasons. The medical people at the time obviously did it for the right reasons as well, to help establish or build families. There is no doubt that it was all done in good faith to assist people and families who wanted to have children, and there is no doubt that those children were loved and nurtured as they grew up.

I do not want to speak for all the committee, but certainly what we found at the time was that the emotional and social aspects of what was occurring had not properly been thought through. We had the situation that when donor-conceived persons entered into adulthood and were advised by their parents that they were donor conceived, they wanted to know their true identity. Why wouldn't you? That was the thing we were grappling with.

I must say that at the start of the committee's inquiry — again I will not speak for the other four members of the committee — we probably all had a perception that if one donated anonymously prior to 1988, that should be respected. I thought that myself, but as time went on and as we heard from many people who submitted evidence to the inquiry, my views changed. My views changed because the rights of donor-conceived children

were not being heard and listened to at that particular time. The five members of the committee — two Liberals, one from The Nationals and two Labor members — came up with conclusive recommendations, and this has been reflected in the legislation we have before us today.

We heard from a range of witnesses — and I do not want to necessarily just focus on donor-conceived persons because I know that if this bill passes, there will be challenges for donors as well as for donor-conceived children — about accessing identifying information. There is no doubt that there are some challenges, some reservations and some concerns with that, and they have been expressed articulately by the member for Ferntree Gully. However, it was hard to ignore the evidence that was provided by people such as Narelle Grech, Lauren Burns, Myf Cummerford, Barbara Burns and others who tendered evidence to the inquiry.

It was an emotional time for us all when Narelle Grech appeared before the committee. She was battling terminal cancer and at the same time, as a donor-conceived child, trying to access the identity of her father. It is well documented that the then Premier, Ted Baillieu, with the assistance of the chair of the committee, Clem Newton-Brown, helped to make a connection. It was terrific to see that Narelle had the opportunity to link up with her father, Ray Tonna. Ray has been public in expressing his gratitude for having the opportunity to spend some time with Narelle. Unfortunately Narelle passed away after a long battle with cancer. That is really sad. She fought alongside other donor-conceived children to make sure that they had those recommendations implemented by Parliament. As a government, we have done that in part. It was something we supported, and this bill obviously builds on the 30 recommendations that the committee recommended at the time.

From my perspective, it is important to respect the rights of donors, who were told — not in all cases but in some — that they would have anonymity when donating prior to 1 July 1988. But there are also others such as Ray Tonna, whom I just mentioned. He is on the public record as saying that he believed he donated for the purposes of medical research and did not realise he had donor-conceived children in his midst. There are certainly a number of donors who are on the register. I think there are actually more donors on the register — I am happy to be corrected on that — than donor-conceived children. So there are a number of donors out there who are seeking to find their donor-conceived children. There are probably a lot of children who are donor conceived but do not know it, and that is another issue and a challenge and something that needs to be managed very carefully if this legislation passes the Parliament.

It is a balancing act. There is no right or wrong. People will have different views and opinions, and they are to be respected. As I said, I was part of the Law Reform Committee that made those 30 recommendations, and this bill adopts those recommendations. In particular I support the notion of the Victorian Assisted Reproductive Treatment Authority being in charge of the register and being able to manage these particularly sensitive matters rather than the Victorian Registry of Births, Deaths and Marriages. That is another important element of this legislation, as is the counselling that needs to be provided to donors and donor-conceived children who might be seeking either their biological father or their donor-conceived children, as the case may be.

From my perspective, I support the bill and I appreciate the fact that there will be many views and opinions about it. Being part of the committee was a really enjoyable experience. I wish the bill a speedy passage.

Ms GARRETT (Minister for Emergency Services) — I am really pleased to rise after the member for Morwell and his very heartfelt speech. We were on the committee together, and, as he indicated, all of us on the committee went on quite an extraordinary journey as we met with brave people who had found out at various points in their life that their life was not what they had been told it was. This has impacted on their sense of identity, their sense of self, their sense of reality, their sense of trust in the broader community and, most importantly, their deep, deep desire to know who they are and where they come from. We all went on that journey.

This law is absolutely Narelle's law. Narelle was an exceptionally stunning, intelligent and brave individual. Her legacy is profound, and it will be lasting — not just through this piece of legislation but through all the people she touched. Right through to the end she was out campaigning, talking, persuading and discussing these most important issues. We are just very grateful, and I acknowledge former Premier Ted Baillieu for making it possible for her to meet her biological father, Ray, just weeks before she died in such tragic and such brutal circumstances, so very young. Her meeting with Ray and how much they had in common, how much they physically looked alike and their passion for music, their sense of humour and their spirits showed that every child should have the opportunity at the very least to know the name of their biological father.

I know many people in the donor-conceived community are watching this debate now. I acknowledge particularly Myf, Lauren, Ray and Narelle — people who have for years stood up against the system and the doors that were shut in their faces and the doors that were never even open. One of the most poignant examples was the cry of young Lauren and Myf, 'I know the details are behind the glass wall. I know the person in the uniform can have access to my father's details, but I'm not allowed to have those details'. We have come a long way as a community in many areas. We know that, while it was with the best of intentions that these practices occurred in the 1970s and 1980s, it was not the best practice in terms of regulating donor conception and making sure that the precious lives that were created were able to know where they came from, what their heritage was and the circumstances of their birth into this world. While they were most undoubtedly loved and longed for, they also have clear rights that are, in my view, reflected in this legislation.

We changed those laws progressively; we did do the right thing. Society caught up. But there is a group of people for whom that door will remain closed without this legislation, and that is a group of people who have spoken very clearly with one voice and with hope that we in this Parliament will right the wrongs that occurred — they were not deliberate wrongs, but they were wrongs. This legislation, Narelle's law, gives this Parliament the opportunity to right those wrongs and to give everybody the capacity to know their biological heritage. It provides an opportunity for a large missing piece of the jigsaw puzzle to find its rightful place and for those people to continue with their lives with the knowledge they so desperately seek.

I want to thank the donor-conceived community. I want to thank my fellow members of the former committee: the members for Morwell and Ivanhoe and former members Donna Petrovich and Clem Newton-Brown. It was a privilege to work with you all. I thank the Minister for Health, who has just entered the chamber. She has worked tirelessly to deliver this legislation. We in the Labor Party are extremely proud of this legislation, but most importantly we are proud of the people who brought it to this Parliament, who stood firm, who did not bend, who got up the next day when they felt like they did not want to and stood up for their rights and the rights of those who do not even know they are donor conceived but maybe one day will, and of the terrific, outstanding legacy of Narelle Grech. This is her law, and I commend it to the house.

Mr HIBBINS (Prahran) — I rise to speak in the debate on the Assisted Reproductive Treatment Amendment Bill 2015. This bill will amend five elements of the Assisted Reproductive Treatment Act 2008: it enables people born as a result of a pre-1998 donor treatment procedure to obtain available identifying information about their donor regardless of whether the donor consents; it creates the ability for those people to lodge contact preferences; it gives the Victorian Assisted Reproductive Treatment Authority responsibility for donor conception registers; it gives the Victorian Assisted Reproductive Treatment Authority powers to obtain information about pre-1998 donations when there is insufficient information available; and it creates an additional offence of tampering with donor conception records.

Effectively this bill will end the distinction between those who were born from donor treatment procedures prior to 1998 and those born after this time. The Greens wholeheartedly support this. The bill introduces the creation of contact preferences which will allow donors to prevent or limit contact with donor-conceived offspring, with a penalty of 50 penalty units. We have concerns about that particular element. Finally, this bill will also establish the Victorian Assisted Reproductive Treatment Authority as the one-stop shop for those seeking information, and the Greens support this.

The Greens have a longstanding interest in progressing the rights of donor-conceived people and the goal of achieving rights for all donor-conceived people regardless of the year they were born. Often in these debates there has been a need to strike a balance between the rights of donors and the rights of donor-conceived people. These rights are not necessarily equal. The priority must be the right of a person to know about their genetic identity, which should be of higher importance than the anonymity that was promised to donors — promised not by legislation at the time but by the providers themselves, who were not necessarily looking ahead to the interests of children who were conceived and their right and need to know their genetic identity.

The Greens have a good record of progressing this issue. In 2008 Sue Pennicuik, a member for Southern Metropolitan Region in the upper house, was able to gain support for an amendment she moved to the Assisted Reproductive Treatment Bill 2008 to enable the Victorian Registry of Births, Deaths and Marriages to attach a note to the birth certificate of a donor-conceived person to let them know that more information was available about their birth. In 2010 Ms Pennicuik moved in this Parliament that the then Law Reform Committee look into the issue of donor-conceived persons, which resulted in the committee's 2012 *Inquiry into Access by*

Donor-Conceived People to Information about Donors report.

The committee was chaired by the previous member for Prahran, Clem Newton-Brown, with the member for Brunswick as the deputy chair. The main recommendation of its report was that the Victorian government introduce legislation to allow all donor-conceived people to obtain identifying information about their donors. Other recommendations followed, some of which qualified the overarching first recommendation, but the Greens fully agree with that first recommendation and the principle that access to information should be equal for all donor-conceived people. That does not necessarily mean there has to be ongoing contact between the donor and the donor-conceived person, but there should be the right to gain access to that information.

As members have raised, there are always going to be some issues and concerns with retrospective amendments to legislation, and some problems may be caused in the lives of families and of some donors. But the Greens would not consider this to be as distressing as the ongoing lack of information for those people who were donor conceived. People who were donor conceived have had no say in the law that was to prevail over their lives and the law that decided whether they had access to information about their biological parents.

There was a view many years ago that it was an undertaking to protect anonymity. There was a lot of thought about the needs of adults at the time but, I think, little or no thought about the needs of the children — those donor-conceived people who would want to know about their past when they grew into adults. What we know now is that donor-conceived people want to know about their biological origins, not only for themselves and their own identity but also for their health needs and those of the rest of their family — their siblings and children. They are old enough now to have their own children, and of course they have the right to know about their biological origins.

As I mentioned, we have concerns about contact statements, as we did in relation to legislation regarding forced adoption — and I believe contact statements were removed from that legislation. We are concerned that they are not necessarily in the spirit of the legislation. We are talking about contact between people who are now adults, and we question whether this needs to be regulated by the state. If there is concern about unwanted contact, we already have laws in this state to cover that.

We question whether the penalty of 50 penalty units, which would currently stand at $7583.50, is too high and whether penalty units and contact preference statements are in the spirit of the act. However, the Greens will be supporting this bill. As was outlined by previous speakers, there are some incredible personal stories from donor-conceived individuals who have sought to discover their biological origins. They have been obstructed in their efforts because of the mindset, practices and legislation of the past. This legislation will ensure that all donor-conceived people will have access to information on their biological history — information they have a right to know.

Ms KNIGHT (Wendouree) — I am very pleased to have the opportunity to speak on the Assisted Reproductive Treatment Amendment Bill 2015. As I was reading through the minister's second-reading speech one sentence really jumped out at me:

> The government believes a person should have access to available information critical to their sense of identity.

In a nutshell this sentence sums up the bill before us today. That is the starting point of this legislation.

This legislation contains a provision for donors to nominate a preference in relation to contact, as is appropriate. This puts the right of a donor-conceived person, conceived as a result of a generous donation prior to their birth, first. It also recognises and provides a regime that respects the different types of contact that donors may wish to have with donor-conceived children.

The purposes of the bill are very clear. The bill comes before us today following inquiry by the parliamentary Law Reform Committee into access by donor-conceived people to information about donors. That committee reported to the Parliament in March 2012 and made 30 recommendations in its final report. The recommendations were unanimously made by all members of the committee. I am going to quote from the chair of the committee, but before I do that I want to acknowledge the work of the other members of the committee, in particular the member for Morwell; the member for Brunswick, who is now the Minister for Emergency Services; and the member for Ivanhoe.

I particularly want to acknowledge the contributions we have heard already in this place from the Minister for Emergency Services and the member for Morwell. They were very moving and honest contributions. I want to thank them and the other committee members not only for the work they did in collating those recommendations but also for the very sensitive way that they went about doing that. I want to particularly

acknowledge and thank them for the support that they gave donor-conceived children.

People look at committees and think it is just a bit of work that needs to be done, but as chair of the committee that is now looking at abuse of people with disabilities, Acting Speaker, you would know there is a very emotional, raw and often traumatic component of that work. It needs to be approached in a very sensitive way. I congratulate all those committee members on doing that.

In his foreword to the final report, the chair of the committee, the former member for Prahran, Mr Clem Newton-Brown, sets out clearly the different types of access available to donor-conceived people depending on the date when the donation was made:

> Currently, people who were conceived from gametes donated after 1998 are entitled under legislation to obtain identifying information about their donors when they reach adulthood. People conceived from gametes donated between 1988 and 1997 can only access identifying information about their donors with the donor's consent. However, people conceived from gametes donated prior to 1988 have no legislated right to obtain identifying information.

This bill addresses this information differential, and it is a differential that can have terrible and long-lasting effects on donor-conceived people. Mr Newton-Brown described this in his foreword as causing considerable distress and anguish for many donor-conceived people who are unable to obtain donor information. That was articulated very clearly by the member for Morwell and the Minister for Emergency Services who spoke before me.

Over the last few weeks I have received a number of emails about this bill, as I am sure every member has. I want to quote briefly from one of these emails to demonstrate how this lack of information affects one donor-conceived person. The email, in part, reads:

> It affects my whole life, not just in terms of medical history but also personal identity and family history.

This email was from a person whose records of donation exist but who is currently unable to access information on the donor. It affects this person's whole life. This is a very powerful statement about the extent to which people are affected by the denial of information that is central to their identity. Last week I received another email, just one of many, in which a person wrote:

> Not knowing and being lied to about who I am as a person has been hard, but what has been even harder is that because of the current laws I may never know the whole truth.
>
> My experiences to date trying to find out my genetic and medical history have been frustrating and deeply hurtful. Yet I will keep searching, asking and begging for information because I need to know.

This person describes uncertainty about their heritage and ethnic background and then goes on to succinctly and powerfully describe the nature of their search relevant to their self:

> Or to know if there might be a possibility of a high risk of cancer or strokes for me due to my genetic history? The list of what I don't know goes on, as will my search until I find the truth about me.

A letter from VANISH manager Coleen Clare says:

> The basic birthright of full knowledge of one's own identity was stripped from them. Our lawmakers have come to accept that this was wrong and anonymous donor conception is now illegal. All donor-conceived people deserve their birth identity, regardless of their year of conception, and this bill will make that knowledge available — where records exist.

I want to thank every person who has contacted me about this bill, and I particularly want to thank them for sharing with me their experiences and the consequential importance of this bill to them.

The legislation will implement the first recommendation made by the parliamentary committee, which will allow people to access information about their donor parent. This recommendation, again from the report, reads:

> That the Victorian government introduce legislation to allow all donor-conceived people to obtain identifying information about their donors.

It is this recommendation that is really central to this bill. Some donor-conceived people are currently able to receive information on the identity of their donor parent, but not all donor-conceived people are able to do so. We currently have a two-tier system that will be addressed by this bill. The bill, as I said earlier, will enable persons born as a result of the use of gametes donated before 1 January 1998 to obtain identifying information about donors without consent. As is very clear from the extracts of correspondence I have just read out, this information is critical to many donor-conceived people's sense of identity. It is therefore a priority that this information, where it exists, is made available.

This is very different to forcing contact between a donor and a donor-conceived person. Nobody should be forced to have contact with another person if they do not wish to. This legislation provides a mechanism for a donor, upon an application being made by a donor-conceived person to access the donor's identity,

to specify the nature of contact they are willing to have, and the minister's second-reading speech outlines this process very clearly. There is a significant fine attached for breaching these conditions, and that is included in the offence in the bill. This bill does not force donors who do not wish to have contact with their donor-conceived offspring to have contact; as I said earlier, that would be a completely unreasonable thing. The bill provides a mechanism for donors to determine the kind of contact they are willing to have while still providing to a donor-conceived person with information on the donor's identity.

I absolutely support this bill. It is incredibly important. It is important that we address inequality issues around those who can get information and those who cannot. I acknowledge that there would have been men who would have entered into a contract around anonymity, and I understand that. But I also understand that we do the best we can with what we know; and when we know better, we can do better. It is the purpose of us being in this chamber and the duty of all of us to absolutely strive to do better. We should accept no less. I wish the bill a speedy passage through the house.

Mr CLARK (Box Hill) — The issues this bill seeks to deal with show the problems that can be created when people rush to make changes that go to the very fundamentals of human life and human nature. Several years ago people with the best of intentions thought they had a simple answer to help infertile couples have a child — just use in-vitro fertilisation (IVF) and donor sperm, and the problem will be resolved. The couple can have their child, the donor is willing to donate, the donor is guaranteed anonymity and the problem is solved.

However, in thinking they had solved one problem, those involved had in fact created another huge problem, a problem that has caused distress to thousands of people in the years that followed — they forgot about or ignored the kids. Looking back now with the best of hindsight, it would seem that doctors, scientists and other professionals involved at the time either did not even turn their minds to what effect their actions might have on the children born through these procedures or, if they did turn their minds to that question, concluded in some misguided way that it would not matter to those children. Now those children have grown up, and many of them have said long and loud and with good justification that it does matter to them. They want to know about their ancestry, their genetic origins and who their father was.

Narelle Grech has come to symbolise these hopes, aspirations and sorrows — and for very good reason. Much of Narelle's life was devoted to her search for her father, a search that became increasingly desperate after she developed incurable bowel cancer. I had the privilege of meeting Narelle on several occasions, both when previously in opposition and when in government, alongside a dedicated group of other young people who have for many years been compellingly making the case for the law to be changed.

I was delighted when the then Premier, Ted Baillieu, gave permission for Narelle's records to be accessed from Public Records Office Victoria. I was delighted when Narelle's father, Ray Tonna, was subsequently able to be located, and when they were able to be united in the joyful but tragic circumstances that were encapsulated on the front page of the *Age*. That wonderful outcome was only able to be achieved because of the contributions of a large number of people, many of whose contributions have been publicly acknowledged. I would particularly like to add to the public record the contribution of my then ministerial adviser, Alice Bailey, without whose commitment, perseverance and determination many crucial steps may not have occurred within the time lines required.

I would also like to place on record the contributions above and beyond the call of duty of a number of officers of the then Department of Justice, without whose contributions Ray Tonna would not have been found, nor approached in the sensitive and positive way in which that occurred. Far too often in matters relating to human life and human nature we say that the interests of the child must be paramount, but, having said that, we then go ahead and put the interests of the adults first and the interests of the children a long way second. With this bill I hope we will give proper recognition to the interests of the children and remedy the injustice that was done to them, the disrespect that was shown to their personhood and the disregard of their legitimate interests that was inflicted on them at the time they were conceived and brought into existence. However, in seeking to do that we also have to have regard to another set of very legitimate interests, arguments and concerns — those of the donors.

Donors say, with good cause, that they were promised, assured and/or guaranteed anonymity. Those commitments came from those in authority — from clinics, hospitals and doctors — whom they believed were entitled to and in a position to give those commitments. Many donors said that they donated on that basis and that they would not have donated had they known that years later their identity could be

disclosed to the children whom they had helped conceive. Now many donors are legitimately concerned that they or members of their family are at risk of being contacted against their will by children with whom they do not desire to have contact, or by a public authority on behalf of those children, and that this will cause huge disruption and stress in their lives and the lives of their families, something which should not be inflicted on them.

If the bill properly reflects the principle it seeks to reflect — namely, that identity information can be provided to donor-conceived children without consent but that no contact can be made without consent — and if all concerned comply with the requirements of the law, that risk should not arise. In addition, the form of contact currently being used by the Victorian Registry of Births, Deaths and Marriages to make contact with donors under the existing legislation is carefully worded to be non-disclosing if it happens to be read by persons other than the donor. On top of that, the government has informed the opposition that it is not intended that address information of donors will be provided to donor-conceived children without the consent of the donor.

Nonetheless, donors are entitled to be concerned about remaining risks, about whether the legislation is adequately drafted and about whether the law will be universally complied with. They can argue quite reasonably that someone who knows their identity may well be able to track down their whereabouts and monitor their activities from a distance and look for some way of making contact either through some loophole in the law or in breach of the law. At the end of the day this risk may be quite small. The vast majority of people generally comply with the law, however much they may disagree with it. Nonetheless, some may make contact despite the law, and donors may never fully put that risk out of their minds.

So how are these competing, fully understandable interests of many donor-conceived children and many donors to be resolved? On the one hand there is the claim by donor-conceived children to the right of access to records about their parentage and their genetic origin. On the other hand there is the claim by donors of a right to confidentiality in accordance with agreements or assurances they entered into or were given.

In my view these competing claims should be resolved in favour of the children. They were not parties to the confidentiality agreements; no-one asked them. Their humanity and their rights upon coming into being were left out. There is a longstanding principle of law that people cannot be bound by agreements to which they are not a party — that is, it is not possible for person A to give person B a commitment that binds person C unless person A is given the authority of person C to do so. That is a maxim of law, but it reflects a maxim of fairness and good sense.

Here the clinics did not have authority to give binding commitments of confidentiality on behalf of children-to-be who were not parties to those commitments. Donors may well be entitled to be angry and upset with clinics and hospitals which gave commitments that they did not have the moral right to give, but that should not deprive donor-conceived children of the ability to access available records about who one of their parents is or was.

Let me respond briefly to one contrary argument that I know has been put — namely, that there are many children conceived by natural means who may never know who their true father is and who may live their lives in the mistaken belief that their mother's husband is their father. That is true, but it does not negate the proposition that where there are available records about the parentage of donor-conceived children, those children should be able to access details of their parent from those records. It is the difference between children suffering from all sorts of misfortunes due to naturally occurring factors, compared with children suffering a misfortune due to the presence or absence of a legislative regime.

I support the principles underlying this bill, and I will vote for it in this house. However, that does not mean I think the bill is free of flaws. I have a number of concerns about how the principles underlying the bill are implemented in the bill. I am concerned that the non-contact provisions of the bill are not adequately draw — that in some respects they are too prescriptive but in other respects they do not go far enough, in particular in relation to contact with family members of the donor. The principle should be expressed so that if the donor does not want contact, the donor-conceived child should not make any contact with the donor or with family or others associated with the donor that discloses the fact that the donor has been a donor or is a parent of the child concerned. Furthermore, that principle should be fully achieved by the legislation itself; they should not be dependent on regulations.

There are also issues about contact by donors with donor-conceived children that I believe need further examination, particularly as to where the families of donor-conceived children should be forced to make disclosure of their origins to children if a donor seeks to make contact. I do not have firm views on these matters, but I do observe the situation is not

automatically the same as when the donor-conceived child seeks contact. Because the donor was an adult at the time of the donation and, unlike the child, they were a party to the commitment of anonymity, access by donors to information about children needs to give priority to the interests of the child over the interests of the donor.

These are matters that should be examined in detail in this house, but I know they will not be. Thus I hope that, either between this house and the Legislative Council or in the Legislative Council itself, further scrutiny will be given to the provisions of the bill, not with a view to departing from its current principles in relation to donor-conceived children obtaining details of their donors, but with a view to ensuring that the bill properly, fairly and effectively gives effect to those principles and to the other matters with which it deals, and that remedies may be achieved as much as possible to address the valid concerns that have been raised about the bill as it stands.

Nonetheless, I think it is important that this Parliament is giving effect to the principles in this bill to recognise and respect the rights of donor-conceived children. I hope that after an appropriate amendment this bill will find its way onto the statute book and allow those donor-conceived children to find access to the details about their parent and their personhood to which they are entitled.

Ms KILKENNY (Carrum) — I am pleased to be able to contribute to the debate on the Assisted Reproductive Treatment Amendment Bill 2015. This bill is the result of yet another election commitment made by the Andrews Labor government.

I listened to the contribution from the member for Ferntree Gully. He discussed his opposition to this bill, which he said was based partly on a conversation he had with a friend, a donor, who said he was angry about this bill and about the prospect of having to tell his own children that many years ago he had made a sperm donation and that possibly there is a donor-conceived person out there who was conceived using his donation. That donor has a right to express emotions, including anger, but the question we ask is: what about the rights of the donor-conceived person? Donor-conceived people are telling us that they believe they should have the right to find out who is their donor. Medical professionals are also telling us this. What we have seen until now is that the balance has been tipped very much in favour of the donor, which is unfair. I am very proud to be a part of government that is working very hard to get rid of these inequalities in the law.

I also acknowledge the hard work of the current Minister for Consumer Affairs, Gaming and Liquor Regulation and the member for Ivanhoe in introducing a private members bill proposing to introduce what was to be known as Narelle's law. I also acknowledge the contribution made to today's debate by the member for Morwell, who was clearly moved by his participation in and contribution to the Law Reform Committee during the term of the previous government.

Today we have heard that this bill will give all donor-conceived Victorians the right to find out information about their donors. It will give donor-conceived Victorians the right to find out who they are and where they have come from. Frankly, for all our advances in medicine and technology, as humans we still want to know answers to those very basic questions about who we are and where we have come from.

Many of us claim to have connections to other nationalities and other countries. We see ancestry registers and genealogy websites flourishing as we try to uncover our backgrounds and our heritage. We trace our family trees and look for associations with legendary people. I recall that my grandmother found out she was connected to Ned Kelly. She would be absolutely mortified if she heard me mention that in Parliament, but there you go! Obviously we look for connections to famous people, famous events or even not-so-famous people. The reason is quite simple: understanding our past helps us understand who we are and where we fit into this world.

We also know that for donor-conceived people, not only those conceived before 1988 but also those conceived with donations between 1988 and 1998, there is no as-of-right access to information about their genetic fathers. Obviously donor-conceived people share the same need — that is, to have access to historical personal information as a component of their own identity formation.

It is really an acknowledgement and a sense of validation. Unfortunately, as we have heard, in Victoria there is a three-tiered system of knowledge and access to information. This system is inequitable. It is illogical, it is discriminatory and it is unfair.

If you are a donor-conceived person conceived from donations made before 1998, you have no as-of-right access to information about your donor, but if you happen to be a donor-conceived person conceived from donations after 1998, you are entitled to access information about your donor. It is unfair because it is arbitrary. It is arbitrary because those donor-conceived

people obviously had no say over whether they were conceived from donations made before 1988, between 1988 and 1998 or after 1998. As we know, arbitrary laws are not good laws.

In 1989 the Convention on the Rights of the Child was adopted by the United Nations, and Australia was one of the first countries to sign that convention. By signing, Australia undertook to make the best interests of the child its primary concern. According to article 7(1) of the convention, all children, no matter what their family arrangements, where they live and how they were conceived, have the right to know their parents. The convention was significant because it was the first international law to recognise the importance of a child being able to ask and get an answer to the question, 'Who am I?'.

Intrinsically we know that understanding and knowing one's ancestry is a critical element in the personal development of every child and adult. It helps to complete a sense of identity and a connection to the world around us. In the words of one donor-conceived person, knowing your genetic identity 'is so innate to who you are'. According to Louise Johnson from the Victorian Assisted Reproductive Treatment Authority, having an understanding of your biological origins is crucial to having a complete picture of who you are.

A 2010 American study surveyed nearly 500 people between 18 and 45 years old who had been conceived by sperm donation. The report of the study, *My Daddy's Name Is Donor*¸ said it found that young adults conceived through donation who do not know their donors:

> … are hurting more, are more confused, and feel more isolated from their families. They fare worse than their peers raised by biological parents on important outcomes such as depression, delinquency and substance abuse.

For those of us who know our biological parents, it is often difficult to fully understand and appreciate the gap that is felt by many donor-conceived people who do not know their genetic parents and also the anxiety that this can create.

We can rationalise it away by saying that prior to 1998 donors made donations on the basis of anonymity so to remove that anonymity now is not fair to those donors. We can argue that donors have the right to privacy. Yes, there are privacy rights. But I think all members will agree that rights, including privacy rights, need to be balanced; they are never absolute. We need to look at the rights of donor-conceived Victorians to have access to important medical and personal information. As I said before, I do not think we have that balance right. It has tipped too far in favour of the rights of donors.

If we look at the Assisted Reproductive Treatment Act 2008, we see that the first guiding principle of that act provides that the welfare and interests of persons born or to be born as a result of assisted reproductive technology are paramount. On a human rights approach, denying access to donor-identifying information has an impact on the freedom of expression to seek and receive information, the rights of the child and the protection of families and children. We need to redress that imbalance, and this bill does just that. To balance the donors' right to privacy, donors who donated prior to 1998 will, under this bill, be able to lodge a contact preference and specify the type of contact, if any, they wish to have with a donor-conceived person. Donors like the friend of the member for Ferntree Gully can stipulate no contact, and donor-conceived Victorians must comply with this stipulation. Any breach of a contact preference will be an offence and liable to sanctions.

In closing, for those of us who cannot fully understand the impact of not knowing who one or both our parents might be, I would like to read this anonymous post by a donor-conceived person:

> I had a dream you died last night, and that's crazy right? Because I don't even know you. I don't even know who you are, but somehow I had a nightmare that you died, waking up at 2.00 a.m. in hysterics. That's when I realised it. None of this is about how much I need a father or someone else in my family because I feel alone, this is about loss.
>
> You could've died without a trace, at least without a trace to me. You could have been the reason I am alive, you could've given me life, and then spontaneously died just out of nowhere like that. It's all so crazy.
>
> Maybe you aren't even alive as I type this, how weird is that? Somehow I wake up at 2 o'clock in the morning with tears streaming down my face, and yet, for all I know, your death occurred long ago. That's how little I get to know.
>
> Sometimes it's not about being a fatherly figure, or wanting attention, it's about facts.
> You are half of me.
> Fact.
> You don't even know who I am.
> Fact.
> I don't know who you are.
> Fact.
> And yet, I find myself waking up in terror at the thought of you no longer being on this earth.
> That's the most unfair, cruel fact of all.

Past policies and practices required secrecy and anonymity because the commonly held view at the time was that this was for the best. But we got it wrong. Past policies and practices have been having very negative

impacts on donor-conceived people. Is it not incumbent upon our Parliament to enact legislation to redress the negative impact of past laws and practices, where appropriate? I believe it is, and for this reason I commend the bill to the house.

Mr MORRIS (Mornington) — I am pleased to join the debate on the Assisted Reproductive Treatment Amendment Bill 2015. First of all, I acknowledge the briefing we had on, I think, Monday of last week. It is a complicated subject, and the briefing was comprehensive and extensive, so I express my thanks for that. Also, while I do not wish to disturb the mood in the room,

I wish to reflect on some of the comments made by the member for Macedon in her contribution, particularly with regard to the motivation of the coalition parties in each individually determining that a free vote would take place. The member characterised that as a failure of leadership. I absolutely reject that point. This is an important social issue, and while I accept that members of the Labor Party have a different view on how these things should be handled, it was a deliberate and considered decision on behalf of both parties of the coalition. It certainly had nothing to do with a lack of leadership.

The bill arises, as other members have noted, from the inquiry held by the 57th Parliament's Law Reform Committee into access by donor-conceived people to information about donors. That committee was led by the former member for Prahran, Clem Newton-Brown, and included a former member for Northern Victoria Region in the Council, Donna Petrovich, the member for Brunswick, the member for Ivanhoe and the member for Morwell. That committee's report is excellent. I read it when it came out, and I read it again in preparation for this debate. I am reminded by that report and by some of the contributions to this debate how difficult these things can sometimes be to deal with for the committee members and the committee staff, one of whom is sitting in the centre chair in front of you now, Acting Speaker. Sometimes these things are not easy, and I commend the committee on the way it dealt with the issues and on its recommendations.

As many of my colleagues are aware, science is not my long suit — and there is a degree of science in this bill. More important, and what are the real issues of substance in terms of the amendment, are matters that relate to humans. It is the human element I want to concentrate on. It is in relatively recent history — the 1970s and 1980s — that assisted reproductive technology, things like in vitro fertilisation, began to develop. As recently as 1988 it was unregulated. There was the requirement for anonymity contracts, and I will come back to those, and, as others have remarked, advice was given not to disclose the nature of the child's conception to anybody. Having been around in the 1970s and 1980s, particularly the earlier part of that time, while it is hard to understand now why that advice was given, in the context of the times I can understand it. I would not necessarily have supported it even then, but I can certainly understand why the advice was given.

Since that time we have had a series of three separate bills passed into legislation. In 1988 the Infertility (Medical Procedures) Act 1984 commenced, 10 years later came the Infertility Treatment Act 1995 and in 2010 the Assisted Reproductive Treatment Act 2008 commenced. Since that time we have had amendments to the latter principal act.

Essentially what we are dealing with is access to information. In that context it is worthwhile identifying how many people we are talking about. It is interesting that when we sought advice from the government about the numbers involved, the advice that came back — and I appreciate that advice did come back — came from the committee report itself, which indicates the lack of recorded information. The advice is that, on the committee's best estimate, for the period prior to 1988 it is likely that thousands of children were born through sperm donation and that there were around about 500 donors, not including 'fresh' sperm donations that may have occurred outside the major infertility treatment centres that were operating.

Post-1998, with the first act operating, the number is clearer. For the period between 1988 and 1998 there were 586 donors, 236 of those egg donors and 350 of them sperm donors, and some 2712 birth registrations, 2402 of those from sperm donations. Some might argue that that is not a lot of people — it is a considerable number of people, but in the context of the population it is perhaps not too many. My view is that where there is an opportunity to assist, regardless of the numbers, if we can possibly do it as a Parliament, we should do it. To my mind, whether it is 2700 people, 27 people or 27 000 people is immaterial; we have the opportunity to make a difference to the lives of those citizens of Victoria.

This is really about contact and disclosing information, and, as members will have seen as they read through the bill, there is a lot of discussion about identifying information. There are many items included in that descriptor: the unique identifier; the full name, date of birth, place of birth, sex and any other name by which the donor is known; any information about

identification; the residential address and contact telephone number; some details about when the gametes were collected; the donor's ethnic background and their height, build and blood group; any genetic abnormalities; and so on. What will be released as identifying information is not yet known — that will be outlined in new regulations still to be developed — but we have been informed by the government that it is not proposing that information about a donor's address or phone number would be released to a donor-conceived person without the donor's consent. While it is not yet regulation, I am prepared to take that advice on face value.

We have in this bill competing interests. It is a difficult issue. The argument is really about whether this is a contract that has been entered into and whether we should use legislation to break that contract. The member for Box Hill made the point earlier that donor-conceived children were clearly not able to be a party to the contract when it was entered into, and as such under any other circumstances a contract would not apply to them.

I certainly do not support the argument that the contract is valid. The youngest of these children is now probably 27, and they are bound by a contract that they had no part in making, so I do reject that argument, and on that basis I will be supporting the bill.

I want to briefly comment on issues surrounding contact. I have a number of difficulties, but the most substantial is proposed section 63C(5), which provides that a contact preference can state either that the donor does not wish the child to be contacted by the applicant or can specify the manner in which they can be contacted. I do have some concerns about the default position if the donor is not able to be contacted after four months. The default position is that they can be contacted. I would certainly prefer that the default would be non-contact should they not be able to be contacted. But in the scheme of things that is a small concern, and it is certainly not enough to prevent me from supporting what I think is the appropriate implementation of an excellent committee report and an opportunity to give people access — critical access — so they can then get on with their lives.

Mr LIM (Clarinda) — I am very pleased to rise today to speak on the Assisted Reproductive Treatment Amendment Bill 2015. It goes without saying that this bill speaks volumes about and is telling the whole world that we have a very progressive government. I would like to commend the committee, and particularly the minister, for introducing this bill. The bill will enable persons who were conceived via a donor to obtain information to identify who their donor is, irrespective of when the donation was made. This is very significant, because it will take away a lot of controversy and clear up a lot of the concern, heartache and misery for some of the people we have heard about.

It is interesting that Australia, and Victoria in particular, is a world leader in the field of in-vitro fertilisation (IVF) treatment and regulation. We should all walk tall and be very proud of this development. IVF was developed in the 1970s and 1980s. The first IVF baby was conceived in Victoria in 1980, and regulations that came into effect in 1988 were the first legislative provisions in the world designed to regulate assisted reproductive treatment — IVF treatment. At first the community did not fully comprehend the impact that such treatment can have on a donor-conceived person. Initially assurances of anonymity were coupled with community encouragement that donor-conceived children not be told about the nature of their conception. This view has been gradually changing over the years, and legislation has been amended accordingly to better reflect community views and expectations.

Between 1988 and 1998, the release of identifying information about a donor was prohibited without the donor's consent. Post-1998, anonymous donations were prohibited. In 2008, however, a requirement that birth certificates state that a person was conceived via a donor became mandatory. People who were conceived in the 1980s and 1990s are now adults.

A recent parliamentary Law Reform Committee inquiry into access by donor-conceived people found that many of these people suffered from an incomplete sense of self. For example, one contributor the inquiry encountered stated:

> Individuals who are donor conceived had no say in the manner of their conception, yet now are adults who bear the burden of not being able to know.
>
> They are now thinking, feeling human beings with a half 'blank' family history and that legacy is passed on to their own children. I know many donor-conceived people and none of them, nor myself, are looking for a 'father figure', or for a relationship that is not wanted by the donor.
>
> To know the truth to understand our origins is all we are asking for.

I note, however, that the changes proposed by this bill may have a significant impact on donors who participated in the program on the understanding of anonymity. Their contribution was altruistic and greatly beneficial to and appreciated by the community. Some donors would prefer to remain anonymous. Many donors have families of their own, who are oblivious to

the existence of potential half-sisters or half-brothers, and the sudden introduction or awareness of the results of a donation may cause much unwanted distress to donors and their families.

This bill will limit the impact of the changes through introducing contact preferences for donors. All donors will be able to choose whether or not a donor-conceived offspring may be able to contact them. Alternatively, they may limit contact by choosing the method of contact. This may be through an exchange of emails or photographs, or even a personal meeting. A donor will have four months to consider their preferences prior to their information being released. In this way, donors may limit the impact of the release of their identifying information. Counselling will also be implemented for donors when their information is released. Where a donor has opted for no contact, it will be an offence for a donor-conceived person to make contact. The penalty for breaching this is 50 penalty units.

I note that particularly in the early stages of IVF treatment in the 1980s, record keeping was not mandatory. The evidence provided to the committee suggests that identifying information from that period, if in existence, may not be up to today's standards and may be incomplete. We cannot recover information that does not exist, but we can ensure that the records that do exist are maintained and safeguarded. Donor-conceived people will be able to find assistance to search for their donor via the Victorian Assisted Reproductive Treatment Authority, which is being established as recommended by the Law Reform Committee.

This issue is complex, and many differing views have been submitted to the committee for review. I note that the committee was initially inclined to the view that the wishes of some donors to remain anonymous be upheld, as they had made the contribution on that basis and understanding. However, numerous submissions and evidence have amended this view to lead the committee to conclude that the state has a responsibility to provide all donor-conceived people with an opportunity to access information, including identifying information, about their donors. The current system in Victoria provides unequal rights to donor-conceived people as it is based on the dates donations were made, and this bill will remove the two-tiered system to afford equal rights for all donor-conceived persons. I commend the bill to the house.

Mr THOMPSON (Sandringham) — In the 1960s American academics noted that:.

> Legislative inaction with respect to AID — artificial insemination by a donor —
>
> is likely to continue. There is no politically significant stimulus to act.

A number of years after that I made the comment that:

> As the practice of AID increases, it is possible that an electoral lobby group similar to Jigsaw may apply the necessary political pressure in a few years time.

Jigsaw dealt with adoptees who had their birth records concealed, and as the adoptees came of mature age they sought to gain an understanding of and insight into their genetic inheritance. The comments of a number of people in the 1970s have come to pass as well — that is, that there will be a call for change, there will be a demand for change.

In the 1970s artificial insemination was a practice conducted at Prince Henry's Hospital, the Queen Victoria Hospital and the Royal Women's Hospital. The procedure was also conducted by other doctors in Victoria who had taken an interest in the practice. No regulations at the time governed the selection of the donor, the number of times an individual donor was used or the collection of records. These matters were subject to guidelines laid down by the doctors themselves. At Prince Henry's Hospital one doctor indicated that once there had been a successful birth the records relating to the donor were destroyed. In the United States at the time only 30 per cent of one group of physicians kept records of the donors. There was also anecdotal information to the effect that one doctor had fathered over 100 children as the practice was unregulated.

The parallels between adoption and artificial insemination by donor are significant. In the late 19th century adoption legislation was introduced in a number of commonwealth countries. It was only in 1928 that the legislature in Victoria enacted adoption legislation which obscured the birth record. A former Speaker of this place is on the record as stating that there would be a clean break and an opportunity for the child to gain a new identity, and it was considered to be in the best interests of the child for that to be the case. There is a comment by the Royal Commission on Human Relationships in its final report, volume 4, part V, issued out of Canberra in 1977, at page 113, where it is noted in relation to adoption:

> Adoption was contrived, indeed deliberately shaped, as a final step, a break with the past and the beginning of a new life for the child and his original parents. That the child's coming into the world was often kept secret from the unmarried mother's family and associates was a factor in this finality, but other considerations also supported a clean break. These were the wish of the adopted parents to have a family as much like

> their own as possible, and the beliefs that a child needs one set of parents from the beginning of his life and that the deep sense of belonging he needs can best be provided by parents who are unthreatened in their relationship with the child.

A crucial question is whether secrecy as to the background of an adopted child is consistent with the best interests of the child. I concluded at the time that it was clear from the analysis of the perceived interests and competing interests that the best interests of the child ought be the paramount consideration, which was not necessarily the view expressed at the time. The question might be asked: is the best interest of the child constant?

In the early legislation, in 1928, in this chamber Mr MacFarlan was a member who stated that the best interests of the child might vary according to the course of time and the changing circumstances between the adoptive parents and the natural parents, and adverse circumstances may not be consistent. These are comments in relation to the parents, biological and social. There was also a view at the time that succession rights were an important consideration. I will probably come back to the point at all times in my contribution to this debate today that the right not to be deceived has been a fundamental right of the child and remains a fundamental right of the child. It has been a factor in contributions I have made in relation to the legislation before the house in previous years.

The resolution of this issue nevertheless entails the balancing of a complex range of rights and needs among the parties forming in relation to the adoption of children in the adoption triangle. A number of keen commentators expressed a view, and a New Zealander by the name of Joss Shawyer in a book titled *Death by Adoption* had a very assertive approach to the rights of the child. Her view was expressed as:

> The very act of adoption is a denial of the right of the child to her natural heritage — her birthright — the most basic right a person has, to know who she is.

During the 1970s and 1980s there was reform of the law in relation to the realm of adoption.

English literature has numbers of examples where writers over the 19th and 20th centuries delineated the competing interests and life circumstances of children. Charles Dickens, Emily Bronte and Joseph Conrad were among a number of authors who tried to define the circumstances of children who later in life pondered the question as to who their biological parents were, who chanced upon their biological parents or in some cases never ascertained who their biological parents might be.

There is another a matter I would like to put on record. There are multiple reasons a person might seek to have a full understanding of their biological inheritance. One commentator spoke about stages in early adolescence which initiate a period of thoughtful re-evaluation. Adolescence might be a time when a young person desires to be like everyone else and might suppress their questions in relation to their inheritance, but late adolescence is a time when, in the case of an adoptee, a person might have a more intense view of the matter and more questions might arise. Once a person obtains adult legal status with the prospect of marriage, there is a more specific knowledge sought in order to visualise in concrete and definite terms the biological inheritance that a person possesses.

Then there is the case of marriage and matters pertaining to birth certificates, illness and other issues. Pregnancy is a time when questions might arise in relation to genetic inheritance, and the death of adoptive parents creates in an adoptee a feeling of loss and the burden of concern. It may be that hurting adoptive parents in the search for biological origin may not be as paramount at that point in that case. An event of separation or divorce is another time that can trigger feelings of rejection. There is sometimes a moment in time in middle age when a person seeks to find a birth parent before they die, and approaching old age can be a time when knowledge is sought.

This issue has come before the house on a number of occasions. There is a question at the present time in relation to the retrospectivity of legislation. A Victorian Statute Law Revision Committee recommended in the 1970s that no retrospectivity be introduced in relation to an adoption context. That can be found at page 146 of its report. It believed that any retrospective legislative changes giving access to information would be a breach of a fundamental term of the original agreement — namely, confidentiality.

On the other hand, at the time the Adoption Legislation Review Committee expressed the opinion that the provision for access to information should be retrospective under an Australian Law Reform Commission report. It justified this recommendation based on the overriding importance for psychological and social wellbeing of background information leading to a resolution of identity. In the case of adoption, retrospectivity was also upheld on the basis that prior to implementation of the Victorian Adoption of Children Act in 1964, the identity of natural parents was available to the adoptive parents and consequently potentially available to the adoptees. Therefore it is only quite recently that strict confidentiality has been enforced.

In relation to artificial insemination by donor, there had been high barriers of confidentiality for a range of reasons that were half thought through at the time but the longer term implications were not canvassed. Laws have passed this house in recent years which will have longer term implications. On balance I will be supporting access to knowledge of genetic inheritance, as expressed in this bill.

Mr CARBINES (Ivanhoe) — In the previous Parliament I served on the Law Reform Committee, which in March 2012 tabled a report entitled *Inquiry into Access by Donor Conceived People to Information about Donors*. It made some 30 recommendations, all of which were unanimously put forward and accepted by that committee. I quote from the foreword by the chair of that committee, the then member for Prahran, Clem Newton-Brown:

> Many donor-conceived people who are unable to obtain information about their donors experience considerable distress and anguish. They are denied information about their identity, which is a right that most of us take for granted. Their ability to access information is constrained as a result of decisions made by adults — their parents, the donor, and medical professionals — before they were conceived.

The chair of the committee went on to say:

> The committee believes that providing all donor-conceived people with the opportunity to access identifying information about their donors, regardless of their date of conception, is consistent with the first guiding principle found in the Victorian legislation regulating donor-conception — that the welfare and interests of persons born as a result of assisted reproductive treatment procedures are paramount.

An interim response was tabled in the Parliament by the previous government in October 2012. A private members bill by the then Labor opposition was brought forward by the then shadow Minister for Health and now Leader of the Government in the other place. This was a bill that I worked on with the member for Brunswick and the Leader of the Government in the other place. While not successful, it certainly encouraged the government of the day — the coalition government — to bring forward its own legislation on these matters. That was welcome, and we accepted the changes that the government was prepared to make at that time because it had the support of the donor-conceived community and every step forward was important. Every step forward was a gain in providing justice to the donor-conceived community. But we said at that time that the Labor Party — and I quote from the second-reading speech from the Minister for Health:

> At that time, the Labor Party made it clear that we believe that continuing a system involving different rights of access to information was inequitable, and we undertook to introduce a bill to ensure that all donor-conceived people have the same right to obtain available identifying information about their donors, irrespective of when their gametes were donated. This bill implements that commitment.

Not only does the bill do that but it is also consistent with Labor's platform, which many of us worked hard to ensure was included, to bring forward this commitment. It was an election commitment affirmed by the voters, and here we are today debating and discussing what is effectively Narelle's law, and I will expand a bit more on how we came to refer to this change in our legislation as Narelle's law. To quote from an article in the *Age* by Farrah Tomazin headed '"Suddenly she's there" — daughter and donor dad united':

> Narelle Grech spent half her life searching in vain for her biological father. By the end of last year —

this is in 2013 —

> as cancer took hold, she had all but given up hope. And then Ted Baillieu intervened.
>
> A few months before his shock resignation as Premier, Mr Baillieu quietly asked the public record office to release information that could assist Ms Grech find the sperm donor who helped create her.

It was a journey that had begun some 15 years earlier for Ms Grech. The article goes on:

> On February 11, Ms Grech received a letter from Attorney-General Robert Clark's office. It informed her that the registry of births, deaths and marriages had found her donor, a man by the name of Ray Tonna, who was living in regional Victoria. She was stunned.

To quote from Ray, who I have had the pleasure to meet over the past two years:

> It's like this psychic switch went off in my heart, my mind, my soul. I hadn't seen her for 30 years; I wasn't even aware of her, and suddenly she's there. I just love her so much …

To which Narelle replied:

> Of course, I'm appreciative that I can know him now, but to think we could have had another 15 years of getting to know each other is so bitter sweet.

The good graces of the former Premier and the former Attorney-General in working to make sure that information was made available to Narelle is not something that most of the donor-conceived community can rely upon, and it certainly is not a circumstance that we would wish upon anyone with a terminal illness, who has fought all their life for access to information and justice, not only for themselves but also for others. That is why we are here, because we cannot rely on those good graces and that generosity

when the law itself is fundamentally archaic and reflects a community expectation that has long since passed.

We know that it is a fundamental human right. Article 7 of the United Nations *Convention on the Rights of the Child* affirms that children have the right to know their parents and as far as possible to be cared for by them. Article 8 states that governments should respect a child's right to a name, nationality and family ties. How do you do that under the current legislation, which still makes a division based on when you were born and when you were conceived as to what level of access to information you have to know where you came from in your genetic heritage? Is it not remarkable that some two decades later those very donor-conceived people — as citizens, voters, fully fledged members of a democracy, as adults — are now having to take up these matters? They did that when they were younger, before they had the right to cast a vote, but now they can impress upon us in this place their right as adults and citizens to pursue their rights.

I want to thank Myf Cummerford and Lauren Burns in particular for their ongoing work, advocacy and understanding and the good grace with which they and so many donor-conceived people have pursued their entitlement, their human right, to the same information that many of us take for granted. I thank also Ian Smith, one of the donors who I know has also made a great contribution around the safeguards in relation to the bill that other members have talked about. I thank the manager of opposition business for his contribution and I thank the many other members of this place for their contributions. I thank the member for Morwell, the Minister for Emergency Services, a former member for Northern Victoria Region in the Council, Donna Petrovich, and of course the former member for Prahran, Clem Newton-Brown. He and I recently crossed paths at the RUDC — Are You Donor Conceived — national conference for donor-conceived people. He has maintained an ongoing interest and commitment that was set in train through his chairing of the Law Reform Committee.

Is it not interesting that we spent so much time quite rightly discussing the rights of donors and ensuring that we provide the appropriate safeguards for them? Imagine if we had had the same level of consideration and discussion around policy development and the impact of these matters on donor-conceived people. If we had had the same level of interest and desire to reflect in legislation the interests of donor-conceived people, perhaps we would not be in this place today. Ultimately the donor-conceived offspring, while they were parties to a contract, certainly did not get a say in it. That is what we are fixing here.

I thank the Minister for Health and her staff. I thank her for her leadership in pursuing this matter and ensuring that this Parliament is dealing with this matter as soon as is practicably possible following the further consultation and discussion that has gone on throughout this year. I am very pleased with the work that she has done, and I know that many of the stakeholders are also very thankful.

It is not often that through the contributions people make Parliament can seize an opportunity to acknowledge and right a wrong. With every step on the way we have made improvements and gains. Some very, very patient people have waited decades to know whether information about their family origins and where they come from is or is not available in a locked box somewhere. I cannot begin to understand the anguish they have endured in not knowing the answer to those questions. That is something that, whatever we do in this place, we need to change. People can continue to turn their backs on these matters, as the law has for many years, but ultimately these issues are not going away. We can turn our backs on donor-conceived people no longer, and the law can turn its back on them no longer. Certainly with all my heart and with all the affirmation that I can muster with my vote in this place, I affirm and commend the bill to the house.

Mrs FYFFE (Evelyn) — I am pleased to rise to speak on the Assisted Reproductive Treatment Amendment Bill 2015. I think this Parliament has once again shown how it can behave in a debate. People have respected and listened to each other, and part of me wishes we could do that far more frequently.

This is a bill that has brought about great emotion. Some people have been close to tears, and some people have been able to express what they think and have gone through the history and detail of the bill. My colleague the member for Sandringham used terminology that I had not thought to apply to this. He referred to artificial insemination. I guess that is what it was, is and will be in the future, but we tend to think of artificial insemination in the animal world.

This bill is not about just donor-conceived children. It also affects the families they have been brought up in, their parents, grandparents, aunts and uncles — the total extended family. It also affects the families of donors, not just the narrow family of perhaps the person a donor has married and the children they have had but so many. I met with donors and donor-conceived children at meetings organised by Clem Newton-Brown. I have

met with donors who have been very relaxed and open about their details being provided. A couple even expressed disappointment that any offspring that may have resulted from the donation had not attempted to contact them.

I have also met with donors who have been deeply concerned about the promise that was made to them that their details would be kept secret, that no-one would know they had done it, and that they totally believed would be kept. They are very concerned about what impact it will have on the children they have now and their partners — their families — knowing that they made a donation. Some of that was obviously done very seriously, some of it was done for a sincere altruistic reason, and from what I gather quite a lot was done — particularly by a lot of the medical students — because of conversations and pressure. People said, 'You're studying science or medicine. This is something you should do'. They were young and did not give a great deal of thought to it.

This bill has been very difficult for me. With any piece of legislation such as this I tend to look at both sides and try to walk in the shoes of the people involved and the people who have been affected. It is so easy to be dispassionate, and a lot of the time we have to be because otherwise we would not survive in this world. But with this I am deeply concerned about the breaking of something that was taken on board completely at face value by those who made those donations. They were told that their details would never be released and that there would be no further contact.

I understand the need to know where you come from, to know your genetic make-up. I believe that there should be more encouragement of people who made donations to go onto the voluntary register and provide the basic information that is required for medical reasons and more detail if they wish to do so. But I find difficultly with us opening this up to the giving of information, contact details, about people who all those years ago did something that they may have done for altruistic reasons or just because they were pressured by a professor. I cannot remember when but someone said to me that it was done because they got $25, I think.

Science has changed so much and is changing so rapidly that there will be many occasions I think in the future when people will come into this place and talk about things that we did or did not do or should have done and that have affected other people. We cannot try to change something that happened in the past without recognising what was seen as being right at the time and what information was available. A whole new world was opening up. For a period of time before that there had been instances of sperm being donated but not in a clinical environment; it was more of a turkey baster-style of donation. That still happens by mutual agreement between people, and information about the donor is not passed on.

There are many millions of people in this world who do not know who their father was. Australia has been very fortunate in that it has never been invaded. We can read and hear about what is happening and has always happened around the world. When other forces occupy a country, rape is seen as a way of subduing a population.

As I have said, there would be millions of people around the world who do not know their genetic background completely. I understand the concerns that have been expressed to me by donor-conceived children that they might have several siblings out in the community. They might meet one, become attracted and form a sexual relationship, and they are concerned about any offspring from that relationship. But of course if someone is a donor-conceived person, there are ways of working around it. It is extremely emotional listening to them and trying to think about what is the right way to go.

I have had a couple of informal forums in my electorate, and I have talked to people from wideranging circles. I have to say they are against the breaking of a commitment and a promise that was made a number of years ago based on the information available at that time, which was believed to be the right thing to be done. With mixed emotions, I have to say I honestly cannot support this legislation. I would encourage that donors be encouraged more to register their details for those offspring who wish to access information about them — but only the details they wish to be shared with any people that may have been conceived from their donation.

Ms SULEYMAN (St Albans) — I rise to speak in support of the Assisted Reproductive Treatment Amendment Bill 2015. The Andrews Labor government made a very clear commitment at last year's election to introduce this legislation, which gives equal rights to all donor-conceived people. This legislation is extremely important to deliver on our commitment to change this law and to ensure that all donor-conceived people have equal rights under the law to obtain identifying information about their donors and donor-conceived siblings. This bill will give effect to 30 of the recommendations that came out of the parliamentary Law Reform Committee's inquiry into access by donor-conceived people to information about donors.

I want to acknowledge the contributions of the committee members and to thank them, in particular the member for Brunswick and the member for Ivanhoe, for all their work. As we heard today, it was an absolutely challenging set of circumstances. The committee members went on quite a journey through the inquiry but also in debating the private members bill introduced by the then shadow Minister for Health in the other place. The committee unanimously reached the conclusion that the state had a responsibility to provide all donor-conceived people with the opportunity to access information, including identifying information about their donors, and had a responsibility to put the rights of the child born as a result of assisted reproductive technology first.

Currently donor-conceived people born after 1998 have full access to information about their heritage, medical history and other particulars of their past, but donor-conceived people born before 1998 can only receive information if the donor consents. This at times can cause confusion, anxiety and distress for donor-conceived people, particularly those born before 1988. Many are not able to get access to their genetic heritage without the consent of their donor, which can prove to be a challenge.

As outlined in the report, the state has a responsibility and we need to take responsibility for making these important reforms. They are life-changing reforms for many. We are very committed to addressing the unfair two-tier system, which has been inconsistent and has caused confusion and anxiety for many people and their families. These amendments will give every donor-conceived person the same rights to access information about their heritage and, most importantly for some, their medical history. Knowing your genetic make-up and knowing your genetic identity is integral to being a person, I believe. Creating two different classes of donor-conceived people is denying people their rights under the law.

This bill was developed out of the recommendations of the Law Reform Committee's inquiry and addresses the concerns raised by donor-conceived people who have suffered from health complications and required access to their family medical histories. When we are undergoing treatment for a medical condition, for many the first question a doctor will ask for is your family history. For someone who does not know their family history, I would say that would be a very traumatic situation to be in.

Today we heard from the member for Ivanhoe about his passion as a committee member and when he met Narelle Grech, who devoted most of her life to finding her biological father. Before I entered this place, I worked for the member for Ivanhoe and heard firsthand some of the stories of donor-conceived people, which were so inspirational and so touching. Narelle was able to find her biological father, but unfortunately she tragically died six weeks later. I think that really sums up what this bill means to a donor-conceived person. It provides them with the ability to find their family — their biological father — and to know who they really are. These are the real stories that make this bill so important.

This bill will ensure that the inequality that has been entrenched in our donor laws is addressed. It is about giving those who have been denied their rights the opportunity to access information about who they are and where they come from. This bill will remove that disparity so that from now on donor-conceived Victorians will have equal rights under the law to access identifying information about their biological parents. This bill will enable the Victorian Assisted Reproductive Treatment Authority to streamline the management of donor registrations and provide support, information and compulsory counselling for donors and their families. The official donor register will be transferred from its current location at the Victorian Registry of Births, Deaths and Marriages. It will be one hub that will provide a more integrated service for donor-conceived people and their families.

It is also noted that the rights of donors have been taken into consideration when developing this bill and everything possible has been done to protect the rights of both donor-conceived people and donors themselves. Many donors who donated prior to 1998 did so with the understanding that they would remain anonymous, and they could feel that these changes will impact on their privacy. Again I state that this bill does everything possible to protect donors and their rights. It is incredibly important to balance the rights of donors with those of donor-conceived persons and their families, and this includes recognition under the law. This means that although a donor's identifying information will still be released, the donor is able to specify the type of contact they wish to have with a donor-conceived person.

The reforms in this bill are important. I commend members on this side of the house whose passionate contributions we have heard today. It is important that we have this bill that addresses equal rights for donors and donor-conceived people under the law. This reflects our commitment to equality in giving people the right to access information about where they come from and finding their true identity. It is an important bill. It is a crucial and timely bill. It is important to right

the wrongs of the past. It brings important clarification to the rights of donor-conceived people. I commend and acknowledge again the work of the committee and the committee members, and I commend the bill to the house.

Mr D. O'BRIEN (Gippsland South) — I too am pleased to rise to speak in the debate on the Assisted Reproductive Treatment Amendment Bill 2015, which is a difficult bill. We have heard so far fairly considered and often very good contributions to the debate. This is an issue which I propose is what is known as a wicked problem in many respects, certainly in the context of ethics, economics and various other fields of study. A wicked problem can be described as one 'that is difficult or impossible to solve because of incomplete, contradictory and changing requirements that are often difficult to recognise'. In this particular case I think it is contradictory. A number of members have spoken in this debate about the importance of equality, but the main reason I have cause to give pause on this bill is the equal rights of donors who made donations prior to 1998 on the basis that they would remain anonymous and would not ultimately find themselves in this position where they could be identified. It is a wicked problem and a difficult one I have grappled with a bit. I have listened intently to the debate.

As an aside, it is good to get the opportunity to speak on one of these social issues, of which there have been quite a number discussed in the last couple of weeks. Yesterday I expressed my displeasure at the government's management of the business of the house in not allowing all members who want to to speak on some of these difficult social questions, so I am pleased to get the opportunity today. I do not always agree with the member for Box Hill on some of these social issues, but he made a good point earlier, which was that the fact that we are debating this bill highlights how important it is that we think through all the consequences and all the things that could come about when we are making law and making decisions on these life-and-death issues. It is impossible to predict what will happen and the thoughts and issues that may arise in the future but this certainly highlights that we are trying to fix a problem. It is a very genuine problem and one that has been caused by the activities of lawmakers, legislators, regulators, the medical profession and others in the past and in most cases 30 or 40 years earlier.

This bill boils down to the rights of a donor-conceived person to know their heritage versus the rights of people who donated gametes on the understanding that they would remain anonymous. I am deeply uncomfortable with the notion that people who donated anonymously and were guaranteed anonymity are now to be unmasked. I certainly sympathise with those who feel strongly about that if they made donations on the basis of being anonymous, but on balance it is my view that the rights of a child to know their heritage should outweigh those concerns. As I said, this is a wicked problem in that it is very difficult to weigh up the competing rights of people.

Many of us in this Parliament who are of a certain vintage will remember a book we read in school called *Where Did I Come From?*, which tackles one of the fundamental issues of growing up, being a child and knowing who you are. For those of us with a natural mother and father and who have always known who we are, it is not something that we give a lot of thought to, but for those coming from different circumstances where they may not know their mother or father or, in the case of what we are talking about today, where they have a mother or father who is not their natural mother or father, it certainly is a tricky one.

I mentioned that there have been some good contributions. I was particularly impressed by the contribution of the member for Ivanhoe and particularly his telling of the moving story of Narelle Grech and how difficult her circumstances were and the activities of former Premier Baillieu, who sought to assist her, albeit too late.

In many respects, as I said, we are dealing with legal questions that are the result of decisions taken many decades ago. In many respects I am staggered that our predecessors in the 1970s and 1980s did not think of the consequences of this anonymity in terms of our donors. I understand too, having spoken to the member for Morwell, who was a member of the Law Reform Committee that undertook this inquiry, that there were donors who had donated for medical purposes and were not aware that their gametes would be used for the creation of children. Nonetheless it really does stagger me that no-one thought at some stage that the children who were the subject of these medical advancements would want to know who their parents were. I guess it is difficult to pass judgement because as we are standing here now we are not apprised of all the facts that were presented to legislators at the time, but it seems to me quite strange.

Someone challenged me earlier by saying something like, 'How would you feel if you were a donor-conceived child or if you were a donor?'. Certainly if I were a donor-conceived child, I would want to know. As I said, I am very fortunate to have both natural parents whom I know and love dearly. However, I think that if I found out that I was donor

conceived I would want to know, and I suspect I would probably also want to find and make contact with that donor. If I were the donor, with my own personal circumstance I suspect I would be interested to know who my offspring were, and I would want to find out. But I respect that some donors do not want that. They made donations on the basis of anonymity, and I really do appreciate the perspective of those who will be upset with the passage of this legislation, assuming it does pass.

What ultimately swings me to support this bill is that I am satisfied that donors get the opportunity to lodge their contact preferences, including the preference of no contact. While that does not protect their anonymity, it does allow them to continue with their lives without being contacted by their offspring. Again that is not a simple or straightforward decision for them, and it can be one that can cause certain issues for their donor-conceived offspring. But ultimately it is on that basis that I am satisfied that there is a protection for those who do not want to be contacted and who, as other members have pointed out, may have families and children for whom the arrival of an unknown child could cause enormous problems.

I reiterate that this is not an easy decision. It is indeed a wicked problem, and I am concerned for those who donated, often altruistically, as others have mentioned, and on the expectation of anonymity. On balance I support the right of donor-conceived children to know their heritage, and as such I will be supporting the bill.

Ms BLANDTHORN (Pascoe Vale) — I appreciate the opportunity to make a contribution to the debate on the Assisted Reproductive Treatment Amendment Bill 2015. This bill is a belated but absolutely crucial step in the evolution of assisted reproductive treatment legislation, policy and practice in Victoria. Importantly it gives effect to Labor's election commitment to ensure that donor-conceived children, as far as possible, have equal access to essential identifying information as well as the potential to know their biological family. I support this objective because I believe every child has the absolute right to know their identity. Every child has the right to know who they are and where they come from. Irrespective of how they were created or who now parents them, every child has this right — donor-conceived children and all other children in all kinds of families as well.

Too often in the altruistic desire to assist adults to have children we lose sight of the rights of the person who is being created — the child. Perhaps it is fitting that we are debating this legislation on international Human Rights Day, because it is not a new concept that was canvassed in the second-reading speech. The United Nations Convention on the Rights of the Child sets out the right of every child to know their identity. As others have already mentioned, articles 7 and 8 of that convention provide that children have the right to a legally registered name and nationality. They provide that children also have the right to know their parents and, as far as possible, to be cared for by them, and that governments should respect a child's right to a name, a nationality and family ties.

Already this year we have debated several bills which seek to address issues arising from ill-thought-out legislation, however well intended, that puts the wants of adults above the rights of our most vulnerable — our children. It is cause for reflection. I question when, as responsible legislators and as a Parliament, we will collectively look to the past and learn the lessons of our history.

As I have said in this chamber before, from the Indigenous stolen generations to the children born to relinquishing mothers and babies born through unidentified sperm donation, we know that in the past a loss of identity has had severe physical and psychological impacts on children. My previous comments in this house about the right of children to know their biological family and their identity have in part been informed by the conversations I have been privileged to have with donor-conceived people.

I was not here in 2012 at the time of the inquiry, but I particularly recall back in 2008 when the then Labor government put forward a bill to ensure that an addendum be attached to the birth certificates of donor-conceived children so that they could know they were donor conceived. I was working with the now Deputy Premier at that time, and the stories of the people we met back then and those of their families were powerful. I have continued to carry them with me.

Notably, one of those people was the late Narelle Grech. This bill is based on the private members bill which was introduced by Labor when in opposition and named for Narelle, known as 'Narelle's law'. Narelle, as we have heard today, was a Melbourne woman who searched for her biological father for 15 years. She was one of the leading advocates for change in this area. Ms Grech died of cancer in March 2013, only weeks after she had the opportunity to reunite with her donor. Narelle's story touched me deeply, and her death saddened me. Narelle's story is perhaps better known than others, but it is symbolic of so many and for so many.

Another person I met at this time, who has been mentioned by the member for Ivanhoe, was Myf, whose articulate and eloquent expression of her desire to know where she came from and the way in which she wondered whether people she passed on the street may be related to her was particularly moving and powerful. The Victorian Adoption Network for Information and Self Help (VANISH) recently wrote to parliamentarians:

> We daily see the pain of women and men who do not know who their parents or children are and have not met them since birth. We understand what it means to a person who is donor conceived to wonder about or long to know who their donor parent is. This is regardless of whether or not they have known throughout their childhood they were donor conceived.
>
> Do they look like them?
>
> Do they have the same interests or skills or talents?
>
> What is their genetic make-up?
>
> Where are their roots?
>
> And most importantly what medical history do they share?

We must learn from our past mistakes, and as I have said more than once in the short time I have been in this chamber, we must not let today's policies become tomorrow's apologies. We must ensure that all policy and practice relating to assisted reproductive treatment incorporates those past learnings and protects the identity of our children.

Labor made a clear election commitment to introduce legislation to ensure that all donor-conceived people have equal rights to access identifying information about their donor, and this bill fulfils that election commitment. Currently we have three classes of donor-conceived people, depending on when the donation occurred. The level of information a donor-conceived person can access about their donor is dependent on the year in which the donation was made. Donor-conceived Victorians conceived from donations made from 1998 can access identifying information about their donors. However, donor-conceived Victorians conceived from donations made before 1998 can only access identifying information about their donors with the consent of the donor. This is clearly unfair and clearly unequal. Notably, and even more dispiriting, is that the only option for those born before 1988 was to put themselves on a voluntary register and hope their donor did the same.

All donor-conceived people are entitled to know their origins, yet at the moment donor-conceived people are put in a position of not knowing their genetic heritage because of an arrangement they had no say in, a contract that they were not a signatory to, that was made at the time of their conception. This situation still exists despite the fact the previous government oversaw a parliamentary Law Reform Committee inquiry into access by donor-conceived people to information about donors, which recommended that all donor-conceived Victorians should have the same right to access available identifying information about their donors — a unanimous recommendation.

The previous Liberal government could have rectified this situation. Indeed its own inquiry recommended that it should rectify this situation, but it did not. As promised before the election, the Labor government has now introduced a bill to implement the committee's key recommendation. The bill removes this disparity based on arbitrary time frames so that now all donor-conceived Victorians can access available identifying information about their donors — that is, insofar as that information available.

Given that prior to 1988 there was no legal requirement to keep records, and given that the standard of record keeping in itself is something that has improved over time, many records, if they even exist, will be incomplete or inaccurate. Many records will be more than 30 years old and the information contained in the records may be limiting. Whilst nothing can be done to recover records that are incomplete, inaccurate or non-existent, the bill does seek to strengthen existing safeguards for the preservation of records and creates offences against tampering with records.

There has been a bit of discussion today about the balancing of rights between donors and donor-conceived people. In my view the bill appropriately balances the rights of the donor with the rights of the child. Today some have argued that donors were guaranteed anonymity at the time of their donation and that this anonymity should be maintained. This promise of anonymity was made in direct contradiction of the universal right of the child to know their family and their identity. While doctors and donors acted altruistically, donor-conceived people were not able to be consulted about practices and laws that were passed when assisted reproductive treatment was in its infancy. This promise of anonymity was made at a time when there was little recognition of the physical harm and psychological distress that could be caused by the deprivation of identity. Subsequent legislation recognised this by making anonymous donations unlawful.

This bill, importantly, does everything possible to protect donors and their rights. Donors will be given four months to decide whether they wish to lodge

contact preferences, and they will also be provided with counselling and support. The contact preference system will ensure that no donor will be forced into contact with their donor-conceived children. Further, whilst they are rarely used in these types of circumstances, there are already laws which prevent harassment and stalking, which has been foreshadowed.

As was also noted by VANISH in its correspondence to parliamentarians, this bill has tight provisions in place to protect donor parents who do not want contact with their donor offspring at this time. Their privacy is protected by the bill. We know many donors have regretted their past anonymity and do want contact at different levels according to their wishes and circumstances, and indeed the passage of time has shown that some donors are happy to be known and happy to have contact with their offspring. All donors will also have access to counselling services. Whether the donor wishes to remain anonymous or otherwise, whether the donor wishes to lodge a contact preference or otherwise, this bill balances the rights of donors with the rights of donor-conceived children to know the identity of their donors — to know who are their genetic parents.

In conclusion, I would like to thank those organisations such as VANISH, Tangled Webs and the Donor Conception Support Group, amongst others, which have worked so hard over many years in their lobbying for this important reform. But particularly I thank the very brave and inspiring donor-conceived children and their families for sharing their stories with me and so many others. They have all been a powerful and formidable force for this important change.

Mr GIDLEY (Mount Waverley) — I rise to make a contribution to the debate on the Assisted Reproductive Treatment Amendment Bill 2015. Firstly, I want to acknowledge the work of the Law Reform Committee of the last Parliament that looked at this issue. I had a number of discussions with members who were on that parliamentary committee, and it was clear that this was important not only from the outcomes which were recommended by that committee but also from the process that committee undertook for citizens of the state to communicate and engage with the legislature on their experiences and some of the shortcomings in the law at that time. As I said, I acknowledge the recommendations of the committee of the previous Parliament, and I also recognise the opportunities that that committee provided to citizens to engage with the Parliament and tell their stories in relation to their heritage.

There is no question that this is a challenging debate which balances, or needs to balance, competing rights. Obviously citizens have previously undertaken actions in the expectation of anonymity, but unfortunately that right also needs to be balanced with the rights of children to know as much as possible about where they come from, to understand their biological make-up and, in particular, to understand, have access to and knowledge of their biological father. With that in mind, in relation to the rights of children, I am happy to support this legislation because, as I said, in my view, whilst there are competing rights, the rights of children must come first.

I say that in the context as well of my commentary in the debate on a previous bill, the Assisted Reproductive Treatment Further Amendment Bill 2013. Whilst I certainly welcomed the recommendations of the committee at that time, I also made a contribution in the Parliament on that bill acknowledging that more needed to be done. For the record I will again put forward some of my commentary on that bill. I said:

> As a Parliament we are moving forward and improving practices and systems.

That was my commentary in relation to that bill. I also said:

> … as we look to the future it is important that we continue to search for and find opportunities to improve the ability of donor-conceived people in our state to know their genetic heritage and learn where they have come from.

I noted then, and I note now, that in 2011 a Senate committee held an inquiry into donor conception practices in Australia, and that committee's report stuck in my mind, in particular the strong recommendation for a ban on donors remaining anonymous, emphasising the importance of biological heritage to a person's identity. The report of that inquiry states:

> It is a fundamental right of any person to know their heritage; it is essential to establishing identity, and denying people this right removes from them the ability to discover whom they truly are and where they have come from.

That is certainly a recommendation from that committee that stuck in my mind when we were debating that bill in the last Parliament. Whilst I welcomed the improvements made in that bill and certainly put on record my view that in the future we always need to look for further ways to ensure that people have a greater understanding of their biological heritage, I welcome this additional reform that is before the Parliament, this additional improvement that goes further and, as I said, provides citizens of the state with the right to have a better idea of and establish their identities. In my view, that is a right that is essential. It

is an inalienable right. It is a right, whether in government or in legislature, that has to have fundamental importance in our law.

With that in mind, I do not say that I can understand — I cannot understand the anguish that this bill will cause some people if it passes — because I am not in that situation. I recognise that for the record of the Parliament. I recognise the anguish this bill may cause some people, as well as the benefit it will bring for a lot of other people.

I do not say that I can understand that anguish, but I do put it on the record. That anguish has to be weighed against the enormous benefit it will bring to many people. In addition to that, it has to be weighed against that inalienable right of people to know their heritage and to be able to establish their identity. Again, I do not say that I can understand somebody's position in that situation, searching for their identity, because I am fortunate to know my biological and genetic heritage. However, I can imagine that it would be something that would stick with a person week in, week out, year on year and would make life very difficult in a number of areas. I welcome that aspect of the bill and the improvements that, if passed, it will bring, as difficult as this debate is because there are competing rights.

In addition, I note that the bill provides protections to ensure that donors who do not wish to have contact with their donor-conceived children do not have to. I hope and anticipate that those provisions will operate in practice as they are intended to and that if at some stage in the future it is deemed that those provisions are not operating as intended to protect the donor if they do not want to have contact, the Parliament would revisit that matter and ensure that as much as possible the intention of the Parliament is able to be delivered and implemented in practice.

In relation to this bill, I note that members of the opposition in coalition have been granted a free vote. I take the view that with this bill, as well as others that have been before the Parliament, it is important to acknowledge that there are different views. It is also important to acknowledge that, whilst we may have differences of views in a robust, democratic system, in a country and in a state which values the essential characteristics of freedom of speech, freedom of conscience and freedom of thought, there is room for those alternative views. There is room in the Parliament and there is room indeed in every aspect of the community for those essential characteristics of freedom of speech, freedom of conscience and freedom of thought to be able to live on a day-by-day basis, notwithstanding the challenges that these bills sometimes bring and the debate that arises. From the Liberal-Nationals coalition perspective, I note that whilst there are differing views, the debate has been conducted in a way that respects those important characteristics, which is very healthy to see.

Finally, I acknowledge the work done by the members of the Law Reform Committee of the previous Parliament who conducted the inquiry into access by donor-conceived people to information about donors. I also acknowledge all those who have been seeking this change over the years. On the basis that the bill passes both this house and the other place, I commend those people who have worked very hard for a long period of time on their continuing efforts to stand up for and advocate for one of those inalienable rights that in my view legislatures and governments do not have the right to take away — that is, for somebody to have a better understanding of their genetic history and their genetic identity, because that is so important in the development of people in their daily lives. With that in mind, I commend the bill to the house.

Debate adjourned on motion of Ms SPENCE (Yuroke).

Debate adjourned until later this day.

BUSINESS OF THE HOUSE

Adjournment

Ms ALLAN (Minister for Public Transport) — I move:

> That the house, at its rising, adjourns until a day and hour to be fixed by the Speaker, which time of meeting shall be notified in writing to each member of the house.

Motion agreed to.

ASSISTED REPRODUCTIVE TREATMENT AMENDMENT BILL 2015

Second reading

Debate resumed from earlier this day; motion of Ms HENNESSY (Minister for Health).

Mr PEARSON (Essendon) — I am delighted to make a contribution to the debate on the Assisted Reproductive Treatment Amendment Bill 2015. This afternoon I have listened with great interest to this debate, which is really about the Parliament at its best.

Those of us who are fortunate enough to serve in this place come from different walks of life and have had different life experiences, and we have been chosen by

our parties and our electorates to serve. I was particularly taken with the heartfelt contributions made by the Minister for Emergency Services, the member for Ivanhoe and the member for Morwell. All three made contributions that were incredibly dignified, respectful, heartfelt and sincere. This demonstrates the fact that the committee system works extremely well when members of different parties come together to look at an issue and try to work out what they think the right thing to do is.

I think it was the member for Morwell who indicated that he changed his mind during the course of the inquiry into access by donor-conceived people to information about donors, which was conducted by the Law Reform Commission in the last Parliament. That is a wonderful thing. That demonstrates the robustness and the great integrity of the committee system. It also reflects well on all of us legislators that we are able to put aside partisan differences, sit together to work our way through a problem collaboratively and effectively, use our best endeavours to come up with a unified position and, from that, seek to persuade the government of the day to take legislative action. It is a wonderful system that enables us to do that.

I pay tribute to the three members I have just named along with a former member for Prahran, Clem Newton-Brown, and Donna Petrovich, a former member for Northern Victoria Region in the Council. They all worked diligently to create this great report.

I note that in the second-reading speech the minister indicated:

> … significant decisions were made when people had little understanding of the trauma that can result from an incomplete picture of where we come from.

I found that quite a profound and moving statement. Under the former regulatory regime that was in place, people had not really thought things through. I do not condemn them for that; it was probably just one of those things that did not come up at the time. Nonetheless it created a problem, and the great thing about the piece of legislation before us is that it seeks to address that problem.

I have listened to the contributions made by those who have expressed some concerns and anxieties in relation to the rights of the donors. The member for Gippsland South expressed some concerns, but he will be supporting the bill. I note that the member for Evelyn has some grave concerns about that issue. As comfort or reassurance, as previous speakers have indicated, donors will have access to a comprehensive system of information, support and counselling along with opportunities to manage contact with their donor-conceived children. It is also important that donors will have four months to decide what level of contact, if any, they wish to have with their donor-conceived children. I think that is important because it will give those donors a chance to consult with their families and friends, to seek some advice and to reach a position where they have had the support they need and they have thought the issues through.

I was not a member of this place when the committee's report was tabled, but I have a copy of the report. So many moving statements were made by people who gave evidence before the committee. I refer to Myf Cummerford, who is quoted on page 38 of the report as having said:

> To find out that I was donor conceived at age 20 was absolutely devastating. I cannot describe a more traumatic experience to go through because by the time you reach age 20 you've got through that angsty teenage period of wondering who the hell am I, that sort of growing up stage, and you seem to be developing a better idea of who you are and where you fit in the world, and then to have that completely demolished is, like I said, absolutely devastating.

The report also discussed the study of adopted adults by Triseliotis in 1973, which found that without exception all those informed of their adopted status later in life or by third parties were resentful and upset, and for many this betrayal of trust caused irreparable damage to family relationships. This bill is an important step to redress that, to right a wrong. It was not a wrong of commission; it was something that people did not really think about at the time, I guess, but it has had a profound impact upon donor-conceived people. It is an important piece of legislation.

Again, I thank the members of the former committee who investigated this issue and prepared a comprehensive and detailed report. It demonstrates the strength of this institution of the Parliament — the committee system — and the goodwill and the good values that those members brought to bear in working their way through the detail of a complex problem so that they were able to persuade the executive to act. It is Parliament at its best. It is a great bill. It rights a wrong. I commend the bill to the house.

Ms THOMSON (Footscray) — I rise to speak on the Assisted Reproductive Treatment Amendment Bill 2015. In so doing I pay tribute to all the committee members who took evidence and produced a considered and unanimous report: our own Minister for Consumer Affairs, Gaming and Liquor Regulation; the member for Ivanhoe, who gave a moving account and contribution to this house; the chair, Clem Newton-Brown; and Donna Petrovich. I am not sure if I

have left anyone out; if so, it is not by intention. The work they did must have been incredibly heart-rending. We could hear that in the member for Ivanhoe's tone when he addressed this house today, and the member for Morwell also gave a moving account from his experience of the committee.

We have had the opportunity this year to be part of some incredible debates about making the lives of people very different and being far more protective of their needs in today's society. A number of members have made great contributions about the way society has changed and our role and responsibility as members of Parliament to be prepared to move with those changes and meet the community's expectations as those changes occur. This is one of those issues.

If you look back to pre-1998 and the way we as a community generally saw things, we were giving adults the ability to conceive children in a way that there was not a capacity to do before, so the priority was to provide that option. What was not considered was how the child might feel when they grew up and discovered that they had a biological parent who they did not know and who they had no connection to and the impact that might have on them. Then there were doctors who, I think with every good intention, promised donors that they would be anonymous and destroyed records, which means that there are donor-conceived children who will not have access to those records. But there are records there for some — those who were conceived prior to 1 January 1998 — and they should have the right to access them.

We need to do it carefully. There is no doubt about it: there need to be measures in place for those donors who believed they were always going to remain anonymous so they can come to terms with that prospect, and I think the bill does cover off protecting their interests, but ultimately there has to be concern for the welfare of these children.

Probably every member of this Parliament wants to know more about their family history. They might want to know it for health reasons: 'Did one of my parents have any heart defects? Are there any genetic issues that will carry from one generation to the other?', or as we have heard very movingly here today, for connection to their roots — their heritage. I know little about my father's family. I would love to have the time to explore more about that family, which was devastated by the Holocaust.

Then you read about Ancestry.com now offering DNA testing so you can find your heritage path and your ethnicity — it can give you percentages of your ethnicity through a DNA test. So interested are we in finding and knowing what our roots are that people are prepared to pay money to have that test done to find out where their roots are and then go on an excursion to understand their background.

Donor-conceived children might want that too. They might have a quirky smile that does not look like their mother's or their father's. Is that the smile of their donor parent? These are the things that come naturally. How often do we say to a parent, 'God, your child looks just like you!'? Donor children conceived prior to 1998 might like to know a little more about the history of that person who donated sperm or an egg to enable them to come to life with all the quirkiness and characteristics that being a human being entails. I hope there will be maturity amongst donors and that donors will understand that the community has moved on from 1998.

We have heard members today recount stories of children who have had the opportunity to meet their donor parents — some tragically, others creating real ties and bonds — and it is a great thing. We are more open now. It is not the big secret it was in 1998, when you did not want people to know that you had donated. The world is a lot more open, a lot more accepting, than it was back then. We are ready for that change. We are ready to embrace the fact that people donated sperm and eggs to enable life to be conceived. As the world has moved on, so too must our legislation. This legislation does that in a very balanced way.

I was listening to Radio National recently and one of the journalists — I do not remember their name; I was in the car driving and I only caught it as they started talking about the subject matter — was a donor-conceived child who did not know who her father was. She was interviewing other donor-conceived children who were hunting for their fathers. She was interviewing people not only in Australia but also in the United States.

There are now websites for donor-conceived children to look for relatives of their biological parent. They are taking DNA tests and are able to connect through that website to family connections aligned with the results. They are finding cousins, uncles, aunties and potentially their donor parent. For some it is a rewarding experience; for others it might be a scary experience and some may never confront or even find out who their biological parent is. That journey is being taken by these people because there is a need to know. They are prepared to go to any length to find out who their biological parent is. It was a fabulous interview. It was incredible to hear the stories about a number of

those donor-conceived children and about how important it was for them to find their biological parent.

This legislation recognises that need. We are at a point in time where we owe this opportunity to those children. They might need to know for health reasons — to know if there are any conditions they need to be aware of or require regular health checks for, or to know, if they themselves are looking to have children, what genetics they might be passing on to their children. They might also just want to understand their roots and heritage to be able to feel like they fully belong. It does not mean that you love your parents or the family you have less; it just enriches your life to know it all. I think this is a great bill. I commend the Minister for Health for bringing it to the Parliament as quickly as she has. I commend the bill to the house.

Mr EDBROOKE (Frankston) — It is my pleasure to rise and speak on the Assisted Reproductive Treatment Amendment Bill 2015. I reflect on the fact that we have had some fairly emotional and deep-thinking people rise to speak on this bill today. I pay my respects to some of the people who have been involved in the process, including the member for Morwell and members on our side of the house, including the member for Ivanhoe, the member for Brunswick and co.

It is a bill that brings up some emotion; it brings up emotion for me. It is about giving donor-conceived people equal rights of access to identifying information about their donor, regardless of when the donation was made. Putting it simply, it is fair for all people to access that information. We can go back in history and explain that Victoria has been a world leader in the field of in vitro fertilisation (IVF) and assisted reproductive treatments. We were the pioneers in the development of IVF donor treatment procedures through the 1970s and 1980s, and Australia's first IVF baby was born in Victoria. Her name is Candice Reed. I was one of her friends growing up as little tackers at the BMX track. Candice now resides in New Zealand. That was a massive thing at the time. Because of the media surrounding her we were told from very early on that Candice was an IVF baby — although she was not a donor baby. I guess we did not understand at the time just how special her birth was.

One thing Candice has said since then that I think is just a nice quote is:

> The best thing about being an IVF baby is knowing that I was loved and wanted well before I was even conceived.

I think that covers whether you are a biological IVF baby or a donor-conceived IVF baby.

Regarding the bill, I find myself agreeing with the member for Box Hill about the history of this issue. The medical practitioners at the time did not have a full understanding of the long-term impact and implications for people conceived in this way. The conventional medical wisdom of the day dictated that gamete donations were collected with assurances of anonymity. Parents were generally encouraged not to tell their donor-conceived children about the nature of their conception. By the mid-1980s people had begun to question this approach, as does happen over time. We decide one thing, we become better informed, we see the results of our actions and we change our minds. That is why we are here today in Parliament making reform happen. Over time the statutory regime began to change in line with changing community attitudes. We made a few changes around that time.

Skipping forward to today, many donor-conceived children are now adults. The impact of a policy which prevented access to information about genetic heritage and which was enacted in a time before many donor-conceived people were born is clear. In 2012 a parliamentary Law Reform Committee inquiry into access by donor-conceived people to information about donors found that donor-conceived people may suffer a fractured sense of identity when they cannot obtain identifying information about their biological parents. Coming from a family in which my father was adopted, I can sympathise with this in a slightly different way.

My father is a person who knows what it is like not to know your history. It also has a domino effect down generations. He was adopted. He has no sense of any of his genetic history. He has no health history. Even though he has tried to get into contact with his biological parents, he cannot. He knows no family nuances or family culture that has come down through the ages. It is just a big, black hole that just cannot be filled, and I do not think it ever will be for him. I think that not knowing about his past dramatically affected his future. As a kid it had dramatic effects on him. Although he is a successful adult, I still feel that there was a massive burden and gulf, which was quite an anchor to his life. In much the same way, donor-conceived children and adults will also probably have a void, that this bill will help fill.

The member for Carrum cited a 2010 study from the United States, which is called *My Daddy's Name is Donor*. That study surveyed 500, 18 to 45-year-old people conceived by sperm donation. It found that these people were more confused about things, they hurt more and they were more isolated from their families. They were far worse off than their peers raised by biological parents in consideration of outcomes such as

their levels of depression, delinquency and substance abuse.

This bill will limit the impact with changes through the introduction of contact preferences. Contact preferences will allow donors to prevent contact. They basically put fences around to protect people, and counselling will also be available. This government believes a person should have access to available information critical to their sense of identity. The authority will be given new powers to seek a court order to require a person holding donor-conception records to provide them to the central register where required in response to an application. We are putting in place a process aside from births, deaths and marriages — a special authority — to deal with this issue.

The bill includes provisions that are designed to mitigate the impact of searches on people's privacy. For example, the authority will be required to comply with statutory guidelines in undertaking searches. The bill also contains confidentiality provisions that prevent the disclosure of information provided to third parties or improper disclosure of information by the authority. We have heard this from previous members, but it is important to point out that we have not just gone out there and let the dog off the leash, so to speak; we have actually put fences around and made sure that this will be done in a controlled manner.

In developing this bill, many stakeholders and members of the public provided thoughtful and heartfelt emotional suggestions and submissions. The government has heard from donor-conceived individuals who expressed in moving terms their fundamental need to know their genetic heritage — to know who their father is, to fill that gulf, that big black hole I previously spoke about. In the past they have faced the denial of this information. The committee heard from many donors, some of whom were comfortable with their information being released and others who were very uncomfortable with their information being released and expressed profound disappointment because of the fact that it was never going to be released, and even anger — I guess it is fair to say — that their identity was going to be disclosed.

The process of engagement also extended to the clinics that provide assisted reproductive treatment services, and some of the pioneers in assisted reproductive treatment whose work over the years has benefited thousands of people. It was obviously a wideranging reference and a hard committee to be on at times.

I do not underestimate how difficult and complex this situation is, and I think no-one in the house today has denied that this legislation will be challenging for some members of our community. However, great care has been taken to negate the impact on donors by establishing this comprehensive system of support and the contact preferences scheme to make sure that people are protected, their emotions are protected and that there will be no illegal activity.

In the past significant decisions were made when people had little understanding of the trauma they could create or that would result from people having an incomplete picture of where they came from. Decisions were made by medical professionals that impacted on people who had no say on their future conception. Subsequent legislation recognised the importance of this information by making anonymous donations unlawful. As the next step in this process, this bill ensures that the same right to information will be available to all donor-conceived people and that they will no longer be treated as different simply because of when the donation from which they were conceived was made.

Finally, I would like to take the opportunity to again thank the people who took the time to make submissions and the brave people who shared their stories. It would have been hard for many of those people. I would also like to thank the individuals and organisations, including VANISH and MADmen, who gave their time and views to the committee and in consultation on this bill so we could gain an understanding of the issues. Once again I would like to thank the Minister for Health for her pushing of this issue, and my parliamentary colleagues the member for Ivanhoe, the Minister for Emergency Services, and the member for Morwell. We all understand committees and how hard they can be. I commend this bill to the house.

Mr DIMOPOULOS (Oakleigh) — It gives me pleasure to also add my contribution to debate on the Assisted Reproductive Treatment Amendment Bill 2015. As has been described by others speakers, a very complex set of issues and principles are at stake. Starting off, I say that this bill delivers yet another election commitment by giving all donor-conceived Victorians the right to access available identifying information about their donors. It seeks to remove the temporal restriction that limits Victorians conceived from gametes donated before 1998 from accessing information about their donors. It also makes it clear as a principle that in carrying out anything to do with the act, the welfare and interests of persons born as a result of donor procedures are paramount.

This is probably the vexed issue that other speakers have talked about. The difficulty is that there are always going to be fundamental principles that are in conflict with each other, particularly on matters like this. The work of the Parliament and the work of the government is difficult when it involves fundamental principles that are conflicting, and these are a set of fundamental principles that are conflicting. There is the fundamental principle of the right to privacy and even the principle of making a decision informed by the laws that existed at the time, as many donors did, and yet have been changed progressively in the lifetimes of the donors. If this bill goes through the Parliament, they will change further down that perspective of the right to know for the donor-conceived person.

While I do not want to be in a position to make decisions in relation to people's very private and personal lives, I am in a position of being part of this Parliament, and absolutely respecting both sides I make a value judgement — and that is all it is; it is not right or wrong, it is just a value judgement — that the right to know is more fundamental, in my value set. That is not just from the innate humanity we all share and the inquisitiveness we all have about knowing where we came from but also for very practical, medical reasons — for health reasons and a whole range of practical and obvious reasons. I think that set of reasons trumps, in a sense, the right to privacy — it is more complex than that, but I abridge it by saying the right to privacy — for the donor.

It is poignant that on this the United Nations Human Rights Day, as the member for Pascoe Vale said, we unlock an aspect of human rights that has been denied to a significant number of Victorians. I think wanting to know your family history is intrinsic to all of us, but it remains out of reach for many people. Under the current law, Victorians conceived of gametes donated before 1998 have fewer rights to seek information about their donor than those conceived later, so even the inconsistency in the way we treat different groups of people — the inconsistency of a two-tiered system — is in itself a reason for change, let alone the more fundamental reason of the right to know for these kids and adults.

I think it was the member for Pascoe Vale who said we do not want to set up a whole range of other problems — and we have, but to continue to harbour those problems — and those complexes for a new generation of Victorians because of the decisions we have made in the past. Echoing your words, Acting Speaker, this approach and the way in which the endeavour has been undertaken in the lead-up to this bill is probably the best of the Parliament. The committee was bipartisan — not that you have to have a unanimous outcome, but it was a unanimous outcome — and it let Victorians tell their stories. I think it was a very robust process. It is something I have only been more recently informed of, but I am conscious of the speakers speaking today who were on the committee as well as those who cannot be with us, along with the families and others who contributed. So I think it is the best of the Parliament, and that gives me some comfort in terms of breaching the human rights of a set of Victorians to support the human rights of others, which I think is the right thing to do in this circumstance.

What gives me some more comfort about that, and others have talked about this, are the provisions in the well-thought-out bill that seek to limit the infringement of the rights of those donors. The minister's second-reading speech says:

> In order to manage the release of information, and in recognition that some donors prior to 1998 believed that they would remain anonymous, the bill will introduce a scheme of contact preferences. If a donor-conceived person makes an application for identifying donor information about a donor who donated before 1998, the authority will contact the donor, offer them counselling and inform them that they may lodge a contact preference.
>
> A donor may decide what type of contact they would like, or whether they would like no contact at all. For instance, this might entail an exchange of emails and photographs or a personal meeting. A donor may also decide that their contact preference should cover their non-donor-conceived children under the age of 18 to prevent contact from a donor-conceived sibling until they are an adult and can make their own decision.
>
> The donor will have four months to consider their options. Before identifying information is released to a donor-conceived person, they will be required to undergo counselling and to give an undertaking that they will comply with the contact preference.

Those undertakings are stipulated in law and made to the secretary of the department, and there is a whole range of those provisions that try to protect the rights of donors while still achieving the outcome — the expression of the intent of the legislation, if it goes through the Parliament — of the right to know for all donor-conceived Victorians. While a very difficult issue, in my view the bill achieves a really important and nuanced balance between two sets of competing rights while absolutely clearly favouring one. That is what gives me comfort about this bill. It is something I absolutely support, and it strikes a fair balance.

I am pleased and proud that the Andrews Labor government has a strong record on delivering equality of all kinds to all kinds of families. We saw that earlier

in relation to adoption equality, and we will see it again in relation to a whole range of other families in Victoria. This bill will allow many donor-conceived Victorians to finally seek answers to questions they have held their entire lives. To them I hope this bill provides those answers, comfort or closure, and I am honoured to support this bill on their behalf.

The ACTING SPEAKER (**Mr Pearson**) — I call the member for Eltham.

Ms WARD (Eltham) — Thank you, Acting Speaker. It is lovely to see you on our last sitting day, and I wish you the best of the happy season.

I rise today to speak on this bill and to acknowledge that although it has challenges in it, it also demonstrates what the Andrews Labor government is able to do well which is to listen. We are able to listen, to understand and to work through the challenges people are experiencing in their lives and the hurt and hardships they are also facing. Here we have a bill that does its best to balance the rights of individuals, and that includes individuals who are donors as well as individuals who have been created through that donation.

While I respect the rights of donors to be anonymous, especially when they have signed documentation stating that they would always be anonymous, I also understand the real challenges that children created through this process face. I understand their longing to know who they are in the sense of what their genetic make-up is, and it needs to be understood that a donation is a donation of genetic material. It is a donation that contains DNA, and that DNA has helped to create a new person. That new person contains within them a road map, and it is a road map of the sum of who they are — not necessarily the personality that they have but the sum of who they are. It contains a road map of history. It contains a road map of ancestry and important medical facts about where you have come from and of the history your body contains within it. It is also important to know the cultural history of what is contained within you and the kinds of things that have helped to shape you. Different body shapes do come from different regions around the world. There are a number of things within our genetic make-up and within our biological history that help to determine who we are: our height, the colour of our hair, the colour of our eyes, whether or not we have big hips — a whole variety of things.

There is a whole gamut of things, and there is real comfort in knowing our genetic history and understanding where we have come from — but there is also safety in that knowledge. That knowledge gives you security that you will be able to obtain your medical history for your medical needs as you grow and as you get older. Importantly, it will not just help you as a donor child; it will help your own children. It will help you understand the history of your own children — the stories that their bodies will tell them, how your children will grow, and the kinds of experiences that your children's bodies may have that you will be able to help with.

I will speak of my family's example, which concerns my nephew. Unknown to either of his parents, my sister-in-law carries genes that have given my nephew Fragile X, which is a very common form of intellectual impairment. She did not know about this. If my nephew had been a donor child, it would have been really difficult for anyone to know where this disability had come from. His own genetic testing would tell us that, but the donor would not know that. The donor would not know that story. From my sister-in-law learning this, her family has been able to work through a whole variety of things. They have been able to access knowledge that they would not have had if that ancestral linking was not there. There is a whole variety of medical conditions which are passed onto us through our DNA, through our ancestry. It is important for people to be able to have access to that knowledge.

It is important that as a government we clean up the tiers of inequality that we currently have. If there is one thing that an Andrews Labor government will not stand for, it is inequality. We have seen that with bill after bill after bill that we have presented over the last year. We have worked incredibly hard to erode inequality wherever we have seen it. This bill is another example of exactly that. We are eroding an inequality, and we are cleaning up an act.

An honourable member interjected.

Ms WARD — A good minister. We are seeing a great minister! These are the issues the bill addresses. I understand that there are reservations about the bill, and I understand that there can be concerns about the balance of privacy. However, overall there needs to be a recognition, which this bill provides, that people have the right to know what their genetic history is. They have the right to know the stories that are contained within their bodies, stories that are a complete mystery to them until that DNA history is realised for them. It does not mean that you suddenly have to become best friends with whoever your donor is. It just means that you are able to tap into that history and tap into that knowledge. For those reasons I commend the bill to the house.

Mr STAIKOS (Bentleigh) — It is a pleasure to rise and speak on the Assisted Reproductive Treatment Amendment Bill — —

The ACTING SPEAKER (**Mr Pearson**) — Order! The time set down for the consideration of items on the government business program has expired, and I am required to interrupt business.

House divided on motion:

Ayes, 56

Allan, Ms	Knight, Ms
Angus, Mr	Lim, Mr
Blandthorn, Ms	McGuire, Mr
Brooks, Mr	Merlino, Mr
Bull, Mr J.	Morris, Mr
Carbines, Mr (*Teller*)	Nardella, Mr
Carroll, Mr	Neville, Ms
Clark, Mr	Noonan, Mr
Couzens, Ms	Northe, Mr
D'Ambrosio, Ms	O'Brien, Mr D.
Dimopoulos, Mr	Pakula, Mr
Donnellan, Mr	Pallas, Mr
Edbrooke, Mr	Pearson, Mr
Edwards, Ms	Pesutto, Mr
Eren, Mr	Richardson, Mr
Foley, Mr	Richardson, Ms
Garrett, Ms	Ryall, Ms
Gidley, Mr	Sandell, Ms
Graley, Ms	Scott, Mr
Green, Ms	Spence, Ms (*Teller*)
Halfpenny, Ms	Staikos, Mr
Hennessy, Ms	Suleyman, Ms
Hibbins, Mr	Thomas, Ms
Howard, Mr	Thompson, Mr
Hutchins, Ms	Thomson, Ms
Kairouz, Ms	Ward, Ms
Kealy, Ms	Williams, Ms
Kilkenny, Ms	Wynne, Mr

Noes, 27

Asher, Ms	Paynter, Mr
Battin, Mr	Riordan, Mr
Blackwood, Mr	Ryan, Ms
Bull, Mr T.	Sheed, Ms
Burgess, Mr	Smith, Mr R.
Crisp, Mr	Smith, Mr T.
Dixon, Mr	Southwick, Mr
Fyffe, Mrs	Staley, Ms
Guy, Mr	Tilley, Mr
Hodgett, Mr	Victoria, Ms
Katos, Mr (*Teller*)	Wakeling, Mr
McCurdy, Mr	Walsh, Mr
McLeish, Ms	Watt, Mr (*Teller*)
O'Brien, Mr M.	

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

DISTINGUISHED VISITORS

The SPEAKER — Order! It gives me pleasure to welcome in the gallery a former member for Kew, the Honourable Andrew McIntosh.

CROWN LAND LEGISLATION AMENDMENT (CANADIAN REGIONAL PARK AND OTHER MATTERS) BILL 2015

Second reading

Debate resumed from 8 December; motion of Ms NEVILLE (Minister for Environment, Climate Change and Water).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

LAND (REVOCATION OF RESERVATIONS) BILL 2015

Second reading

Debate resumed from 8 December; motion of Ms NEVILLE (Minister for Environment, Climate Change and Water).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

KARDINIA PARK STADIUM BILL 2015

Second reading

Debate resumed from 8 December; motion of Mr EREN (Minister for Sport).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

BAIL AMENDMENT BILL 2015

Second reading

Debate resumed from earlier this day; motion of Mr PAKULA (Attorney-General).

Motion agreed to.

Read second time.

Third reading

Motion agreed to.

Read third time.

FELICITATIONS

The SPEAKER — Order! I would like to take this opportunity to wish the Premier, the Leader of the Opposition, the President of the Legislative Council, members from both sides of the house and the Parliament and the Victorian community best wishes for the holidays.

To all the Acting Speakers from both sides: thank you for your contribution and support this year in assisting me to manage the house. To my Deputy Speaker, Don Nardella: thank you for your support and advice. I hope we can continue our partnership in the coming years.

To all parliamentary staff: thank you for all your hard work this year. I encourage members to stop and say thank you to our staff when you get a chance before you leave today. Our staff work hard. They are the ones who look after us and make sure that the Parliament runs very smoothly.

To the Clerk, Ray Purdey; the Deputy Clerk, Bridget Noonan; the Assistant Clerk Committees, Vaughn Koops, and the Serjeant-at-Arms, Robert McDonald: thank you for your advice and guidance this year.

Peter Lochert and his team at the Department of Parliamentary Services look after us extremely well. They work extremely hard to make sure that we are safe and pay our bills. They feed us, assist us with research, assist us with our speeches, make us sound good in *Hansard*, and attend to our everyday needs, whether it is with our electorate offices, staff or IT issues. I would like to give a special mention to our IT team: thank you for assisting me especially with my very many needs in IT.

To members of the media gallery — I hope they can hear me and I hope they can hear members: we wish you all the best in the period to come. I will see them later in my office — and members are not invited.

To my staff, Santhi and Jeremy: I wish to thank them enormously for their support for me. As I have said time and time again, this is team work and a team effort. We could not have done it without them, so I personally thank them and their families for their tremendous work.

I share the sentiment of the people at the Transport Accident Commission, who remind us at this most festive time of year to look out for our friends and families and to share the responsibility for keeping each other safe.

I express my thanks to the Victorians who will be working during the Christmas period to ensure our safety and wellbeing. In particular, I extend on behalf of us all our appreciation to Victoria Police, the ambulance service, firefighters, doctors and nurses.

I wish you all a good break with your families and friends. Recharge your batteries, and I look forward to you all returning next year.

Business interrupted under sessional orders.

ADJOURNMENT

The SPEAKER — Order! The question is:

That the house now adjourns.

Beach Road–Surf Coast Highway, Torquay

Mr KATOS (South Barwon) — My adjournment matter this afternoon is for the Minister for Roads and Road Safety. The action I seek is for the minister to immediately provide funding to signalise the intersection of Beach Road and Surf Coast Highway, Torquay. Earlier this year I asked the minister in a constituency question when funding would be provided for that work. The response he gave me was that VicRoads is having ongoing discussions. It is now December, and it is my understanding that the Transport Accident Commission and VicRoads are arguing as to what to do and no-one is providing answers. The work at this intersection needs to be funded immediately. Residents in Torquay are certainly frustrated and very upset about this intersection. There are a lot of collisions at this intersection. If you live in Torquay, it is an intersection that you are really loath to cross. Quite frankly residents are sick and tired of the work at this intersection not being funded and not being provided for.

In November last year the coalition made an election commitment that if elected the government would signalise this intersection. We would have done that through the very successful country roads and bridges program. That program has been cruelly axed by this government. The minister and the Treasurer have axed this program, which was very successful in Torquay and provided for a number of roads being fixed, such as Larcombes Road, Paraparap, and Church Street, Modewarre; the widening of Horseshoe Bend Road in stage 3 works in Torquay; road widening at Pollocksford Road, Gnarwarre; and road widening in stage 3C works on Horseshoe Bend Road.

The community in Torquay is absolutely sick to death of not having this intersection done. And just to rub salt into the wound, the government now has a country bridges program with $35 million of funding, and we find that 10 bridges have been funded in the Premier's own electorate of Mulgrave while people in rural and regional Victoria are missing out on this important funding. The Premier is using money that has been dedicated for use in regional Victoria to fund bridges in his very own electorate in metropolitan Melbourne. The people of Torquay find it absolutely disgraceful that this is going on. I ask the minister to stop the games and to immediately fund the signalising of the intersection of Beach Road and Surf Coast Highway, Torquay.

Sharia-compliant finance

Mr PEARSON (Essendon) — My adjournment debate is directed to the Premier. The action I seek is for the Premier to meet with Islamic financiers in order to encourage a wide range of sharia-compliant financial products and services into Victoria. The Koran outlines Islam's opposition to usury or the collection of interest from principal loans. The Koran states:

> O you who believe! Be careful of (your duty to) Allah and relinquish what remains (due) from usury, if you are believers.

This presents some challenges in modern finance because special financial products need to be developed that do not charge interest but which allow the lender to obtain a return. It is also important that the original source of funding is pure and not the result of tainted funds.

As of 2014 compliant financial institutions represented approximately 1 per cent of total world assets. By 2009 there were over 300 banks and 250 mutual funds around the world complying with Islamic principles, and as of 2014 total assets of around $2 trillion were sharia compliant. This is an important issue for many Muslims. Access to capital is vitally important if people are going to be able to start a small business and increase their wealth and prosperity. Ensuring that members of our Muslim community have the ability to access finance, start small businesses and create wealth and prosperity is essential. I would therefore ask the Premier to meet with Islamic financiers in order to encourage sharia-complaint financial products into the market.

Finally, I wish all members and staff and their families a safe and merry Christmas.

Minyip police numbers

Ms KEALY (Lowan) — I raise a matter for the attention of the Minister for Police. The action I seek is for the minister to urgently intervene to ensure recruitment of a resident police officer in Minyip. Over 12 months ago the Minyip position became vacant, and as this position remains vacant today Minyip is in effect a closed police station. Originally it was planned that the Minyip station would be closed as a permanent station and have reduced operating hours and be manned with police based at Warracknabeal. This proposal was discussed at a community meeting which I attended in early 2015 where the locals shared their clear views that the Minyip police station should remain open and be staffed by a resident police officer. It was very positive to see an announcement following this community meeting that the voice of the local people had been heard and that Minyip station would remain open with a full-time resident officer.

However, over the past week I have had a number of local residents in Minyip, Murtoa, Rupanyup and Warracknabeal concerned and disappointed that this position has still not been filled. This is exacerbated by the news that the most recent round of recruitment attracted a high number of applicants. A number of interviews were undertaken, including with two existing sergeants and one applicant with experience as an acting sergeant. However, none of these applicants was deemed suitable for the Minyip role. It is extremely difficult to understand how a current sergeant could be deemed not suitable for the Minyip role.

This ongoing situation is leading to cynicism within the local communities that the failure to recruit is a deliberate strategy to ensure that the station is not officially closed but is in reality not an operational station. Given the number of rounds of recruitment over the past 12 months, including attracting highly skilled and qualified applicants, surely it is time for the minister to intervene to resolve this matter and fulfil his commitment that no police station will close.

It is also important to note that according to the most recent figures there are fewer sworn police officers in Victoria than when the Andrews Labor government was elected. It is of great concern to me that we may already be seeing the impact of these reduced police numbers on rural Victoria under a Labor government. I call on the minister to guarantee to local residents of the Minyip, Murtoa, Rupanyup and Warracknabeal districts that the Minyip police station will be opened in the near future, manned by a resident police officer.

Bongo Transit

Ms GREEN (Yan Yean) — I rise in support of a Victorian-run small business and licensee seeking to operate a tourism ride service in the city of Melbourne. The action I seek is that the Minister for Roads and Road Safety have VicRoads provide some clarity regarding vehicle registration and road safety practices and also work with Tourism Victoria to assist this great tourism business to clarify its car registration and road safety status, which will then allow it to operate unhindered — by which I mean operate its vehicles without the need for either helmets or motorcycle licences — in the city of Melbourne and other parts of Victoria next year.

The business in question is called Bongo Transit. Bongos are a modern three-wheeled vehicle that most resembles a tuk tuk, which many members may be familiar with and have experienced in Indonesia and Thailand. Unlike tuk tuks, bongos are much safer and heavier because they are electric vehicles. The noise and some of the emissions from 2-stroke motors that we may be familiar with in Asia will not be in place. Because the vehicles use batteries that are recharged by electricity, their bases are very heavy and not prone to rolling like their Asian equivalents. They can be operated for recreation, shuttle services, tours and special occasions. Some bongo designs can be used for selling products straight from the vehicles, such as ice cream and coffee.

One of the directors of the company is a constituent of the Yan Yean electorate and a resident of Hurstbridge. He has discussed the company's Melbourne plans with me in my role as Parliamentary Secretary for Tourism. There seems to be an outstanding issue regarding the registration of the vehicles, what licences drivers should obtain and a question — which seems quite ridiculous to me — over whether passengers and drivers should be required to wear helmets. There are a number of different requirements contained in two separate pieces of legislation and across two different authorities. Bongo Transit is currently operating tourism ride services on the Bellarine and Mornington peninsulas. The drivers currently hold car licences, not motorcycle licences, and passengers and drivers are not required to wear helmets. This business has been operating in these locations in Victoria for about a year; it has been operating lawfully without any safety or legal infringements. It is licensed to operate across Australia and New Zealand. The questions posed to it now jeopardise this great business, and I would urge the minister to have VicRoads look very closely at this matter and also to talk to other states so that this Victorian business can be a great success in getting people around quickly, safely, quietly and in an energy-efficient way that will be great for tourism in Victoria.

Historic hotels

Mr THOMPSON (Sandringham) — I wish to raise a matter for the attention of the Minister for Planning. The action I seek is that the minister examine the position of historic hotels around Port Phillip and specifically the criteria against which heritage classification might be more carefully considered. From Queenscliff through to South Melbourne and Mentone across to Sorrento there are some outstanding examples of architecture and holiday destination precincts which have been served well by heritage hotels which have a sense of size, place and significance for local communities.

The question I wish to raise is in relation to planning matters and as to what represents the best example, the best model or the paragon of the built form, and that can change in time. Sometimes heritage buildings, like the St James Old Cathedral, now in West Melbourne, have been relocated in order to preserve them. La Trobe's Cottage and Cook's Cottage in fact have been relocated from their original sites.

Significant interest was raised about 12 months ago in relation to the Mentone Hotel, which was up for sale. There was concern regarding its future and perhaps also its viability. An application was made to Heritage Victoria by the former Minister for Planning and me to seek heritage classification for the hotel building itself. It struck me at the time as anomalous that the car park area had not been included as part of the classification. It is difficult to have a hotel without a place for patrons to park. Once only one aspect of the enterprise was given heritage classification, it may have set in train an irreversible momentum towards its non-continuance as a hotel. There are major amenity issues for applications for places like hotels if there is an absence of parking.

There is an act in England that deals with historic hotels. The question it would be helpful to work forward from is whether something more can be done to protect some of the historic precincts. Sometimes a building's time has come. In the case of the Mentone Hotel, it still has a functional role, but without a car park it is difficult to see its ongoing viability. I would be grateful if the minister were able to consider that matter or meet with stakeholders so that a way forward may be planned.

Moorabbin Reserve

Mr STAIKOS (Bentleigh) — My adjournment matter is for the attention of the Minister for Sport and concerns the proposed redevelopment of the Moorabbin Reserve. The action I seek from the minister is that he visit Moorabbin Reserve at his earliest convenience. Moorabbin Reserve is well known. It is the spiritual home of the St Kilda Football Club. It is where a young Tony Lockett bagged 15 goals against the Sydney Swans in 1992.

Mr Wynne interjected.

Mr STAIKOS — Absolutely, but for many years it has been in a state of disrepair. Some years ago St Kilda left. It is still the headquarters of the Southern Football Netball League, which includes 31 football teams and also the South Metro Junior Football Club. A number of stakeholders, including those two leagues, have together got a fantastic concept not only to bring St Kilda back but also to have every level of football under the one roof in Moorabbin — juniors, seniors, Victorian Football League, the TAC Cup and of course St Kilda. It is a fantastic proposal, one that I fully support, and I would ask the minister to visit Moorabbin Reserve at his earliest convenience.

Ringwood residential development

Ms RYALL (Ringwood) — The matter I wish to raise is a matter for the Minister for Planning and relates to a proposed development at 42–58 Nelson Street, Ringwood. The minister in this case is the responsible planning authority for the land. The proposal is for three 10-storey developments adjacent to the Mullum Mullum Creek. Nelson Street is a backstreet where car parking is already limited and traffic congestion exists. The development has the potential to house over 500 people, and the impact this would have creates significant consequences for existing and future residents. The visual impact of three 10-level towers in this green, leafy area is also very disturbing. While the area is open to growth, Maroondah City Council has specific planning requirements for developments in this area.

My request is for the minister to either transfer the planning authority to Maroondah City Council or work with the council to ensure that any development on this land adheres to council's planning requirements so that it is both appropriate for the area and consistent with community expectations. I look forward to the Minister for Planning responding to my request in the spirit of creating good outcomes for my local community and its livability.

Thomastown electorate roads

Ms HALFPENNY (Thomastown) — My adjournment matter is for the Minister for Roads and Road Safety and is in relation to the intersection of Findon Road, Epping Road and O'Herns Road in the electorate of Thomastown, bordering the electorate of Mill Park. Currently this intersection is serviced by a single-lane roundabout which during peak times is the cause of significant traffic congestion and, justifiably, extreme frustration for residents. As the minister would know, it is vital that the arterial road network in the north of Melbourne keep up with the rate of development. On a number of occasions the minister has visited residents in Thomastown to listen to their concerns and has experienced this terrible congestion himself.

In the coming years we will see the new and growing estates of Aurora, Lyndarum and Eucalypt and the suburb of Wollert further develop into thriving but very busy communities, and this will bring thousands of new road users. Another consideration is the importance this intersection will play in accessing the interchange of O'Herns Road and the Hume Freeway, which is to be built as part of a Labor election commitment. The intersection will be a major feeder of this interchange, and once it is completed it is reasonable to expect traffic volumes to further increase from the already congested levels we are currently seeing.

That is why I ask the minister to investigate the congestion issues motorists are encountering at the intersection of Findon, Epping and O'Herns roads. I ask that he ensure that traffic control signals and additional lanes are installed at this intersection. These are absolutely necessary to replace the redundant roundabout.

The DEPUTY SPEAKER — Order! Before I call the honourable member for Bass, I remind members that they need to seek an action before they talk about

their adjournment matter, otherwise the Speaker has kittens.

Healesville-Koo Wee Rup–Bald Hill roads, Pakenham

Mr PAYNTER (Bass) — We certainly would not want that; I would fear for the kittens. My adjournment matter is for the Minister for Roads and Road Safety. I ask the minister to take urgent action to upgrade the roundabout at the intersection of Healesville-Koo Wee Rup Road and Bald Hill Road in Pakenham.

Whilst I acknowledge the minister's recent correspondence with me regarding this issue, the response misunderstands or does not recognise the seriousness of this issue. During peak periods cars using the off-ramp from the Pakenham bypass and attempting to exit onto Healesville-Koo Wee Rup Road can be lined up for over a kilometre in either the left-hand lane or the emergency lane of the bypass. To make the situation very clear, cars travelling at the legal limit of 100 kilometres per hour on the bypass suddenly and abruptly come across cars that are stationary in the very same lane. This is a recipe for disaster, and a serious and potentially fatal accident waiting to happen. It is far more serious than people simply being delayed in traffic.

The minister's response included the line that VicRoads and council officers believe the delays are 'not considered excessive'. This response completely misses the point. The current roundabout causes potentially fatal conditions because of the overflow onto the Pakenham bypass. Only yesterday a group of 17 primary school children who had visited me in Parliament waited on the bypass for over a kilometre to use the off-ramp, risking being rear-ended by a car or truck travelling at 100 kilometres per hour. I urge the minister to raise this issue with VicRoads and to widen the roundabout into four lanes to ease the traffic congestion and reduce the risk of a major accident on the Pakenham bypass.

Early childhood education

Ms SULEYMAN (St Albans) — My adjournment matter tonight is for the Minister for Families and Children. I ask the minister to visit early years services within my electorate to talk about the government's vision for building the education state. The importance of education in early years is clear: children who have access to high-quality early childhood experiences are more likely to succeed in life. Children's early years are critical to lifelong learning, wellbeing and success. It is vital that we help children to get the most out of their first years of life to give them the best chance to flourish and to make sure they do not fall behind.

The science of the brain is really interesting. Babies' brains are largely the same at birth, but the experiences, both good and bad, a child has during their earliest years shape the brain. That is why early childhood education is a key part of the Andrews Labor government's vision to make Victoria the education state. I am very proud of our government's achievements in this first year. Investments in maternal and child health through to playgroups and kindergartens will ensure that more children participate in higher quality early learning opportunities. This is why I would like the minister to visit the early years services in my electorate to see how services across Keilor Downs, Kealba, St Albans and Sunshine are working with children and families to lift educational outcomes and to talk to them about the government's vision for making Victoria the education state. I know staff, parents and families in my electorate will welcome the minister warmly.

On that note, Deputy Speaker, I wish you and everybody in the house a happy Christmas.

Responses

Mr WYNNE (Minister for Planning) — I am pleased to respond firstly to the member for Sandringham in relation to his request for a further review of the heritage classification of hotels around the bay. There are some splendid examples of hotels, some of which are of local heritage significance. Some, particularly in Queenscliff, are of statewide significance and are on the register. The point the member for Sandringham raised is that many of these hotels have moved past their initial lives as hotels. He pointed to the Mentone Hotel in particular. I am advised that that hotel does have a local heritage overlay over it and that there are some development proposals under consideration by the council at the moment. Nonetheless, the point is an important one, particularly around the bay where we celebrate the important heritage interface between those hotels and the roles they have played.

I am thinking of Williamstown, for instance, where we have very some significant hotels on the waterfront. There is Port Melbourne of course, and the member for Sandringham quite rightly talked about how as you work your way around the bay you could pick any number of examples where these hotels are not just of local significance but are in fact part of a broader narrative. That is important for us as a state to acknowledge. I will take on notice the recommendation of the member for Sandringham, and I will talk to

Heritage Victoria about what opportunities there may be to do some further work in this space. I will come back to the member next year with that.

The member for Ringwood raised with me a most interesting matter which in fact I was unaware of, and that is that I am the responsible authority for the Nelson Street project area within the Ringwood activity centre, south of Mullum Mullum Creek. It is relatively rare for the Minister for Planning to actually assume responsibility for a particular parcel of land, and this has come to be the case because of the works that were done on the Mullum Mullum Creek and the tunnel and so forth. The member is correct in saying that I am the responsible authority for this land located in a residential growth zone in the Ringwood activity centre.

The Maroondah planning scheme identifies the land. About 3000 square metres in this location has a discretionary height control of five storeys with a 3-metre setback from the street. The controls also identify that consolidated and larger sites in residential development areas, which this one is, may — and I underline 'may' — be considered for a higher scale of development. A planning permit for this land — which, as I indicated, is more than 8000 square metres in size — has been lodged with my department, the Department of Environment, Land, Water and Planning. The proposal is for a mixed-use development, including residential apartments, townhouses, a cafe and a gymnasium. The proposal includes three buildings of 7 and 8 storeys, but in conversation the member for Ringwood indicated to me that with car parking that would in effect amount to three 10-storey developments, plus nine 2-level townhouses.

The planning permit is being publicly advertised until 15 December, and after that time my department will review the application, including, obviously, any objections received. I indicate to the member that only after I have considered the advice of my department, consulted with the Maroondah City Council and taken into account all of the views of affected parties will I make a decision on this matter, because I think this is a unique and rather anomalous situation where I am the responsible authority. It is incumbent upon me to consult in a very proper and thorough way with the Maroondah council, to hear the views of the council officers and indeed to hear the views of the council itself before I make a fuller and deliberative decision on the matter. I thank the member for Ringwood for bringing this to my attention.

The member for South Barwon raised a matter for the Minister for Roads and Road Safety.

The member for Yan Yean raised a matter for the Minister for Roads and Road Safety.

The member for Thomastown raised a matter for the Minister for Roads and Road Safety.

The member for Bass also raised a matter for the Minister for Roads and Road Safety, and I will make sure that all those matters are brought to the minister's attention.

The member for Essendon raised a matter for the Premier. I will make sure that that matter is brought to the Premier's attention.

The member for Bentleigh raised a matter for the Minister for Sport, particularly around Moorabbin Oval — it was certainly a mud pit when I was there! I will raise that matter with the Minister for Sport.

The member for St Albans raised a matter for the Minister for Families and Children, and I will make sure that that matter is brought to the attention of the minister.

The member for Lowan raised a matter in relation to police staffing in one of her centres, and I will make sure that the Minister for Police has that matter brought to his attention.

Felicitations

Mr WYNNE (Minister for Planning) — I say finally that the Premier has asked me to pass on Christmas greetings and felicitations to all of the staff of the Parliament who do such a magnificent job — to Ray and his colleagues and to all of the staff who look after us here in the Parliament. They do a wonderful job for us, and we do not often acknowledge, as we should, all the fantastic support they provide to all of us here to do our jobs. On behalf of the Premier, we wish everybody a peaceful Christmas and a happy Christmas with their friends and family, and indeed a safe Christmas and a safe return to continue our work in 2016.

The DEPUTY SPEAKER — Order! I wish everybody — all my honourable friends, the clerks, the staff of the Parliament and my honourable friend the Speaker of the Legislative Assembly — all the best for Christmas. Have a safe holiday period. We all need a break after a long year, so please take care and have a good rest. The house is now adjourned.

House adjourned 5.46 p.m.

WRITTEN RESPONSES TO QUESTIONS WITHOUT NOTICE

Responses are incorporated in the form provided to Hansard

Construction, Forestry, Mining and Energy Union

Question asked by: **Mr Hodgett**
Directed to: **Minister for Ports**
Asked on: **8 December 2015**

RESPONSE TO SUPPLEMENTARY QUESTION:

The Government is not aware of any organisation that intends to 'wreak havoc' on the state's waterways.