PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Tuesday, 8 November 2016

(Extract from book 17)

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HANSARD150

1866–2016

Following a select committee investigation, Victorian Hansard was conceived when the following amended motion was passed by the Legislative Assembly on 23 June 1865:

> That in the opinion of this house, provision should be made to secure a more accurate report of the debates in Parliament, in the form of *Hansard.*

The sessional volume for the first sitting period of the Fifth Parliament, from 12 February to 10 April 1866, contains the following preface dated 11 April:

> As a preface to the first volume of "Parliamentary Debates" (new series), it is not inappropriate to state that prior to the Fifth Parliament of Victoria the newspapers of the day virtually supplied the only records of the debates of the Legislature.
>
> With the commencement of the Fifth Parliament, however, an independent report was furnished by a special staff of reporters, and issued in weekly parts.
>
> This volume contains the complete reports of the proceedings of both Houses during the past session.

In 2016 the Hansard Unit of the Department of Parliamentary Services continues the work begun 150 years ago of providing an accurate and complete report of the proceedings of both houses of the Victorian Parliament.

The Governor

The Honourable LINDA DESSAU, AM

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

The ministry

(to 9 November 2016)

Premier	The Hon. D. M. Andrews, MP
Deputy Premier, Minister for Education and Minister for Emergency Services	The Hon. J. A. Merlino, MP
Treasurer	The Hon. T. H. Pallas, MP
Minister for Public Transport and Minister for Major Projects	The Hon. J. Allan, MP
Minister for Small Business, Innovation and Trade	The Hon. P. Dalidakis, MLC
Minister for Energy, Environment and Climate Change, and Minister for Suburban Development	The Hon. L. D'Ambrosio, MP
Minister for Roads and Road Safety, and Minister for Ports	The Hon. L. A. Donnellan, MP
Minister for Tourism and Major Events, Minister for Sport and Minister for Veterans	The Hon. J. H. Eren, MP
Minister for Housing, Disability and Ageing, Minister for Mental Health, Minister for Equality and Minister for Creative Industries	The Hon. M. P. Foley, MP
Minister for Health and Minister for Ambulance Services	The Hon. J. Hennessy, MP
Minister for Training and Skills, Minister for International Education and Minister for Corrections	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 Consumer Affairs, Gaming and Liquor Regulation	The Hon. M. Kairouz, MP
Minister for Families and Children, and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Police and Minister for Water	The Hon. L. M. Neville, MP
Minister for Industry and Employment, and Minister for Resources	The Hon. W. M. Noonan, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
Minister for Agriculture and Minister for Regional Development	The Hon. J. L. Pulford, MLC
Minister for Women and Minister for the Prevention of Family Violence	The Hon. F. Richardson, MP
Minister for Finance and Minister for Multicultural Affairs	The Hon. R. D. Scott, MP
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms G. A. Tierney, MLC

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Minister for Training and Skills, and Minister for Corrections	The Hon. G. A. Tierney, MLC
Minister for Planning	The Hon. R. W. Wynne, MP
Cabinet Secretary	Ms M. Thomas, MP

Legislative Council committees

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

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

Legislative Council standing committees

Standing Committee on the Economy and Infrastructure — Mr Bourman, #Ms Dunn, Mr Eideh, Mr Elasmar, Mr Finn, Ms Hartland, Mr Leane, Mr Morris and Mr Ondarchie.

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

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

participating members

Legislative Council select committees

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

Joint committees

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

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

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The Hon. B. N. ATKINSON

Deputy President:
Mr K. EIDEH

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

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The Hon. G. JENNINGS

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Leader of the Opposition:
The Hon. M. WOOLDRIDGE

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

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

Leader of the Greens:
Mr G. BARBER

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

[2] Appointed 15 April 2015
[3] Resigned 27 May 2016
[1] Resigned 25 February 2015
[4] Appointed 12 October 2016

PARTY ABBREVIATIONS

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

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TUESDAY, 8 NOVEMBER 2016

Tuesday, 8 November 2016

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

ACKNOWLEDGEMENT OF COUNTRY

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

ROYAL ASSENT

Message read advising royal assent on 2 November to:

Corrections Legislation Amendment Act 2016
Estate Agents Amendment (Underquoting) Act 2016
Land (Revocation of Reservations — Regional Victoria Land) Act 2016
Legal Profession Uniform Law Application Amendment Act 2016
Melbourne College of Divinity Amendment Act 2016.

ALPINE RESORTS LEGISLATION AMENDMENT BILL 2016

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

For Mr JENNINGS (Special Minister of State), Mr Dalidakis 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 Alpine Resorts Legislation Amendment Bill 2016.

In my opinion, the Alpine Resorts Legislation Amendment Bill 2016, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The bill provides for the amalgamation of the Lake Mountain Alpine Resort Management Board and the Mount Baw Baw Alpine Resort Management Board into a single board that will have responsibility for managing both alpine resorts.

Human rights issues

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

Section 20 — property rights

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

Part 2 of the bill provides for the abolition of the Lake Mountain Alpine Resort Management Board and the Mount Baw Baw Alpine Resort Management Board and the creation of a new board, the Southern Alpine Resort Management Board, that will be responsible for managing both alpine resorts.

The abolition of an existing board could have the effect of depriving a person of their property, where that person had entered into a contract, lease, or other arrangement with that board, or who was owed a debt or other obligation by that board.

However, the intention of the bill is to replace the two existing boards with a new board that will be responsible for both resorts. The bill clearly sets out at clause 7 (new section 77 of the Alpine Resorts (Management) Act 1997) that, on commencement of the relevant provisions, any contracts, leases, arrangements, debts or obligations of the two existing boards will be transferred to the new board. As such, there will be no unlawful deprivation of property and the bill will not have an impact on the property rights of any person.

Accordingly, the bill is compatible with section 20 of the charter.

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

Hon. Gavin Jennings, MLC
Special Minister of State

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The primary purpose of this bill is to amend the Alpine Resorts (Management) Act 1997 to establish the Southern Alpine Resort Management Board that will have responsibility for managing both the Lake Mountain and Mount Baw Baw alpine resorts. The existing management boards of those two resorts will be abolished. The bill removes a reference to Mount Torbreck from Alpine Resorts Act 1983 as an area where an alpine resort may be declared, and also makes some minor statute law revisions.

Victoria's six alpine resorts are significant recreational and tourism assets, providing substantial economic benefits both to the state, and to local and regional communities in which they are situated. The winter 2015 end-of-season report prepared by the Alpine Resorts Co-ordinating Council reported that during the 2015 snow season, Victoria's six alpine resorts received 763 000 visitors and 1 387 000 visitor days. That report cites the National Institute for Economic and Industry Research estimate that the gross state product contribution of the 2015 snow season to Victoria was $671 million, resulting in a contribution to total Victorian employment of approximately of 6000 full-time equivalent jobs.

This is not the first time that one management board has been established to manage two alpine resorts. In 2004, a single management board was established to manage the Mount Buller and Mount Stirling resorts. As the then Minister for Environment, the Hon. John Thwaites, stated in his second-reading speech on the Alpine Resorts (Management) (Amendment) Bill 2004, 'This bill establishes a single board to manage and operate Mount Stirling and Mount Buller to achieve efficiencies and provide the capacity to achieve the government's vision for Mount Stirling …'.

Likewise, today it is the government's intention that the establishment of a single management board for the Lake Mountain and Mount Baw Baw resorts will build capability and scale to undertake integrated strategic planning for common issues faced by these resorts, particularly the impacts of climate change. Effective adaptation to climate change at this time will also assist in minimising the social and economic impact of climate change on areas surrounding the alpine resorts.

The establishment of a single board will also mitigate the high operating costs associated with the two resorts, thereby improving their financial sustainability. The government has subsidised the essential operating costs of the two small alpine resorts since 2004. Without this, the small resorts would be insolvent. The subsidies have escalated over time, and were $6.77 million in the 2014–15 financial year. A single management board will provide immediate cost savings by reducing duplication of back-of-office functions, professional advice and governance costs.

On 1 January 2016, the previous minister for environment and climate change, the Hon. Lisa Neville, MP, appointed the same individuals to be members of both the Lake Mountain and Mount Baw Baw alpine resorts management boards, and tasked them with investigating and reporting on options for the future of those resorts. The board members are currently undertaking extensive community consultation, and will report their findings back to government later in the year. Regardless of the findings of that investigation, providing for the merger of the two boards at this time also provides clarity in the duties of the board, and appropriate powers and functions to manage and position these two areas for the future.

Necessarily, the legislation provides for the abolition of the two old boards, and the removal of any existing members from office. All current members of the boards will be eligible for reappointment to the new board. Appointments to the new board may be made after the bill receives royal assent but before the act commences operation under section 13 of the Interpretation of Legislation Act 1984.

The bill provides that the new board will be the successor in law to the old boards, with all rights, property, assets, liabilities, obligations and staff of the old boards to be transferred to the new board. This extends to any leasing arrangements entered into by the boards, and to financial reporting requirements under the Financial Management Act 1994.

The bill also amends the Alpine Resorts Act 1983 to remove a reference to Mount Torbreck as a place where an alpine resort may be declared. Under that act the Governor in Council on the advice of the minister may declare Crown land (other than a national park) to be part of an alpine resort at any of the areas listed in the schedule to that act, namely Mount Hotham, Falls Creek, Mount Buller, Mount Stirling, Mount Baw Baw, Lake Mountain and Mount Torbreck. All of these areas have been declared to be alpine resorts, other than Mount Torbreck. The Land Conservation Council *Melbourne Area District 2 Review* recommended that the Mount Torbreck area should be deleted from the schedule to that act and be reserved under section 4 of the Crown Land (Reserves) Act 1978 as a natural features reserve. In 1997, the government of the day accepted this recommendation, but it has yet to be implemented. Removing this reference is a step towards implementing the recommendation.

In summary, this bill seeks to better position the Lake Mountain and Mount Baw Baw alpine resorts to face the impact of climate change on those areas, whilst improving the capacity, scale and financial sustainability of the new Southern Alpine Resort Management Board to be better able to foster the economic, social, recreational and environmental benefits that these areas provide to the state and to the local and regional communities in which they are situated.

I commend the bill to the house.

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

Debate adjourned until next day.

SENTENCING (COMMUNITY CORRECTION ORDER) AND OTHER ACTS AMENDMENT BILL 2016

Introduction and first reading

Received from Assembly.

Read first time for Mr HERBERT (Minister for Training and Skills) on motion of Mr Dalidakis; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Mr HERBERT (Minister for Training and Skills), Mr Dalidakis 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 Sentencing (Community Correction Order) and Other Acts Amendment Bill 2016.

In my opinion, the Sentencing (Community Correction Order) and Other Acts Amendment Bill 2016, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The purposes of the Sentencing (Community Correction Order) and Other Acts Amendment Bill 2016 (the bill) are to:

> limit the use of non-custodial orders by the courts, in particular, to restrict the use of non-custodial orders for particular serious offences and to limit the use of sentences of imprisonment combined with a community correction order;
>
> provide for statements on the reduction of sentences for guilty pleas;
>
> clarify the application of the historical homosexual conviction expungement scheme to the Children's Court; and
>
> make a range of other minor and technical amendments, to accurately reflect current law and practice.

The bill creates offence-specific limitations on the availability of community correction orders and other non-custodial orders which will see these orders not available, or available only subject to special reasons, for particular serious offences. These offence-specific limitations do not apply to juvenile offenders (those under 18 years of age). The right to a fair hearing, right to liberty and the protection from cruel, inhuman and degrading punishment are relevant to the limitations on the availability of community correction orders and non-custodial orders.

Additionally, the bill provides that community correction orders can only be combined with a term of imprisonment of one year or less ('a combined order'), rather than two years or less and courts must not fix a non-parole period as part of a combined order. The bill also provides that the higher courts will only be able to impose community correction orders of up to five years duration, rather than the maximum penalty for the particular offence.

Human rights issues

Protection from cruel, inhuman or degrading punishment (section 10) and right to liberty (section 21)

Section 10 of the charter relevantly provides that a person must not be punished in a cruel, inhuman or degrading way and section 21 of the charter provides that a person may not be deprived of his or her liberty, except in accordance with procedures established by law. Where a law is vague or unjust, a person's arrest or detention may be arbitrary even if it is lawful. Both charter rights are relevant to the offence-specific limitations on the availability of community correction orders and other non-custodial orders established by the bill.

This bill creates two categories of objectively serious offences — 'category 1 offences' and 'category 2 offences':

> 'category 1 offences' are the most serious offences — murder, causing serious injury intentionally or recklessly in circumstances of gross violence, rape, the most serious child sexual offences (including incest) and trafficking or cultivating a drug of dependence (large commercial quantity).
>
> The bill provides that a court sentencing a person convicted of a 'category 1 offence' must impose a custodial order other than a 'combined order', that is, a community correction order combined with a term of imprisonment under section 44 of the Sentencing Act 1991 (the sentencing act).
>
> 'category 2 offences' are other serious offences — manslaughter, child homicide, causing serious injury intentionally, kidnapping, arson causing death, trafficking or cultivating a drug of dependence (commercial quantity) and providing documents or information facilitating terrorist acts.
>
> A court sentencing a person convicted of a 'category 2 offence' must impose a custodial order (other than a combined order) unless the court finds that one of the special reasons provided for in the bill applies. These special reasons are consistent with existing section 10A of the sentencing act, which provides the special reasons that a court must find in order to depart from the statutory minimum sentence for prescribed offences, including manslaughter by gross violence or 'coward's punch' and violent offences against on-duty emergency workers and custodial officers.

In my view and, for the reasons that follow, provision in the bill for the imposition of a custodial order (other than a combined order) for 'category 1 offences' and for 'category 2 offences' (unless special reasons apply) does not limit rights under sections 10 and 21 of the charter. The bill ensures that long community correction orders are not used as a substitute for imprisonment and that custodial orders are imposed for the most objectively serious offences. These reforms aim to provide a logical, transparent and consistent approach to sentencing for some of the most serious offences in Victoria. I

consider that these amendments are an appropriate response to sentencing for the most serious criminal wrongdoing.

Category 1 offences

The bill provides that community correction orders or any lesser sentencing option will no longer be available to a court when sentencing offenders for a 'category 1 offence'. As listed above, the most serious offences in Victoria are included as a 'category 1 offence'. There will be no exceptions to the requirement to impose a custodial order for people convicted of a 'category 1 offence'. By requiring that a court impose a custodial order other than a combined order, the bill introduces a requirement arguably akin to a statutory minimum sentence for 'category 1 offences'.

International courts have, in certain circumstances, viewed statutory minimum sentences as arbitrary or excessive when a court has been compelled to impose a grossly disproportionate sentence. However, unlike statutory minimum sentences, there is no prescribed minimum sentence and the court retains full discretion as to the length of the custodial order imposed. This ensures that a proportionate sentence is applied taking into account the particular offence, level of criminality and any aggravating or mitigating factors.

I also note that the High Court has consistently held that provisions imposing mandatory minimum sentences, which this bill does not do given the absence of a minimum length of imprisonment for 'category 1 offences' and the special reasons provisions for 'category 2 offences', do not constitute a usurpation of judicial power and, as such, are not constitutionally objectionable.

In my opinion, the restrictions imposed on a court when sentencing a category 1 offence do not compel a court to impose an arbitrary sentence, nor a sentence that is grossly disproportionate to the offending conduct relevant to that sentence. Offences categorised as a 'category 1 offence' are Victoria's most serious offences. These offences are exhaustively listed and involve the highest level of culpability which is reflected by maximum sentences of either life imprisonment, 25 years or 20 years imprisonment. I also note that there are other fundamental procedures and requirements under Victorian law that protect against arbitrary detention, and disproportionate and unjust sentences. To the extent that there is any limitation of the protection from cruel, inhuman or degrading punishment and right to liberty in relation to 'category 1 offences', I consider that that limitation is reasonable and justifiable in accordance with section 7(2) of the charter.

Category 2 offences

The bill acknowledges that a custodial order may not be an appropriate sentence for all offenders convicted of a 'category 2 offence'. If a court finds that a statutory special reason exists, it has full discretion to impose a community correction order, including a community correction order combined with a term of imprisonment. The special reasons are therefore a form of safeguard, which exempt a court from imposing a custodial sentence where justified by the personal circumstances of the offender or individual facts of the case.

The special reasons provided for in the bill include if the offender has assisted or undertaken to assist in the investigation or prosecution of an offence, or the court imposes a court secure treatment order or residential treatment order. Special reasons also exist for offenders aged over 18 but under 21 at the time of offence, who can prove a particular psychosocial immaturity, and for offenders who can prove impaired mental functioning.

In addition, a court may impose a non-custodial order if there are substantial and compelling circumstances that justify not imposing a custodial order, having regard to Parliament's intention that a custodial order should ordinarily be made for a 'category 2 offence' and whether the cumulative impact of the circumstances of the case justify departure from such a sentence. The provision for special reasons maintains judicial discretion and provides sufficient safeguards, where the imposition of a custodial sentence for a 'category 2 offence' may be arbitrary or unwarranted, given the particular vulnerabilities of the offender.

Right to a fair hearing (section 24)

Section 24 of the charter provides that a person charged with a criminal offence has the right to have the charge decided by an independent and impartial court after a fair hearing. Nothing in the bill limits the right to a fair hearing as provided for in the charter.

As noted above, the courts retain full sentencing discretion to impose a custodial order (other than a combined order) under division 2 of part 3 of the sentencing act in relation to a 'category 1 offence'. Although the bill prohibits non-custodial sentences for a 'category 1 offence', the sentencing court has discretion to impose any custodial sentence without prescribing the duration of that sentence. In addition, a court may release the offender into the community if it does not consider that additional time in custody is required, for example, where an offender demonstrates strong factors in mitigation beyond that already spent on remand.

In relation to 'category 2 offences', the courts also have the option of imposing a non-custodial sentence if satisfied that a special reason exists. The special reasons provisions allow the courts to take account of factors that reduce an offender's culpability to such a degree that the offender should not be subject to a custodial sentence. This protects against the risk of a disproportionate sentence being imposed and ensures that the special circumstances of an offender may be considered by the sentencing court in respect of 'category 2 offences'.

For these reasons, I consider that the bill does not limit section 24 of the charter.

The Hon. Steve Herbert, MP
Minister for Corrections

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The government has been concerned about sentencing practices since the cumulative impact of the previous government's reforms has become clear. We supported introduction of the community correction order in 2012 and the abolition of suspended sentences and parole reforms when in opposition. Prior to the 2014 election, the previous government passed a suite of reforms which expanded the use of community correction orders.

The government agrees that community correction orders are a valuable sentencing tool, but believes that the former government's broad regime went too far.

In particular, the government is concerned about the use of community correction orders in relation to serious offending, where a term of imprisonment would be a more appropriate sentence given the gravity of the offence and culpability of the offender.

The bill will restrict the availability of community correction orders and other non-custodial orders for the most serious offences, and ensure that the availability of community correction orders is more consistent with community expectations. The bill will also make minor and technical amendments to the Sentencing Act 1991, Corrections Act 1986 and the Bail Act 1977.

Sentencing reform

The government considers that it is appropriate that a custodial sentence should be imposed for the most serious criminal offences on the Victorian statute book. For other serious offences, the courts may only impose a non-custodial order in very limited circumstances. This sends a strong message to perpetrators that the government takes criminal offending seriously and such behaviour will be met with time in jail.

Category 1 offences

The bill will introduce two new classes of serious offences into the Sentencing Act 1991 — 'category 1 offences' and 'category 2 offences'.

'Category 1 offences' are objectively the most serious criminal offences in Victoria. They include murder, causing serious injury intentionally or recklessly in circumstances of gross violence, rape, the most serious child sexual offences (including incest), and trafficking or cultivating a drug of dependence (large commercial quantity).

The bill will provide that when sentencing a person for a 'category 1 offence' a court must impose a custodial order. A term of imprisonment combined with a community correction order (a 'combined order') is prohibited. There will be no exceptions to the requirement to impose a custodial order.

Category 2 offences

'Category 2 offences' are other serious criminal offences and include manslaughter, child homicide, causing serious injury intentionally, kidnapping, arson causing death, trafficking or cultivating a drug of dependence (commercial quantity), and providing documents or information facilitating terrorist acts.

The bill will provide that a court must impose a custodial order (other than a combined order) when sentencing a person for a 'category 2 offence', unless the court finds that one of the special reasons provided for in the bill exists. This will mean that if the court finds that a special reason exists, it will retain full sentencing discretion and may impose a community correction order, combined order or other lesser non-custodial order.

The special reasons provided for in the bill will mirror existing section 10A of the Sentencing Act 1991, which provides the special reasons that a court must find in order to depart from the statutory minimum sentence for particular offences, such as gross violence offences. The special reasons are an important legislative safeguard, which will exempt a court in limited circumstances from imposing a custodial sentence for a 'category 2 offence' where justified by the particular facts of the case or circumstances of the offender.

Special reasons include if the offender has assisted or undertaken to assist in the investigation or prosecution of an offence. Special reasons may also exist where the offender can prove impaired mental functioning or where the offender is between 18 and 21 years at the time of the offence, and can prove a particular psychosocial immaturity, or where there are substantial and compelling reasons that justify not imposing a custodial order.

Community correction orders combined with imprisonment

The previous government amended the Sentencing Act 1991 in 2014 to expand the use of community correction orders combined with a term of imprisonment. Prior to these changes, only a sentence of imprisonment of three months or less could be combined with a community correction order. Combined orders were used for less serious offences compared to cases that received a longer sentence of imprisonment with parole. The 2014 amendments raised the three-month limit to two years and blurred the sentencing options further by expressly stating that a community correction order could be imposed where a suspended sentence would have previously been considered suitable.

The government considers that the 2014 reforms have led to an inappropriate use of community correction orders in serious cases. Since 2014, the number of offenders on a combined order has steadily increased. In 2015 there were 2028 combined orders imposed by the Magistrates Court, compared with 1013 imposed in 2014. Similarly, there were 356 combined orders imposed by the higher courts in 2015, compared with 96 combined orders imposed in 2014.

The bill will reduce the availability of combined orders by reducing the length of a sentence of imprisonment that may be combined with a community correction order to one year or less and provide that a court must not fix a non-parole period as part of the sentence. This will ensure that where a combined order is imposed, an offender cannot be released on parole before commencing the community correction order component of their sentence.

The bill also preserves the role of the parole system to oversee the discretionary release of prisoners, to monitor reintegration into the community and apply strict enforcement powers where quick return to jail is required.

Limiting community correction orders imposed by the higher courts to five years

Currently, the higher courts may impose a community correction order up to the length of the maximum term of

imprisonment for the relevant offence, which could be, for example, up to 25 years in the case of aggravated burglary.

The bill will provide that the maximum length of a community correction order that may be made by the higher courts for one or more offences is five years. This is consistent with the maximum length of a community correction order that may be imposed by the Magistrates Court.

Five years is an adequate upper limit for a community correction order. Lengthy community correction orders should not be used as a substitute for imprisonment for serious offending.

Statement about sentencing discount on guilty pleas

Section 6AAA of the Sentencing Act 1991 requires a court to state the sentence and non-parole period (if any) that it would have imposed but for the offender's plea of guilty. This provision is designed to encourage early guilty pleas and increase transparency in the sentencing process by identifying the sentencing discount afforded to offenders who plead guilty. However, as noted by the Sentencing Advisory Council in a recent report, the circumstances when a court must state the sentencing discount requires some clarification.

The bill therefore clarifies that a section 6AAA statement must be made in relation to orders to imprison made under section 7(1)(a) of the Sentencing Act 1991, combined orders and community correction orders of two years or more duration.

Amendments to the historical homosexual conviction expungement scheme

The Sentencing Amendment (Historical Homosexual Convictions Expungement) Act 2014 commenced on 1 September 2015. Two issues have arisen since the historical homosexual conviction expungement scheme commenced and require legislative amendment.

Firstly, the bill will clarify that part 8 of the Sentencing Act 1991, which establishes the historical homosexual conviction expungement scheme, applies to the Children's Court and allows a Children's Court conviction to be expunged.

Secondly, the bill will clarify the definition of 'data controller' to more accurately describe the officer responsible for official records at the courts and VCAT, for the purposes of the historical homosexual conviction expungement scheme.

Minor and technical amendments to reflect current law and practice

The bill will make a range of minor and technical amendments. The bill will repeal provisions in the Bail Act 1977 that require written notice of a trial date to be provided to the accused and any sureties, as these requirements are redundant and do not reflect the current practice of service of a trial indictment. Other minor amendments include updating references to repealed sections of the Corrections Act 1986 and the Sentencing Act 1991.

Conclusion

The government has examined sentencing practices for the most serious offences under Victorian law following the previous government's reforms in 2014. The sentencing reforms in this bill take account of the harm caused to victims and the culpability of persons that commit these terrible crimes. The government has targeted these reforms at our most serious offences. They reflect the community expectation that for some of these cases imprisonment is the only option.

The previous government's campaign to broaden the use of community correction orders went too far. The Andrews government will ensure that our sentencing laws reflect community views and get the balance right.

I commend the bill to the house.

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

Debate adjourned until next day.

STATE TAXATION ACTS FURTHER AMENDMENT BILL 2016

Introduction and first reading

Received from Assembly.

Read first time for Ms PULFORD (Minister for Agriculture) on motion of Mr Dalidakis; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Ms PULFORD (Minister for Agriculture), Mr Dalidakis 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 State Taxation Acts Further Amendment Bill 2016.

In my opinion, the State Taxation Acts Further Amendment Bill 2016, as introduced to the Legislative Council, is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

Overview

The State Taxation Acts Further Amendment Bill 2016 (the bill) amends the Land Tax Act 2005 to align the relevant date for valuations for all types of land and to make a minor correction to the land tax rate table for absentee trusts. The Payroll Tax Act 2007 is amended to update the payroll tax exemption for motor vehicle allowances to align with commonwealth income tax legislation. Amendments to the Valuation of Land Act 1960 include requiring the inclusion of the Australian valuation property classification code in a notice of valuation. The bill also provides a legislative basis for the valuer-general to accept a late nomination to undertake biennial land valuations for non-rateable leviable lands on behalf of a council, and it clarifies the definition of 'general valuation'. Finally, part 9B of the Planning and Environment Act 1987 (Planning and Environment Act) is amended to

make further provision for the imposition of the growth areas infrastructure contribution (GAIC) on the issue of a statement of compliance relating to a plan of subdivision of land.

Human rights issues

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

Right to property

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

GAIC is a one-off contribution that helps to provide vital infrastructure in Melbourne's newest suburbs. GAIC is payable on certain 'events' usually associated with urban property development. These events usually include buying, subdividing, and applying for a building permit on large blocks of land located within specified 'contribution' areas.

The objective of the amendments to part 9B of the Planning and Environment Act is to reduce the unintended loss of GAIC revenue currently occurring as a result of the unintended operation of the excluded subdivision provisions for a utility installation, transport infrastructure or other public purpose. The bill narrows the scope of these provisions so that they are consistent with both the policy position that GAIC is a broad hectare contribution and that there is no general exemption from GAIC for land used for public purposes.

Further, the bill introduces an apportionment provision to ensure that where a subdivision occurs in relation to land (whether the subdivision is an excluded subdivision or not) or affects land on which there is a deferred GAIC liability, that a GAIC liability can be immediately apportioned and attached to the resulting child titles.

To the extent that a GAIC liability might be imposed on a property developer who is a natural person, the amendments to part 9B of the Planning and Environment Act may engage the right to property, since he or she will no longer enjoy the benefit of the unintended application of the excluded subdivision provisions. Also, the commissioner of state revenue (commissioner) will now have the legislative power to apportion a GAIC liability between any resulting child land titles as a result of any subdivision (including excluded subdivisions).

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

The amendments to part 9B engage, but do not limit section 20 of the charter. The proposed amendments are not arbitrary because they are precisely formulated to ensure that part 9B operates in accordance with the policy that has always underpinned the GAIC regime. Furthermore, a GAIC liability determined in accordance with the amendments made to part 9B fall under the Taxation Administration Act 1997, which establishes the commissioner's powers and obligations, taxpayers rights of objection, review, appeal and recovery, and provides a framework to protect the confidentiality of tax-related information. Therefore, a natural person developer will not be deprived of his or her property other than in accordance with the law.

Retrospective operation of criminal laws

Section 27 of the charter provides that a person has the right not to be prosecuted or punished for things that were not criminal offences at the time they were committed.

Although the bill does not amend any criminal laws, it should be noted the amendment to the Payroll Tax Act 2007 to update the payroll tax exemption for motor vehicle allowances to align with commonwealth income tax legislation, will be taken to have commenced on 1 July 2016, and thus operates retrospectively. A retrospective commencement date is necessary, and to the taxpayer's advantage, because it allows for the application of the motor vehicle allowances across the 2016–17 financial year, and ensures there is no increase in compliance costs for employers as a result of the commonwealth changes.

Finally, the bill will include a savings provision in relation to the amendments made to part 9B of the Planning and Environment Act to ensure that applications for the issue of a statement of compliance made prior to the bill being introduced into Parliament, but not issued until after the commencement, are dealt with under the law as it applied prior to the amendments. This savings provision will ensure that a person who lodged their application before becoming aware of the amendments is not unfairly impacted.

Jaala Pulford, MLC
Deputy Leader of the Government in the Legislative Council

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

I am pleased to introduce this bill which amends Victoria's taxation and valuation laws including Land Tax Act 2005, Payroll Tax Act 2007, Planning and Environment Act 1987 and the Valuation of Land Act 1960.

These amendments will help to ensure that these laws continue to operate effectively to support the Victorian government programs and initiatives, which maintain Victoria's strong economic position and contribute to the wellbeing of the Victorian community.

Land tax is calculated based on the site value of land at a relevant date. Currently the relevant date differs depending on how the valuation of land is obtained. In Victoria, valuations for land tax purposes can be obtained in two ways: either as part of the general valuation carried out by municipal councils or the valuer-general every two years, or for land not included in the general valuation, by the State Revenue Office requesting a valuation of land directly from the valuer-general. This bill will amend the Land Tax Act 2005 to align the relevant valuation date for all land, regardless of how it is obtained. This will be the 1 January in every even

year, or the return date of any supplementary valuation that is made before 1 January. Introducing a consistent valuation date will help to simplify Victoria's land tax system, contributing to a more effective and sustainable taxation framework overall.

This bill also amends the Land Tax Act 2005 to correct a typographical error in the land tax table for absentee trusts. This amendment will apply from 1 January 2017 to ensure that rate applies correctly for the 2017 land tax year.

Cutting red tape and reducing regulatory burden for business is a key priority for the Andrews government. To support this priority, this bill will amend the exempt motor vehicle allowance rate in the Payroll Tax Act 2007. This is the rate up to which employers can claim a payroll tax exemption on motor vehicle allowances paid to their employees. Until recent changes to commonwealth legislation, this rate was aligned with the rate of motor vehicle expenses which can be deducted for federal income tax purposes. This amendment will realign these rates retrospectively from 1 July 2016 to ensure there is no increase in compliance costs for Victorian business as a result of the commonwealth changes.

Melbourne is growing faster than any city in Australia. The Andrews government recognises that the key to creating thriving communities is to balance livability with health, education and infrastructure.

The growth areas infrastructure contribution known as GAIC is a charge designed to contribute to the funding of essential state infrastructure in growth areas. It is a one-off contribution payable on certain 'events' usually associated with urban property development. These are usually buying, subdividing, and applying for a building permit on large blocks of land.

Not all GAIC events will result in an immediate liability, with certain subdivisions being treated as 'excluded subdivisions'. Under the current provisions where a subdivision qualifies as an excluded subdivision GAIC is not payable until the lots created by that subdivision are later sold, further subdivided or the landowner makes an application for a building permit to use or develop the land.

However, the GAIC provisions currently operate in an unintended way to mean that GAIC may never be paid on certain lots or parcels in an excluded subdivision. This effectively reduces the area on which landowners pay GAIC, making GAIC payable on a net developable area basis, rather than being payable on a broad hectare basis as intended.

This bill will introduce amendments, which will allow for the subdivision of land for a utility installation or public purpose land, to trigger GAIC only on the utility installation or public purpose land, without triggering GAIC on the remaining land within that subdivision. The provisions will operate so that GAIC is payable on the public purpose land within 3 months of subdivision. However, GAIC will not be payable on the remaining land until it is later sold, subdivided or an application for a building permit is made. To ensure an equitable transition to the new arrangements, the amendments will not apply where a person has applied for certification of a subdivision prior to the amendments being introduced into Parliament. This amendment will also be supported by new provisions, which expressly allow for a GAIC liability to be apportioned across child titles when land (parent title) has been subdivided.

These amendments are intended to encourage landowners to subdivide land at the time it is needed for a particular public purpose. It will also ensure that landowners make the appropriate contribution to funding essential state infrastructure in growth areas by ensuring GAIC is payable on a broad hectare basis as intended.

To complement these amendments the exemption that currently applies to the acquisition of land by a public authority or a municipal council will be removed to ensure the new provisions apply equitably across all landowners. This bill will also make amendments to better target the other excluded subdivision provisions, by ensuring subdivisions for a relevant purpose are only excluded if the subdivision is solely for the excluded purpose.

The Valuation of Land Act 1960 establishes the framework for the administration of land valuations in Victoria, which deliver the equitable application of council rates, land tax and fire services property levy across the state.

This bill makes a number of minor amendments to the Valuation of Land Act 1960, to deliver greater certainty and consistency across various parts of the act and increase the transparency of land valuation process in Victoria.

Prior to the introduction of the fire services property levy, councils were only required to value rateable land within their municipality. However, when the fire services property levy was introduced, this requirement was extended to include the valuation of non-rateable leviable land. Councils can now also be directed to value land outside their municipal boundary for the purposes of the levy.

As a result of these changes the definition of 'general valuation' in the Valuation of Land Act 1960 was updated in 2012 to include the valuation of rateable land within a municipal boundary, or non-rateable land, both inside or outside a municipal boundary. This bill makes a minor amendment to confirm that the definition of 'general valuation' can include a valuation which comprises both categories of land, and not just one or the other. This amendment has the potential to reduce unnecessary administrative and compliance costs by increasing certainty around the application of the current definition.

Under the Valuation of Land Act 1960 municipal councils have the option to nominate the valuer-general to complete the general valuation on both rateable and non-rateable leviable land. Nominations must be received by the valuer-general by 30 June in the even year prior to the general valuation.

Currently the valuer-general may accept a late nomination in relation to the valuation of rateable land within a municipality, but there is no express provision which allows a late nomination in relation to the valuation of non-rateable leviable land. A late nomination may be necessary where a council is unable to carry out the valuation due to unforeseen difficulties.

To achieve consistent treatment across both categories of land, this bill will amend the Valuation of Land Act 1960 to ensure a late nomination can also be lodged in relation to the valuation of non-rateable leviable land.

Following the introduction of the fire services property levy, the Valuation of Land Act 1960 was also amended to require that an Australian valuation property classification code be assigned to land when it was valued. The Australian valuation property classification code is used to determine which rate should be applied when calculating the levy. If a landowner disagrees with the Australian valuation property classification code assigned to the property they can lodge an objection to the valuation.

This bill will amend the Valuation of Land Act 1960 to require the notice of valuation provided to landowners to specify the Australian valuation property classification code assigned to the property. The new requirement will enhance the transparency of land valuations, and make it easier for landowners to determine whether their land has been classified correctly. The new requirement will apply from 1 July 2018 to provide councils with adequate time to implement the new arrangements.

I commend the bill to the house.

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

Debate adjourned until next day.

TRANSPORT (COMPLIANCE AND MISCELLANEOUS) AMENDMENT (ABOLITION OF THE PENALTY FARES SCHEME) BILL 2016

Introduction and first reading

Received from Assembly.

Read first time for Ms PULFORD (Minister for Agriculture) on motion of Mr Dalidakis; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Ms PULFORD (Minister for Agriculture), Mr Dalidakis 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 Transport (Compliance and Miscellaneous) Amendment (Abolition of the Penalty Fares Scheme) Bill 2016.

In my opinion, the Transport (Compliance and Miscellaneous) Amendment (Abolition of the Penalty Fares Scheme) Bill 2016 (the bill) as introduced to the Legislative Council is compatible with human rights as set out in the charter. I base my opinion on the reasons outlined in this statement.

The bill amends the Transport (Compliance and Miscellaneous) Act 1983 to abolish the on-the-spot penalty fares scheme, and to make minor and technical changes.

No charter rights are relevant to the amendments made by the bill and, as such, no charter rights are limited by the bill.

The Hon. Jaala Pulford, MP
Minister for Agriculture

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

This is an important bill that supports the implementation of the government's commitment to commence a simpler, fairer and more effective public transport fare enforcement system on 1 January 2017.

The Andrews Labor government undertook a review of the penalty system due to concerns expressed by members of the community that the current system was not providing the fair, simple and effective system we all agree it should. The review was backed by community legal organisations, the public transport ombudsman and the Victorian Ombudsman.

Much of the community and media criticism was focused on the penalty fares scheme that was introduced by the previous government in 2014.

Fare evasion is currently at a low 4.1 per cent which can be attributed to a range of interventions including an increase in the number of authorised officers coming onto the system and a targeted communications campaign.

The government's review found that whilst penalty fares, together with more authorised officers and better communications, may have contributed to the decrease in fare evasion, it has been at the expense of fairness, has resulted in perverse effects, and works against the principle of supporting fare compliance not just penalising non-compliance.

In particular, the scheme has the perverse effect of encouraging deliberate fare evasion, due to the fact that the $75 fine is discounted compared to the normal $229 infringement penalty. It is also anonymous, removing the risk of escalating sanctions being applied to recidivists and the stigma associated with being convicted as a fare evader.

The penalty fares scheme discriminates against people who do not have credit or debit cards or who cannot afford the up-front $75 cost. As a result, some of the most vulnerable members of the community are being caught up in the infringements system at great social and financial cost.

This 'one size fits all' approach to compliance and enforcement goes against behavioural economic research that shows that only about 8 per cent of people who fare evade do so deliberately.

People are reporting that even when they do the right thing, they are scared that they have made an inadvertent mistake and will be picked up by an authorised officer.

These issues, together with a range of other problems identified in the broader ticketing and infringements areas, have had the effect of undermining confidence in the public transport ticketing enforcement system.

The government is acting to restore confidence.

The changes being implemented to the enforcement system through the deployment of technology and more transparent, better resourced, systematic processes, aim to appropriately target recidivist offenders while providing some leniency to people who are 'inadvertent non-compliers'. These changes will improve fairness and equity outcomes as well as reducing the underlying threats to fare box revenue.

The bill supports this by providing for the abolition of the penalty fares scheme. It provides for various sections in part VII of the Transport (Compliance and Miscellaneous) Act 1983 to be repealed.

I commend the bill to the house.

Debate adjourned for Mr O'DONOHUE (Eastern Victoria) on motion of Mr Ondarchie.

Debate adjourned until Tuesday, 15 November.

MEDICAL TREATMENT PLANNING AND DECISIONS BILL 2016

Introduction and first reading

Received from Assembly.

Read first time for Ms MIKAKOS (Minister for Families and Children) on motion of Mr Dalidakis.

PETITIONS

Following petitions presented to house:

Deep Creek boat ramp

To the Legislative Council of Victoria:

The petition of constituents in the Northern Victoria electorate draw to the attention of the house the concerns of the Lower Moira community that the Andrews Labor government will deny them boating access to Deep Creek and the Murray River by removing the boat ramp at Lower Moira.

The petitioners therefore request the Andrews Labor government to upgrade the boat ramp instead and instruct Parks Victoria to stop locking a gate on frontage land that denies boat use access to the ramp on Deep Creek.

By Mr O'SULLIVAN (Northern Victoria) (221 signatures).

Laid on table.

Equal opportunity legislation

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council our objection to the moves by the Victorian government to remove or restrict the freedom of faith-based schools and other organisations to employ staff who uphold the values of the organisation and to force faith-based organisations to hire staff who are fundamentally opposed to what the organisation stands for, thereby:

I. denying those organisations the freedom to operate in accordance with their beliefs and principles;

II. denying parents the ability to choose to send their children to schools that are able to give them the values-based education their parents are looking for; and

III. undermining Victoria's diverse, pluralist, multicultural society, which supports the right of people of many different faiths to establish institutions in accordance with their faith.

The petitioners therefore call upon the Legislative Council of Victoria to oppose these plans by the Victorian government and to uphold freedom of association and freedom of belief in Victoria.

By Dr CARLING-JENKINS (Western Metropolitan) (191 signatures).

Laid on table.

Ormond railway station

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

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

the foundation deck for the development of an up to 13-storey residential tower above the Frankston railway line on North Road above Ormond station has been constructed without informing or consulting the local community;

established low-rise suburbs should not be destroyed and permanently scarred by the construction of inappropriate, high-rise overdevelopments on railway land, particularly in the absence of community consultation; and

the local community does not support or consent to the construction of a residential tower of up to 13 storeys above Ormond station.

We therefore demand the Andrews Labor government abandon its plans for the inappropriate overdevelopment of the Ormond station site and instead proceed with a development that is smaller in scale and more in keeping with the low-rise village atmosphere of Ormond.

By Mr DAVIS (Southern Metropolitan) (4 signatures).

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 15

Mr DALLA-RIVA (Eastern Metropolitan) presented *Alert Digest* No. 15 of 2016, including appendices.

Laid on table.

Ordered to be published.

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Machinery of government changes

The Clerk, pursuant to standing order 23.30(2)(b), presented government response.

Laid on table.

ELECTORAL MATTERS COMMITTEE

Conduct of 2014 Victorian state election

The Clerk, pursuant to section 36(1A) of the Parliamentary Committees Act 2003, presented government response.

Laid on table.

PAPERS

Laid on table by Clerk:

CenITex — Report, 2015–16.

Coronial Council of Victoria — Report, 2015–16.

Court Services Victoria — Report, 2015–16.

Game Management Authority — Report, 2015–16.

Judicial College of Victoria — Report, 2015–16.

Office of Public Prosecutions — Report, 2015–16.

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

Cardinia Planning Scheme — Amendment C188.

Casey Planning Scheme — Amendment C222.

Colac Otway Planning Scheme — Amendment C93.

Greater Shepparton Planning Scheme — Amendment C177.

Melbourne Planning Scheme — Amendment C299.

Mornington Peninsula Planning Scheme — Amendment C161.

Moyne Planning Scheme — Amendment C60.

Port Phillip Planning Scheme — Amendment C127.

Southern Grampians Planning Scheme — Amendment C50.

Stonnington Planning Scheme — Amendment C244.

Victoria Planning Provisions — Amendment V9.

Warrnambool Planning Scheme — Amendment C83.

Yarra Planning Scheme — Amendment C197 (Part 1).

Professional Standards Council Victoria — Report 2015–16.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rules Nos. 123, 127, 132 and 133.

Legislative Instruments and related documents under section 16B in respect of —

Education and Training Reform Act 2003 — Amendments to Ministerial Orders 55 and 382 on Structured Workplace Learning and Work Experience Arrangements, dated 3 November 2016.

Education and Training Reform Act 2003 — Amendments to Ministerial Orders 723 and 724 on Structured Workplace Learning and Work Experience Arrangements, dated 31 October 2016.

Victorian Civil and Administrative Tribunal — Report, 2015–16.

Victorian Institute of Forensic Medicine — Report, 2015–16.

Victorian Law Reform Commission — Report, 2015–16 *(Ordered to be published)*.

A proclamation of the Governor in Council fixing operative dates in respect of the following act:

Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction) Act 2016 — Division 1 of Part 8 — 31 October 2016; remaining provisions — 1 November 2016 *(Gazette No. S325, 25 October 2016)*.

PRODUCTION OF DOCUMENTS

The Clerk — I have received the following letter from the Attorney-General relating to the resolution of the Council of 12 October 2016 relating to the Punt Road Public Acquisition Overlay Advisory Committee report:

> I refer to the Legislative Council's resolution of 12 October 2016 ordering the production of the Punt Road Public Acquisition Overlay Advisory Committee (report).
>
> I also note the committee's terms of reference, which provide that the report and recommendations will be made public along with the Minister for Planning's decision. The government has also made an election commitment to this effect. As the minister is still considering the report and its recommendations, and no decision has been made by the minister in relation to the report, the government considers it premature to publicly release the report.
>
> In this context, the government has assessed the report against the factors listed in my letter to you of 14 April 2015 and 29 April 2016, which note the limits on the Council's power to call for documents and the government's approach to claiming executive privilege.
>
> In final satisfaction of the Council's order, the government has determined to not produce the report at this time. The government considers that producing the report at this time would be prejudicial to the public interest.
>
> Accordingly, the government, on behalf of the Crown, makes a claim of executive privilege in relation to the report on the basis that its disclosure would reveal the deliberative processes of cabinet or the high-level confidential deliberative processes of the executive government or otherwise jeopardise the necessary relationship of trust and confidence between ministers and public officials.

Ordered that letter be considered next day on motion of Mr DAVIS (Southern Metropolitan).

BUSINESS OF THE HOUSE

General business

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

> That precedence be given to the following general business on Wednesday, 9 November 2016:
>
> (1) order of the day 26, resumption of debate on motion for a committee reference into Parkville and Malmsbury youth justice centres;
>
> (2) notice of motion given this day by Mrs Peulich in relation to the Minister for Corrections;
>
> (3) order of the day 2, resumption of debate of the Equal Opportunity Amendment (Equality for Students) Bill 2016;
>
> (4) order of the day 31, resumption of debate on motion relating to a moratorium and investigation of the Safe Schools program in primary schools;
>
> (5) notice of motion 329 standing in the name of Mr Ondarchie in relation to StartCon Melbourne; and
>
> (6) order of the day 28, resumption of debate on motion relating to Victoria Police resources.

Motion agreed to.

LAW REFORM, ROAD AND COMMUNITY SAFETY COMMITTEE

Reporting date

Mr PURCELL (Western Victoria) — By leave, I move:

> That the resolution of the Council of 9 December 2015 requiring the Law Reform, Road and Community Safety Committee to inquire into and report by 30 November 2016 on the impacts of lowering the probationary driving age to 17 be amended so as to now require the committee to present its report by 31 March 2017.

Motion agreed to.

MINISTERS STATEMENTS

Youth justice centres

Ms MIKAKOS (Minister for Youth Affairs) — I rise to update the house on the Andrews Labor government's new suite of youth justice measures, including 41 new staff positions. A comprehensive plan to address violent youths will see increased staffing and management supervision to manage the risks at the Malmsbury Youth Justice Centre and the Parkville youth justice precinct in Melbourne. This increase is in addition to up to 60 new staff expected to commence work across youth justice by the end of the year. Recruitment for the new positions has started straightaway.

We are sending a clear message to young people in custody that violence will not be tolerated. Assaulting staff is unacceptable, and there will be serious consequences. Any assault on a staff member and any other serious incident will now be reported to the Youth Parole Board to determine eligibility for parole. We will also increase the consequences for assaulting youth justice custodial staff. Young people coming into the system display some extremely complex behaviours, which is why we are also bringing in experts in clinical psychology to address the causes of violent behaviour among young people in these facilities.

The Labor government is giving those on the front line the resources they need to deal with a small but violent group of young people in our youth justice facilities. My colleague in the other place Mary-Anne Thomas, the member for Macedon, has been a strong advocate for this additional investment and more jobs in her area. With many of the employees of the Malmsbury Youth Justice Centre living in her local area, she has been a loud voice for their interests.

In stark contrast, the previous Liberal government took an axe to youth justice. They cut 20 positions out of the youth justice system and had no proper staffing plan in place for the facility at Malmsbury. We are fixing the mess left by the Liberals by giving staff what they need to prevent violence and respond to dangerous situations. Unlike the previous government, which slashed 20 full-time positions from the youth justice system, we have implemented rolling recruitment to ensure vacancies are filled as quickly as possible. Now we are going above and beyond that by creating new positions.

The PRESIDENT — Order! I did not intervene during the ministers statement on this occasion, but I would not want to see ministers statements in future reflect on previous governments. The concept of ministers statements is to report on a new initiative, which indeed the first part of Ms Mikakos's statement clearly addressed and was appropriate, but to reflect on previous governments is not in keeping with our expectations of ministers statements.

Ms MIKAKOS — On a point of order, President, in relation to that precedent, on occasion initiatives that governments undertake and are talked about in the context of ministers statements are undertaken in a particular context. As I have explained to the house, we do not operate in a bubble where everything started in November 2014. It is appropriate that we would be seeking to give some historical context as to why a particular policy initiative may well be required by our government. It is in that light, in giving that context, that I made those references.

The PRESIDENT — Order! I cannot recall a ministers statement that praises a previous government. There are two sides to this coin, and from my point of view I simply provide the warning that ministers should err on the side of caution in providing such context.

MEMBERS STATEMENTS

Federal member for Indi

Ms LOVELL (Northern Victoria) — Harassment, bullying or violence towards women is something that all members of Parliament should oppose, so it is concerning that the member for the federal seat of Indi, Cathy McGowan, not only condoned the harassment of a Wangaratta-based woman and mother but also participated by further exacerbating the harassment and bullying.

During the federal election campaign the *Benalla Ensign* wrongly reported that Sophie Mirabella had physically pushed Ms McGowan. When approached for comment Ms McGowan should have spoken out and told the truth, which would have immediately killed the story, as she was asked to do at the time. But instead of doing the right thing, Ms McGowan chose to use the situation for her own political advantage and refused to confirm or deny the claim. This fuelled the story and caused further bullying, harassment and duress to Mrs Mirabella.

The *Benalla Ensign* recently printed an apology to Mrs Mirabella six months after the incident, which was too little, too late. Cathy McGowan should now also apologise to Mrs Mirabella and the constituents of Indi, who she effectively mislead by not speaking out and telling the truth.

Jenny Manuel

Ms LOVELL — I would like to congratulate Jenny Manuel, the principal of Wilmot Road Primary School in Shepparton, who was the very deserving recipient of the Outstanding Primary Principal Award at this year's Victorian Education Excellence Awards. I have known Jenny for many years, and she is a dedicated educator who prioritises the needs and futures of her students above all else. Jenny has committed herself to improving outcomes for the children and families of her school by focusing on improved teaching and learning outcomes for staff and students alike, and she has created a diverse and inclusive school environment for the community.

Ms Mikakos — On a point of order, President, I did not wish to take a point of order when the member was referring to a local school principal, but I am concerned by the remarks that Ms Lovell made in relation to a member, albeit a member in another jurisdiction, another Parliament, in terms of an insinuation that the member has made. She has reflected on another member in a way that does not enable her to defend

herself in this place. I just draw your attention to those particular remarks and the appropriateness of them.

Mrs Peulich — On the point of order, President, I was listening with great interest to Ms Lovell's members statement. What Ms Lovell was doing was simply stating the facts and laying them on the table. Any reflection on the member has been deduced by those who — —

Ms Mikakos interjected.

Mrs Peulich — You are an absolute disgrace. Hold on to your tongue.

It seems to me that the matters that Ms Lovell has laid on the table have been in the press. There has been an apology issued. She was simply laying it on the table and calling on Ms McGowan to apologise. I do not believe that is a reflection; that is a statement of fact.

Mr Finn — On the point of order, President. My understanding of the standing orders is that any reflection on a member of another Parliament is not actually covered by our standing orders. Members cannot reflect on a member of either house of this Parliament, but other members are open to reflection, and clearly, in my view anyway, there is no point of order.

The PRESIDENT — Order! I do concur with Mr Finn's view that our standing orders do not cover members of other parliaments and in other jurisdictions. Essentially the reflection issue in our Parliament is designed to ensure that our parliamentary proceedings give adequate opportunity for robust debate, and sometimes criticism, but ensure respect for members of another place and ensure that members consider carefully matters that they may pursue in this chamber as distinct from other forums.

In terms of the federal member and the point of order raised by Ms Mikakos about the inability of the person named to defend themselves, I would suggest that that is not an accurate view of our standing orders. If any person feels aggrieved or misrepresented by debate or reference to themselves in this place, there is a process by which they can seek to have a statement put to this house; obviously I would check it to ensure that it complies with our standing orders. But indeed members of the public, and I dare say members of other jurisdictions who are elected officials, have an opportunity to in fact address any matters of aggrievement that may be raised in references in this house.

Hazelwood power station

Mr MULINO (Eastern Victoria) — It is a matter of great disappointment for the Latrobe Valley community that Engie will close the Hazelwood power plant and mine. This is an event that transcends party politics and petty pointscoring and will require collaboration across different layers of government and stakeholders. The coming months will be a difficult time for Hazelwood workers, their families and the Latrobe Valley community more broadly. The government will stand with these workers and their families.

The Latrobe Valley cabinet task force, chaired by the Premier, has been meeting for some time to plan the government's response. The government has moved swiftly to establish an immediate $22 million package of support that will be available for Hazelwood workers and affected businesses. This includes a worker transition centre, education, counselling, financial advice and tailored support for businesses. There will also be a longer term response, including a new economic growth zone that will be established in the Latrobe Valley as part of a $266 million package to create local jobs. In addition, the red tape commissioner will investigate ways to reduce red tape in the valley.

In addition to the ministers working on this task force, which include Minister Noonan and Minister D'Ambrosio, I want to particularly commend the work of Ms Harriet Shing, my colleague from Eastern Victoria Region. I want to stress that the government does not underestimate the task ahead. Responding to this challenge will be particularly difficult and will take time. Now is not the time for pointscoring or for hubris. Over the coming months and years we will work with all stakeholders, all layers of government and all members of the community.

Western distributor

Ms HARTLAND (Western Metropolitan) — For the past year I have been urging the Andrews government to reveal critical information regarding the proposed western distributor toll road. Despite the community's desperation for more transparency, the government has repeatedly refused my and the community's requests. I have in fact asked for documents via this house and through FOI, but I was forced to go through an expensive and time-consuming process through the Victorian Civil and Administrative Tribunal (VCAT). A few weeks ago VCAT delivered its decision in favour of the government and its secret agenda.

It is very disappointing to see this lack of transparency from Premier Andrews. It shows, I believe, very little regard for the community. It is also incredibly hypocritical considering it was only two years ago that Premier Andrews, as opposition leader, was calling for greater transparency regarding the east–west link when the previous government also refused to reveal vital information to the community. It is clear, unfortunately, that when it comes to the western distributor Premier Andrews has got something to hide. The community needs to know what exactly this project is going to deliver. The government claims it will take 6000 trucks off the roads each day but has not actually bothered at this stage to tell us how that will happen.

Hazelwood power station

Mr O'DONOHUE (Eastern Victoria) — This statement is in support of the people of the Latrobe Valley and the greater Gippsland region following last week's announcement of the pending closure of the Hazelwood power station while condemning the Andrews Labor government for its long-term plan to undermine the Victorian and Gippsland economies through its continued and unrelenting ideological witch-hunt of the brown coal electricity generation industry.

The Andrews Labor government has been hell-bent on shutting Hazelwood, but at what cost is this decision for the more than 500 workers directly employed, the 300 contractors employed at any one time and the thousands more employed indirectly throughout the Gippsland and Victorian economies as a result of Hazelwood's operations? What will the long-term economic and social effects be on the people of the Latrobe Valley and the entire Gippsland community, with unemployment already at 10.7 per cent, almost double the state average?

The Andrews Labor government has sold out the people of the valley — and Victorians in general — to pander to the ideologically driven Greens agenda to see the long-term absolute dismantling of brown coal power in our state, which will ultimately be to the great detriment of the Victorian economy and community. The Victorian economy, particularly its manufacturing base, was largely built off the benefits and competitive economic advantage of relatively cheap power from Victoria's abundant 500-year brown coal reserves. It should also be highlighted that brown coal generation still produces 85 per cent of Victoria's state power and employs thousands of people in the Latrobe Valley.

Whilst renewables, including wind and solar, will become an increasingly important part of the state's power grid, it should be remembered that Victoria will still rely on coal generation as the major baseload electricity source well into the future. Until such time as electricity storage technology becomes comparatively cost efficient at times when there is no wind or sun, power from renewable sources simply cannot be relied upon. Hazelwood supplies a substantial 25 per cent of Victoria's total energy requirements, and I have grave concerns about the further flow-on effects of Hazelwood's closure, particularly after witnessing the recent disastrous events in South Australia.

Battle of Long Tan commemoration

Ms SHING (Eastern Victoria) — It was a profound honour and a privilege to represent the Premier and the Minister for Veterans on the weekend at the National Vietnam Veterans Museum to commemorate all of the efforts that have been undertaken by the Vietnam Veterans Association of Australia, Victorian branch, to communicate with its members, Vietnam veterans and their families and to make sure that this year, being the 50th anniversary of the Battle of Long Tan, we had the relevant respect, resources and engagement with people who lived through not just this very difficult time of war but the aftermath, which often involved significant discrimination and an isolation which many have continued to carry with them as scars beyond the time.

It was a great pleasure and a privilege to join with people such as Bob Elworthy, Gary Elliott, Gary Parker, George Logan, John Methven, Kingsley Mundey, Marcus Fielding and Neville Goodwin to congratulate everyone who has been involved in making sure that Vietnam veterans' stories can be told through this commemoration and to recognise the efforts around the graveside vigils for the 98 veterans who were commemorated earlier this year on the anniversary date itself.

It was again a significant reminder of the ongoing work and effort that needs to be done to maintain the commitment to recognise people who return from war. In this regard, the Andrews Labor government has made a significant commitment of $1 million. Having people being able to march in the Anzac Day parade and receive that recognition is a sign of a very significant change in the tide, which is well overdue.

Youth justice centres

Dr CARLING-JENKINS (Western Metropolitan) — Last week I attended a briefing sponsored by Catholic Social Services Victoria called 'An education pathway through youth justice'. The briefing was given by Mr Brendan Murray, executive

principal of Parkville College, which is the education provider to residents of the youth justice centres in Parkville and Malmsbury. Because of their experiences both prior to entering and within the correctional system, youths are often impeded not only in their development of literacy and numeracy but in finding their place in the world. Mr Murray and his team tackle this head on and focus on accelerating the development of the whole person.

Parkville College is now achieving excellent results compared to selective entry state schools in Victoria. Recently sport competition was also introduced, with other schools — mainly Catholic schools — coming to compete against the home team. The sense of community, inclusion and friendship that this has achieved is extraordinary. Mr Murray's overall vision is that rather than building juvenile justice detention we should build centres for education and health and work on better facilitating good family involvement, which is so crucial for a child's development.

There is no future in isolation, exclusion or long periods of incarceration. There is hope and a future through education, inclusion and participation. As Victor Hugo once said:

> He who opens a school door, closes a prison.

Statements interrupted.

RETIREMENT OF PARLIAMENTARY OFFICER

Andrea Kenny

The PRESIDENT — Order! I interrupt this process in Parliament to comment very briefly on a function that we had in Parliament House on Friday night, which was a celebration of 150 years of the Hansard department. On that occasion, it was announced that one of our Hansard reporters of long standing was actually retiring. Ms Kenny is in the chamber, although not visible to many. Ms Kenny has served this Parliament with distinction for 31 years. This is indeed her last day in the Parliament. I would on behalf of all members, past and present, extend our appreciation to Andrea for her work over that time and her guidance through the role that she has had.

Can I tell members that Ms Kenny would not be out of place on any one of the benches in this place. She gave a speech on Friday night at the Hansard function which was certainly the equal of any speech I have heard in this place. She is working as a volunteer going forward with asylum seekers, people who obviously need a helping hand to establish themselves here in our country, and so her community service is also a dimension that I think we would do well to acknowledge and commend. So thank you for 31 years.

Honourable members applauded.

MEMBERS STATEMENTS

Statements resumed.

Hazelwood power station

Mr FINN (Western Metropolitan) — I too offer my congratulations to Ms Kenny — because she was here when I first entered Parliament back in 1992.

The closure of Hazelwood power station, as proposed in March next year, is not just a tragedy for the Latrobe Valley; it is a tragedy for all of Victoria. The impact on Hazelwood workers and their families and local communities will be devastating, but the ramifications will hit us all. Thank you, Daniel Andrews. Hazelwood's closure will send electricity prices soaring and threaten stability of supply, with the subsequent implications for industry and jobs.

I was considering the effect of this disastrous decision last week when the celebration of a small group overjoyed that the power station would close was brought to my attention. Those cretins were delighted that so many would suffer, that so many families would be unable to pay their mortgage or rent, that so many looked into their future with fear and uncertainty. It is hard to find the appropriate words to express my level of contempt for those rejoicing in the economic and social disaster facing working men and women. What goes through the minds of the asinine boofheads as they cheer the misery faced by so many? This reaction has exposed the Australian Greens for its total contempt for good, solid Aussies doing their best to care for their families. I do not get disgusted much anymore, but the performance of the Greens party last week was truly disgusting.

St Albans level crossings

Mr EIDEH (Western Metropolitan) — Further to my members statement in October regarding the early completion of two level crossings in my electorate, I was pleased that the Minister for Public Transport, the Honourable Jacinta Allan, visited the St Albans station on Wednesday, 2 November, to celebrate the completion of this project. The removal of the level crossing at Ginifer station on Furlong Road has also been completed early. These two level crossings in St Albans were two of the most dangerous and, as promised by the Andrews Labor government, have now

been removed as part of the commitment to remove 50 of Victoria's most dangerous level crossings.

I am pleased that my constituents can resume travel on these train services and that trains are now running safely under Furlong Road and Main Street. This was a huge project, one which created over 200 jobs and will be of great benefit for people living and working in my electorate. The removal of these two crossings addresses traffic congestion and the safety of those who use these busy thoroughfares during travel to and from work, school and home. Over the past decade we have seen a number of fatalities and accidents at these two crossings. We are ensuring that the risk is reduced for accidents like this. It makes me extremely proud to be part of a government that continually delivers on its promises and takes action to invest in transport infrastructure and keep the western suburbs moving.

Selahattin Demirtas

Ms SPRINGLE (South Eastern Metropolitan) — On Friday last week the Turkish interior ministry issued detention orders for 13 Kurdish members of Parliament, resulting in 11 MPs being detained, including Selahattin Demirtas, who has been a guest of this Parliament in the past at an event hosted by my colleague Greg Barber and attended by many, including the President of this place, the Honourable Bruce Atkinson. I understand that the general immunity for prosecution that exists for members of Parliament in Turkey was lifted for pro-Kurdish MPs earlier this year, meaning that one-third of parliamentarians representing the Peoples' Democratic Party in the Turkish Parliament are now held to a different standard to their colleagues.

I would like to take this opportunity to denounce in the strongest terms the unequal treatment of Kurds living in Turkey. They have had their traditional lands taken from them by force, they are prohibited from speaking their own language, they have suffered food embargoes to Kurdish villages by the government regime and they have been subjected to literally thousands of recorded human rights abuses over past decades. I support the right of all people to live in peace and call on the President of Turkey to cease the discrimination of the Kurdish people and their supporters in Turkey.

Ballarat City Council

Mr MORRIS (Western Victoria) — It was with great pleasure that I attended the Ballarat City Council swearing in of councillors and election of mayor last night. I would like to congratulate Mark Harris, Samantha McIntosh, Belinda Coates, Amy Johnson, Grant Tillett, Daniel Moloney, Des Hudson, Ben Taylor and Jim Rinaldi on their election to the Ballarat council. I would also like to acknowledge the contribution of Vicki Coltman, Peter Innes, Glen Crompton and John Philips — the non-returning councillors. I was absolutely thrilled last night to be at the Ballarat City Council chamber to see Samantha McIntosh elected as mayor of the great City of Ballarat. It was a great thrill to see her wear the magnificent chains of the Ballarat City Council, and I would also like to congratulate Mark Harris on his election as deputy mayor. I certainly do wish the Ballarat City Council all the very best, and I am quite sure they will be ably led by Samantha in the mayoral role.

Western Metropolitan Region roads

Mr MORRIS — This morning we heard about the $1.8 billion of funding being announced for Western Metropolitan Region roads. However, what this demonstrates is that the Labor government has forgotten that there is Victoria beyond the Western Ring Road. Glenelg shire have launched the Fix Our Key Freight Routes campaign, in which they show that our country roads are falling apart, which is not just hurting our economy but putting lives at risk.

BreastScreen Victoria

Mr ELASMAR (Northern Metropolitan) — On Wednesday, 26 October, I was present at the launch of the BreastScreen Victoria MP report card. The Victorian Minister for Health, the Honourable Jill Hennessy in the other place, hosted the event here in Parliament House. The report cards give a clear snapshot of participation rates of women in my own electorate. This is a great idea and a timely reminder of how important breast screening is for all ladies over the age of 50. I thank the minister and Ms Pridmore for organising this very important event.

Rafi Haddad

Mr ELASMAR — On another matter, on Friday, 21 October, Mr Rafi Haddad received at a very special graduation ceremony organised by Antonine College the Elasmar academic diligence award, Victorian certificate of education 2016. Later I spoke to Rafi's very proud father, who could not have been more appreciative or thrilled about his son's outstanding achievement. My enduring aim in establishing this award some years ago was to encourage young students to aspire to academic excellence. I encourage all my parliamentary colleagues who have not already done so to establish such an award in a local school of their choice.

Australian Greek Ex-Servicemen's Association

Mr ELASMAR — On another matter, on Sunday, 30 October, I attended a memorial service to commemorate the 76th anniversary of 28 October 1940 — a World War II Remembrance Day — on behalf of Minister Mikakos. The event was auspiced by the Australian Greek Ex-Servicemen's Association and held at the Axion Estin Greek Orthodox Church in Northcote. Along with others, I laid a wreath in commemoration of this sad occasion. I commend the executive committee for an extremely well organised event.

Child protection

Ms CROZIER (Southern Metropolitan) — The latest figures on child protection — released five days late, I might add — show an increase in child deaths, assaults and behavioural issues. I note that at the end of June there was an alarming 20.7 per cent of children within child protection noted as unallocated clients — that is, one in five children who do not have a caseworker. In the latest figures on child protection, released on Friday, there were 17 child deaths, an increase of 70 per cent on the last quarter. Assaults are up by 6.3 per cent and behavioural issues up 10.84 per cent, figures that are both shocking and concerning.

The youth justice figures are indeed very interesting. Assaults are reported as 12, down 40 per cent. Behavioural issues remain steady at 2 only, and other incidents are only 3, down by 50 per cent. Former police commissioner Neil Comrie is investigating the riots that occurred in September in the youth justice system, at which time workers were saying that working in the youth justice system was more dangerous than working in an adult prison. Riots and severe damage were occurring almost on a weekly basis — riots involving more than one individual.

So you would think that actions that require reporting, including repeated reports of female workers being threatened with rape, would be reflected in these figures. These are just some of the reports that we know about, and yet the minister who continues to trumpet that they are a government of transparency agrees that assaults are only 12 for the quarter, down 40 per cent, and other incidents only 3, down 50 per cent. This simply does not stack up, and the minister knows it. What is she hiding?

It is pretty clear that the youth justice system is in chaos. More recently there have been repeated reports of violence, rioting and more assaults. There has been total mayhem for the two years the minister has been in control. She is totally out of her depth in dealing with the very serious issues at hand. Victorians deserve better than having someone as incapable as this minister in charge of such serious issues.

Women's Housing Ltd

Mr MELHEM (Western Metropolitan) — I rise to speak on the Andrews Labor government's funding of the construction of 20 affordable units in Newport for women and children fleeing family violence. Women's Housing Ltd, an organisation which is part of the Victorian registered housing agency, was successful in securing a $5.5 million grant from the Victorian Property Fund to fund the redevelopment of 10–12 Bradley Street, Newport, into 20 units for affordable housing for women and their children escaping family violence.

The 9 one-bedroom and 11 two-bedroom homes will specifically provide low-cost housing for women aged over 55. All tenants for this new development will come from the public housing waiting list, and rent will be set at a maximum of 75 per cent of market price or 30 per cent of a household's income. Bradley Street is an excellent location for the units as tenants will be provided with easy access to public transport, schools, shops, healthcare providers and job opportunities.

Last Thursday I had the pleasure of joining my colleagues Khalil Eideh and the Minister for Consumer Affairs, Gaming and Liquor Regulation, the Honourable Marlene Kairouz, at Bradley Street. The minister officially turned the first sod, marking the start of construction on the apartments. This housing project will go a long way to enabling residents fleeing family violence to move on with their lives. Indeed it should be a priority to increase affordable housing in areas of such high demand and close to community amenities, and that is exactly what we are doing in Newport.

I commend the local CEO and the chair of Women's Housing Ltd, Judy Line and Valerie Mosley, for the organisation's excellent work and for this outstanding project, which will undoubtedly provide affordable housing to women and children fleeing from family violence.

Ouyen Farmers Festival

Mr O'SULLIVAN (Northern Victoria) — Last Tuesday I attended the 56th Ouyen Farmers Festival with the member for Mildura in the Legislative Assembly, Peter Crisp. The greater Ouyen community gets together on Melbourne Cup Day each year to celebrate the local farming community and the

contribution that farming makes to the local community and beyond. The farmers festival is traditionally held on Melbourne Cup Day, and the harvest of the local grain crops usually commences the day after. The festival commenced with the Don Ross Memorial Procession, which had a very nice display of vintage cars, trucks and tractors.

One of the many highlights of the day was the Henley on the Track boat race on the trotting track in anticipation of the Ouyen lake being completed sometime next year. Proceeds from the Ouyen Farmers Festival go to the benefit of the Mallee Track Health and Community Service. I congratulate the organising committee, the volunteers and the greater Ouyen community for putting on such a great event.

Hazelwood power station

Ms BATH (Eastern Victoria) — In my members statement today I would like to pay homage to the Latrobe Valley and its people. Over the last two years I have had the pleasure of meeting many of these people. They are friendly, passionate, creative, sporty and parochial people who are willing to have a go. They are down-to-earth people who are willing to look after each other in times of need. Many of these people have highly specialised skills that allow me to flick on my electric blanket at night and snuggle down in warmth and comfort.

The valley is the heart through which the pulse of Victoria has prospered for many, many decades. Generations of Victorians have grown up blissfully accepting the luxury of safe, reliable and affordable baseload power. With the complete shutdown of Hazelwood on 31 March 2017, the 1000 well-paid workers directly involved and power station contractors will be out of a job. Hundreds of businesses that supply services and subcontract labour and goods will be subject to the ripple effect and will inevitably be faced with having to sack people in order to survive themselves.

This Labor government should have fought for a staged closure of the mine instead of scrambling to create a task force at the death knell. The Andrews government has failed the people of Latrobe Valley, with unemployment having risen from 7 per cent in December 2014 to now over 10 per cent. It has allowed this to happen without any real support. We need real jobs for real people, and we need them quickly.

TRADITIONAL OWNER SETTLEMENT AMENDMENT BILL 2016

Second reading

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

Ms CROZIER (Southern Metropolitan) — I rise to speak on the Traditional Owner Settlement Amendment Bill 2016. Over many, many years there has been a bipartisan approach to many of the issues in relation to native title, understanding the importance of those very concerns. Indeed there has been a lot done both at a national and state level.

The bill does a number of things and amends a number of acts, and I will go to that later in my contribution. In the explanatory memorandum, the primary purpose of the bill is to amend the Traditional Owner Settlement Act 2010 and other legislation to reduce the administrative and compliance burden on relevant state agencies and traditional owner groups, address technical matters relating to land agreements, improve the operation of land use activity agreements and better facilitate the exercise of traditional owner rights in relation to natural resources.

The explanatory memorandum goes on, and I want to make note of some language in the final wording of the general explanation, where it says that it provides 'an attractive framework for resolving native title claims in Victoria'. I am not quite sure why we need to have the word 'attractive'; I would have thought a framework that was agreed upon and acknowledged would suffice, because there has been significant work done in the past, and I want to refer to that if I can. As members will know, and as I mentioned at the outset, much work has been done over many years in recognition of native land rights and titles, and of course there was the historic Mabo case in the early 1990s, which then enabled some commonwealth legislation to be passed in relation to looking at individual native title claims in many parts of Australia.

In looking at those claims it has often been a protracted process, and a series of Victorian governments have looked at how this process can be remedied to ensure that the proper process is undertaken. The Traditional Owner Settlement Act 2010, which this bill amends, looked at — —

Mr Barber interjected.

Ms CROZIER — I am just speaking to this bill, Mr Barber, and I was not in the Parliament when that act came in, so I will just say this, and I think there are

some concerns in this bill that I would also like to raise in the committee stage, because this act offers an alternative to costly litigation under the commonwealth regime, and if we look at what happened and if we look at how that is viewed, we see there have been a number of traditional owner corporations that have had input — and other stakeholders have had input — into the affairs that this bill goes to the heart of.

I was researching the bill — and I thank the library for providing the information they have — and found that the peak body for the Victorian traditional owner corporations, the Federation of Victorian Traditional Owner Corporations, has a fact sheet on many of these issues. If you look at what they have responsibility for, heritage management is recognised through a series of acts, and I just want to refer to them because it goes to the extent of what we are looking at in relation to the Victorian landscape.

The Heritage Act 1995 protects all archaeological sites and lists all non-Aboriginal historic places and objects of state significance. The Aboriginal Heritage Act 2006 protects Aboriginal places in Victoria, amongst other things. The National Parks Act 1975 creates national parks and other parks for the protection and preservation of features, including those of historic, scenic, archaeological or scientific interest. The Forests Act 1958 provides for the management of state forests. The Minerals Resources Sustainable Development Act 1990 prohibits work without the consent of the relevant authority within 100 metres of a place on the Victorian Aboriginal Heritage Register. The Crown Land (Reserves) Act 1978 allows for the reservation of land for public purposes, including conservation of areas of historic, aesthetic, archaeological or scientific interest. The Environment Protection Biodiversity Conservation Act 1999 leases and protects cultural heritage places of outstanding national significance. The Planning and Environment Act 1987 provides planning controls for places or precincts of local significance, amongst other things. The point of referring to all those acts is that there are a number of acts already in place that give protection, and as I said, a number of governments have been looking over many years for a way forward on the issue that we are speaking about.

The traditional owner corporations, as I said, have a legislative basis, and I note that in the fact sheet I have here they refer to a number of pieces of legislation that I have also listed, including the Traditional Owners Settlement Act and the Aboriginal Heritage Act, as well as to a number of other pieces of commonwealth legislation that they also fall within. I note that in this fact sheet they do refer to the fact that under the Traditional Owners Settlement Act and native title they say:

> Over time it is expected that close to 100 per cent of the state will be covered by native title determinations and/or traditional owner settlement agreements that provide recognition of the special relationships of Aboriginal peoples with their land and waters, and in particular confer a range of procedural rights in relation to activities on Crown land, including consent and negotiation rights, recognition as the registered Aboriginal party under Aboriginal heritage legislation and rights to natural resources.

That is a statement in the fact sheet, and I do want to know what 'over time' means in relation to that 100 per cent coverage. But if we look at the various elements of this particular piece of legislation — as I say, there have been some concerns raised and I am not going to go through all the clauses of the bill — I did want to make note of a number of areas that it amends. The current act allows the Victorian government to recognise traditional owners and certain rights in Crown land, and in return for a settlement being undertaken, all the traditional owners must agree to withdraw any native title claim pursuant to the Native Title Act 1993, which is that commonwealth act that I was referring to.

The bill we are discussing today amends the principal act in a number of ways. I spoke about the settlement package. Under the current act a recognition and settlement agreement can recognise a traditional owner group and certain traditional rights over Crown land. A settlement package can also include a land agreement which provides for grants of land in freehold title for cultural or economic purposes or as Aboriginal title to be jointly managed in partnership with the state; a land use activity agreement which allows traditional owners to comment on or consent to certain activities on public land; a funding agreement which enables traditional owner corporations to manage their obligations and undertake economic development activities; and a natural resource agreement which recognises traditional owner rights to take and use specific natural resources and provide input into the management of the land and natural resources.

I know that when the coalition was in government a land agreement was negotiated. That was undertaken by the former Attorney-General, Robert Clark. It was deemed a historic settlement of the Dja Dja Wurrung native title claim, and it was fully achieved in 2013. I am reading that it covered approximately 266 532 hectares of Crown land, which encompasses about 3 per cent of the Crown land in Victoria, and it led to full and final resolution of native title claims to that area. At the time that was a significant financial value of around $9.65 million. That funding allowed the Dja Dja Wurrung Clans Aboriginal Corporation to

meet its settlement obligations and allow for the cultural and economic aspirations of the Dja Dja Wurrung people. At the time the settlement was seen to be a very constructive process — detailed and constructive negotiations went on — and indeed it was welcomed by the local community. As was recognised at the time, it was seen to be giving certainty and opportunities to enable the Dja Dja Wurrung people to make their own determinations and to have a sustainable future in relation to those issues that were important to them.

There has been some progress in relation to native title claims, and of course this bill goes a little bit further. As I said, I am not going to go through each clause; I just want to make note of a number of clauses. Clauses 4 and 6 amend and insert new definitions in sections 3 and 11 of the principal act. Of particular note is the new definition of 'alpine resort' and 'Alpine Resort Management Board'. The definition of public land in section 11 of the principal act is also amended by substituting 'under the Alpine Resorts Act 1983' with 'in any alpine resort'.

Clause 7 repeals section 19(3) and amends section 19(5) of the principal act. It ensures that all existing statutory authorities, contracts, arrangements and agreements relating to public land survive a grant of Aboriginal title and enables the granting of Aboriginal title over land which is depth limited. This allows for Aboriginal title to be granted over parks which may be depth limited for the purpose of enabling underground mining to occur. I note that this does take into consideration some areas in northern Victoria — for example, the Greater Bendigo National Park land. As I have just spoken about, the Dja Dja Wurrung corporation was involved in this process and the settlement negotiations back in 2012 and 2013. It was ongoing before that, but it certainly was settled in 2013 under the previous coalition government.

Clause 8 amends section 20 and clause 10 provides for new sections 22 and 22A in the principal act. They clarify that the state is only able to lease or license Aboriginal title land in a way that is consistent with the act under which the land was occupied, used, controlled or managed immediately prior to the grant of Aboriginal title. They also ensure that pre-existing leases, arrangements or agreements survive a grant of Aboriginal title.

Moving to clause 12, which I think needs to be also noted, it provides clarity that grants of Aboriginal title are excluded from the definition of land use activity, while grants of fee simple under section 14 are not.

Clause 16 inserts a number of new sections into the act. This relates to the involvement of the Victorian Civil and Administrative Tribunal (VCAT). The provision relates to VCAT's involvement in making determinations relating to land use activity agreements and issuing enforceability and compliance orders in relation to these agreements. Of particular note is VCAT's function to make a determination in relation to negotiations related to land use activity agreements and also that determinations of the correct classification of land use activity agreements are undertaken. I note this function is restricted to resolving ambiguity through interpretation and application of land use activity agreement classifications.

The next area I want to make note of is clause 17, which goes to the mechanisms of compliance with land use activity agreements. These new provisions will allow the traditional owner groups to make applications for interim enforcement orders to stop or not start land use activities and also to cancel the land use activity in question if it is so needed. Third parties subject to these applications have provision to make objections, and obviously they would have to go through the VCAT process.

In clauses 18 to 25 there are a number of areas that relate to the natural resource agreements. I am not going to go through each one, but the authorisation orders will be repealed and a new mechanism will now allow the taking and using of natural resources provided for under the principal act. Natural resource agreements made by the government and traditional owner groups will now set the scope limit and agreed activities allowed under those agreements. The minister must consult with relevant ministers in relation to how this may apply and receive their consent in undertaking this particular provision. This will replace the consultation requirement in section 82 of the principal act. The minister must also adhere to the principles of sustainability.

These clauses allow for a discretionary authority under these new arrangements. The definition of 'natural resources' has been amended to allow for a broader interpretation of items that can be classified as being natural resources. I think questions need to be asked and I will be asking some around these particular elements when we get into the committee stage.

Clauses 27 to 36 amend a number of acts specifically relating to this piece of legislation. I will get to the alpine act in a moment. Clause 27 amends the Aboriginal Heritage Act 2006; clause 28 amends the Crown Land (Reserves) Act 1978; clause 29 amends the Fisheries Act 1995; clause 30 amends the Flora and

Fauna Guarantee Act 1988; clause 31 amends the Forests Act 1958; clause 32 amends the Land Act 1958; clause 33 amends the National Parks Act 1975; clause 34 amends the Prevention of Cruelty to Animals Act 1986; clause 35 amends the Water Act 1989; and clause 36 amends the Wildlife Act 1975. You can see that a number of acts will be amended in relation to having an exemption from traditional owners carrying out any agreed activities or a number of things that this new act will cover off. I think there are some implications here and I hope the government has thought through all the unintended consequences that those amendments might make in relation to each of the acts that I just read out, because a number of them could potentially be exempt. I am not sure that all of the unintended consequences have been thought through. But again, I will be asking about some of those issues in the committee stage.

I will just go to the amended definition of alpine resort, which I referred to earlier. That certainly is an area of concern. I note it has been an area of concern for those people who have an interest in snow sports especially, and I believe there has been some media commentary around that in relation to how it will actually affect the alpine resorts, how it might be applied in future years and how those particular individuals who will be directly affected by this will have the surety that their existing businesses and any other compensation claims or the like are not impacted. They have raised concerns that the users of those snow sports businesses who are directly affected in the alpine resorts may bear the brunt of costs that may be incurred due to the change in the legislation.

I hope the government has undertaken extensive consultation and given those various stakeholders the reassurance they require in relation to the fact that any costs that may be incurred will not be passed on to the users, in particular if it is snow sports users who are directly affected through the change in definition of alpine resorts in the bill.

I understand there has been some consultation with a number of groups and obviously the traditional owner groups are particularly supportive of this. They have been working with government to ensure there is a sustainable and appropriate settlement and agreement that can be made on some of the issues that have been raised throughout the consultation process. But again, I hope those other stakeholders that do have concerns might have those significant concerns allayed and that they are not caught up by the bill.

There are obviously a number of other parts of the bill that I am not going to go through. I just wanted to raise the particular clauses in the bill that have an impact and make the points around the amendments to the various current pieces of legislation that could be impacted by this legislation. As others have said, I think they are very important matters to raise in debate and I will be looking forward to asking the government in more detail through the committee stage about some of the specifics that I mentioned in my contribution. I will conclude my remarks here and note that the opposition will not be opposing the bill.

Ms TIERNEY (Western Victoria) — This afternoon I am very pleased to stand here and support the Traditional Owner Settlement Amendment Bill 2016. I begin by acknowledging the traditional owners of the land on which we stand today, the Kulin nations, and I pay my respects to their elders both past and present.

This bill is proposed in the context of the commonwealth Native Title Act 1993 and the groundbreaking Victorian Traditional Owner Settlement Act 2010. The bill's goal, through significant amendments, is to improve on an already excellent principal act. As the Attorney-General noted in the other place, the bill's purpose is to ensure that the 2010 act continues to be an attractive alternative to the commonwealth Native Title Act 1993. The Native Title Act was a brave, outstanding achievement of the Keating government which legislated a High Court judgement that Australia was not terra nullius but rather had been occupied for tens of thousands of years, and it acknowledged two centuries of dispossession. However, it unfortunately created legal nightmares for traditional owners typified by years of long, drawn-out cases in the Federal and High courts — unnecessarily adversarial and litigious, extremely costly, complex, and above all, never intended to address land justice in the more densely settled regions of Australia like Victoria.

The difficulty has always been for Aboriginal people to prove that they have maintained a continuous connection with their country since European colonisation, almost impossible in a region such as Victoria which is closely settled and where, under the impact of European colonisation, the Indigenous population under extreme pressure was dispersed. There is no doubt that the dense European settlement in Victoria dispossessed Indigenous people of their land.

Victoria's land area is slightly less than 230 000 square kilometres. Today, in 2016, Victoria has a population density of 25 per square kilometre, the highest of all of the states, 3 times higher than New South Wales and nearly 10 times higher than Queensland. That

comparison has never been significantly different since the early days of European settlement, and it has inevitably been easier to establish native title in less densely populated Queensland, Western Australia and the Northern Territory than in our state of Victoria.

This reality goes to the heart of the issue: how can land justice be delivered effectively to communities whose link with their land has been so disrupted for such a long time? The difficulty for native title claims in Victoria is epitomised by the first case in Australia where the Yorta Yorta in northern Victoria took nine years to have their case resolved, and it failed. Labor governments, both commonwealth and in Victoria, have been engaged in a continuing effort to deliver land justice to traditional owner groups in Victoria, recognising traditional owner status. The Bracks Victorian government in 2004, in the aftermath of the Yorta Yorta's failure in the native title process and the appeals to the Federal and High courts, recognised the Yorta Yorta claim. Labor followed in 2010 with the Traditional Owner Settlement Act, an innovative and alternative approach to native title in Victoria. As then Premier Brumby said in 2010, this new approach:

> … delivers the practical and symbolic recognition of traditional owners' rights in Crown lands, and … provides certainty to land managers, to industry and to developers.

Victoria is the only state to have co-designed with traditional owners a comprehensive alternative to the Native Title Act. Most significantly, the 2010 act provides for an out-of-court settlement of native title. It is important to acknowledge that in 2016 the Traditional Owner Settlement Act remains the government's and traditional owners' preferred approach to resolving native title claims in Victoria. The 2010 act established the ability of the Victorian government to enter into agreements, or settlements, directly with traditional owner groups, to be registered as Indigenous land use agreements under the Native Title Act, and to be legally binding, continuing in perpetuity and giving all parties certainty. The act empowers the Attorney-General to enter into a recognition and settlement agreement with a traditional owner entity for a given area. There are four sub-agreements that sit below the recognition and settlement agreement — land agreements, land use activity agreements, funding agreements and natural resource agreements.

What has been achieved in six years? There have been grants of freehold title and grants of Aboriginal title to enable joint management of parks and reserves. The act has delivered economic outcomes and helped to support long-term financial sustainability of traditional owner corporations. Settlements have also been reached with the people of the Loddon Valley and the Gunaikurnai people of Gippsland. There are six other traditional owner groups that have either begun negotiations for a settlement under the 2010 act or who are seeking to enter the process.

However, the experience of the past six years makes it clear that some change is needed. The amendments proposed today relate to four sub-agreements specifically and support the rights of traditional owners in their spiritual, material and economic relationship with the land and its natural resources. The bill also ensures that all existing leases, licences and other interests on Crown land are preserved after a grant of Aboriginal title is made in order to protect essential public interests.

There are consequential amendments to related acts as well. These amendments will improve an already very good principal act by addressing three important aspects. Firstly, it will ensure that the grants of Aboriginal title under part 3 of the act do not have any adverse impact on existing interests. I note that there have been some concerns expressed by business interests in alpine resort areas, but the Minister for Aboriginal Affairs, Natalie Hutchins, has emphasised that the bill will not alter in any way the alpine resort land and how it is treated under the Traditional Owner Settlement Act and that it will not increase costs. Secondly, it will enhance the operation of land use activities agreements — that is, part 4 of the principal act — including providing for formal measures to resolve instances of non-compliance and to resolve disputes through the Victorian Civil and Administrative Tribunal. Thirdly, it will streamline the operation of natural resource agreements (NRAs) under part 6 of the principal act to provide for access to and use of natural resources via an NRA rather than through natural resource authorisation orders. This will provide for greater flexibility in accessing natural resources, such as the right to hunt wildlife, game and fish and to gather flora and forest produce.

We are a long way from the hysterical and fearful response to the federal Native Title Act, and we are much further down the path of seeking to understand that a relationship to the land lies at the very heart of Indigenous culture. In this bill, Labor is continuing to build on good legislation to assist traditional owners and to lead the way on these matters in comparison to other states in this country. This bill is another step towards self-determination for Victoria's first peoples. At every point, Labor governments have sought to consult and negotiate with traditional owners. In developing the 2010 act we responded to initiatives of the Victorian Traditional Owner Land Justice Group

and Native Title Services Victoria, and in proposing these 2016 amendments we have also responded to initiatives of the Federation of Victorian Traditional Owner Corporations.

It is pleasing to note that this bill is supported by the opposition and that it therefore, like its 2010 predecessor, enjoys bipartisan support. This bill will ensure that Victorian traditional owners can more easily exercise their rights to Crown land and resources, and it is a key aspect of this government's path towards achieving Indigenous self-determination. I absolutely commend this bill to the house.

Mr BARBER (Northern Metropolitan) — The Greens will be supporting this bill. In fact it was the Greens' support of the original version in 2010 that saw that bill passed in the very last week of sitting before the end of that Parliament. As I tried to suggest earlier in the debate, the Liberals and Nationals opposed the bill at the time, with some fairly tawdry politics. I remember them waving around pictures of the MCG, suggesting that that was somehow going to be taken off us as a result of the passage of that legislation, whereas the legislation itself was actually really nothing more than a good news story.

As Ms Tierney characterised it, it was a way of effectively creating an out-of-court settlement that did not require the state of Victoria and traditional owner groups to drag themselves along to make every agreement through the federal native title court. Instead the legislation allowed them to actually sit down, person to person, group to group, nation to nation, sovereign body to sovereign body, and just agree on what it is that we want to do — what it is that we, the state of Victoria, working with our traditional owner groups, want to achieve to enhance life here in Victoria and to strengthen the bonds between our communities so that we can learn from Aboriginal people, so that Aboriginal people can learn from us and so that we can go forward, correcting some of the historical injustices that we are all so familiar with here.

That is why we supported the native title settlement framework, which did not create any new rights for Aboriginal people but opened up new possibilities, giving certain bodies, state government entities — generally land management groups such as Parks Victoria and the Department of Environment, Land, Water and Planning — the ability to enter into certain types of agreements as part of settling out some of these traditional owner claims without having to do every single bit of it through a very expensive court process.

The bill before us today, which I think is getting some sort of grudging support from the coalition, does a number of those things. It simply expands out in many cases the options available to us, which through various discussions and agreements have been found to be lacking. Therefore we are seeking some new powers for the state government to enter into new types of agreements.

These agreements generally run in parallel with native title claims. A commonwealth process creates court determinations that can be used to guide the negotiations. Settlement agreements may vary, but they will at least include consultation rights for government activities on public land. Some settlements, like the historic Dja Dja Wurrung agreement of 2013, which is still being processed, may include a grant of Aboriginal title over areas of public land. Aboriginal title is a highly conditional grant of freehold title by the Victorian government over public land. The suite of conditions ensures that the land continues to be available as a public asset, with the same rights as previously existed when it was Crown land, but it gives the traditional owners greater power in the management of the land in conjunction with the Victorian government.

That is the rhetoric that often gets thrown around these days. At public events we acknowledge the traditional owners as the custodians of the land, and we do so even now in the Parliament itself. But if we bring a piece of legislation to the Parliament to enact exactly that principle, people are like, 'Oh, I don't know what this means. I'm getting a bit worried about this'. It is a very grudging kind of support, when in fact we are just walking the talk. Frankly, I do not want to hear those acknowledgements of traditional owners at every event if we are not going to actually put them into practice, so I am glad that we are doing it here today with a bit of extra legislation.

Some elements of the bill came about because there were some technical problems that prevented the Dja Dja Wurrung settlement from being completed, some elements are a tidy up to fix unclear provisions that have come to light during the actual operation of the original act and some just give greater autonomy to traditional owners for agreed-to activities on country. The creation of the bill was also driven by the need to sort out an existing right to an agreement for an Esso pipeline in the Gippsland Lakes Coastal Park associated with the Gunaikurnai native title settlement package of 2010.

So we have got the Aboriginal title for the Greater Bendigo National Park. We have got clarification about

existing rights and interests at clauses 8, 9 and 10. That is just in relation to certain statutory authorities, contracts and agreements relating to the management of land, so that they survive the grant of Aboriginal title.

We have got some resolution of disputes and enforcements via the Victorian Civil and Administrative Tribunal at clauses 11, 16 and 17. Disputes between parties might be, for example, about whether an activity is a significant land use activity, which triggers the need for a negotiation, or about whether negotiations are being carried out in good faith. So there are still some legalistic elements in what is meant to be a free-ranging negotiation where all sorts of options are on the table.

There are natural resource agreements, including the rights to hunt, camp and carry out activities on country in a settlement area — for example, for gatherings that would otherwise need a permit. The general effect of the change is that natural resource agreements will be part of the settlement, with the source of power coming from the agreement rather than being something which has to be negotiated with the minister after the settlement.

The government has been working on this bill for a while. Stakeholders are Native Title Services Victoria, who represent most of the claimant groups, and the Federation of Victorian Traditional Owners Corporation, who tell us they were happy with the process. They did not get everything they wanted, but the government acted in good faith to improve the operation of the act and that has led to the bill that we see before us. If there is anything for me to complain about, it is that the government have not been making full enough use of the provisions of the act to date and that they have not moved fast enough or in my view acted generously enough in relation to these traditional owner settlements, but some of that will be dealt with over time.

Public works do extinguish native title, unless there is an agreement — for example, traditional owners agree that the works may be carried out and the authority agrees that the works do not extinguish native title. An example of this type of work from another jurisdiction is the Alice Springs to Darwin railway. It is also possible for the authority to decide that certain works are not public works, which also means there is no extinguishment, and so on and so forth.

That is the feedback that we have received on this process from native title services and the federation of native title organisations. I would just like to make a few personal comments. I gather we are going to the committee stage on this bill. If that is the case, we might ask for some update to the house on the Eastern Maar settlement process if the minister is able to give us some information on that. That has been a rather long running process, and it is a major and important claim representing a good part of the state of Victoria and also some very important cultural assets. Rather than talk about that now, I might seek a bit of clarification from the minister during discussion of clause 1 of the bill.

Just a personal note: I have noticed that the government — we have read and I have been told — is seeking to negotiate a treaty with Aboriginal people here in Victoria, which I think is long overdue. I understand the government is proceeding in good faith on that. However, there are some questions that I think we should ask about what the government's intent is in that broader area. The issue relates directly to this bill though, because this framework is obviously a major framework that is setting out how we deal with traditional custodianship of the land.

The Aboriginal Heritage Act 2006 is another major plank in how we deal with that, and then we have a range of funding and services agreements particularly for the delivery of services — housing services, children's services, health services — with what are generally known as ACCOs, or Aboriginal community controlled organisations. Those are three major planks that are in place — three bodies of work that are ongoing. My question for the government in a general sense is: is a treaty meant to cover more than that? Is it going to cover just those three things, is it going to simply endorse those three things or does the government have a broader aspiration here for a historic process of reconciliation?

The other thing I would say — that is, from where I sit — from the non-Aboriginal side of this community is that if this is meant to be a treaty, it is a treaty between the state of Victoria and Aboriginal nations. It is not a treaty between the government of the day and Aboriginal nations. It is not a treaty between the Labor Party and Aboriginal nations. It is a treaty between the state of Victoria and the Aboriginal nations of Victoria. Therefore ultimately it has to be endorsed by the Parliament, and we would hope that it receives total endorsement by the Parliament. We do not want this to become a contested political issue, where we come in here and ram through enabling legislation with 21 votes out of 40 one day.

This has to be a much larger process of building consensus so that the aspirations of both sides — the Aboriginal community and the non-Aboriginal

community — are met. There is great value we can create for future generations by bringing together that historic reconciliation; by correcting some past wrongs; by providing reparation for many, many years of disadvantage; and also by building the great opportunities that we will inevitably get to add — I hesitate to talk about it as multiculturalism — a whole new plank of the richness of life here in Victoria by understanding that great long-living civilisation, where tens of thousands of people occupied this land for tens of thousands of years, lived in harmony and left behind an incredible richness of stories, culture, land and law that can really add to our life as we move forward together as two communities.

So I would like to hear a lot more from the government about what they see as the possibilities of a treaty. I would also like to see them broaden out and open up the process so that all Victorians, and certainly all parliamentarians, are given a clear role or at least an opportunity to participate, because this is going to be a treaty between an entity, the state of Victoria, ultimately endorsed by this Parliament, and the Aboriginal nations. It is not about the government of the day signing some funding and services agreement with certain groups. From my side of the negotiation table, that is what I am looking for. I am looking for a much bigger view here, rather than simply a re-endorsement of a number of arrangements which are already in place, including quite notably the important traditional owners settlement framework.

The Greens are very pleased to support this bill. As I noted, when we get to the committee stage I will ask the government to put on the record some of its progress in relation to the Eastern Maar claim. I have sought a bit of information from the traditional owner groups, and I would like to hear a little bit from the government about their view on how that is progressing.

Mr RAMSAY (Western Victoria) — I am pleased to make a brief contribution to this bill. In doing so I would also like to pay my respects to the traditional owners of the land on which we stand today and to their elders, past and present. Contrary to Mr Barber's contribution in relation to the coalition's position in 2010, I can stand here saying I was not part of that debate, nor was I a member of Parliament or a member in this place. I was not privy to the discussions had at the time; however, I understand that there was some concern in relation to what impact the Traditional Owner Settlement Act 2010 might have, particularly on areas of Crown land where there is public and community use.

I think it is probably fair and reasonable that there were concerns raised at that time about the actual impact the 2010 act, which is the principal act, would have on parts of Crown land to which the community has historically had free and easy access, not to mention private land as well. I might add that my own property at Birregurra was settled by the Aboriginal community back in the early 1840s. To this day they have a very strong connection to that land but are not wanting to be granted any part of it. Connections can remain in place without the requirement for grant or ownership title. However, having said that, I think it makes sense that you provide a pathway for our traditional owners to be able to seek grants without going through the costly and lengthy legal process through the Native Title Act 1993 and through the federal government.

My first question when I saw this bill come up was: what has been the outcome since 2010 for those different traditional owner representatives? There are a number, I note, in the fact sheet that Ms Crozier quoted. I think in relation to traditional owner interests in native title there are four different corporations. In traditional owner settlements there are two. In registered Aboriginal parties there are over 10. Even the Federation of Victorian Traditional Owner Corporations make the comment that they are concerned about those who falsely represent their interests in relation to making claims through, historically, the Native Title Act, and now through the Victorian Traditional Owner Settlement Act.

I raise that because one of the concerns the coalition has is in relation to the minimal stakeholder consultation that the government went through in developing this piece of legislation, albeit amendments to the principal act. We would have preferred much broader stakeholder consultation to allow the views of not only two or three different entities representing traditional owners but certainly a wider range of stakeholders that would be affected by this legislation to be heard.

Having said that, I note in relation to what Ms Crozier said that we have concerns in relation to a number of the details in the bill itself. No doubt we will tease them out through the committee stage. Mr Barber is quite right; we will be going through a committee stage. It will be quite a lengthy one, unfortunately, because there are a number of clauses that we want clarification on, particularly in relation to the land use activity agreements. I have a concern in relation to the wording of the second-reading speech where it talks about resolving disputes and making enforcement orders.

It says:

> A traditional owner group entity will be able to apply to VCAT for an enforcement order or interim enforcement order against a person if a land use activity contravenes, has contravened, or, unless prevented by the enforcement order, will contravene the act.

I will be seeking some explanation in relation to how this legislation impacts on the land use activity agreements and also the natural resource agreements, particularly in relation to the alpine areas.

I will flag the other clauses that I will be seeking some clarification on so the advisers in the box can read them themselves to prepare the minister. They are clauses 27 to 36 around amending the other act to ensure traditional owner groups are exempt from specified offences in that act. We will talk about the amended definition of 'alpine resort', which was obviously the subject of opposition when the bill was amended in 2012, and we will talk about the enforceability and compliance of land use activity agreements, which I have already flagged, as well as some other issues.

I just wanted to again flag with you a statement in the fact sheet that came from the Federation of Victorian Traditional Owner Corporations about corporations meeting a number of objectives which covered off on the Native Title Act 1993, the Traditional Owner Settlement Act 2010 and the Aboriginal Heritage Act 2006. The fact sheet then goes on to talk about how currently around 66 per cent of the landmass in Victoria is covered under the native title and settlement acts but how over time it is expected that close to 100 per cent of the state will be covered by native title determinations and traditional owner settlement agreements that provide recognition of the special relationship Australian peoples have with their land and water. This is another area I would just like to tease out.

In relation to those that represent these different corporations, I am reminded of the Aboriginal and Torres Strait Islander Commission board members from my own electorate of Western Victoria Region, in particular the Clark family. Geoff Clark, a board member of the Indigenous Land Corporation, bought land around Beech Forest and Framlingham and in fact set up the Framlingham Aboriginal Trust. He was a board member of the trust and started to deal with land development — buying and selling, using taxpayers money to do that. As we know, history records that he was sacked from the board in 2003. The trust went bankrupt, as he did. His bankruptcy was discharged in 2014, and only last year he was re-elected to the interim board.

I am perhaps raising some concerns in relation to those who are charged with representing traditional owners, Indigenous land corporations or any of these groups that are identified under the Federation of Victorian Traditional Owner Corporations — that they are people who are reputable, highly skilled and very knowledgeable in relation to representing traditional owners, particularly on these boards, corporations and Aboriginal co-ops, of which there are many. No doubt they will be part of stakeholder discussions in relation to negotiating their way through the out-of-court settlements of these land grants.

On that basis I end my contribution. We are not opposing this bill, but I look forward to the committee stage when we will tease out some of the issues that I have raised.

Mr EIDEH (Western Metropolitan) — I rise today to speak on the Traditional Owner Settlement Amendment Bill 2016. Ordinarily I would start by commending the government for this bill, which of course I do, or I would perhaps mention some statistics surrounding the circumstances of the bill's formation and implementation. In this instance I would like to tell the house a creation story.

Let me inform the house about the Gunaikurnai nation and their creation story. Let me tell the house the story of Borun, the pelican, and Tuk, the musk duck, of south-east Gippsland, from 17 000 years ago. Yes, let us not overlook the fact that this story is about 17 000 years old. I want to stress this time line as a point of emphasis, because what we are currently discussing in this house is not just topical or simply about current events; we are discussing people who have occupied this land for tens of thousands of years. We should all remind ourselves of this when considering this bill.

Returning to Borun and Tuk, it is said that Borun descended from the mountains and crossed what is now called the Latrobe River near Sale and headed to an area now occupied by Tarraville, Yarram and, particularly for this story, Port Albert. It is said that when Borun, who was carrying his canoe over his head, reached Port Albert he kept hearing a 'Tap-tap-tap' noise and wondered from where this noise emanated. Curious about the noise, he placed his canoe in the water in order to investigate the source of the tapping noise. To Borun's great surprise there was a woman in the canoe. She was Tuk, the musk duck. Borun was very happy to see Tuk. Eventually she became his wife and the mother of all Gunai and eventually Gunaikurnai people in Gippsland, Victoria.

When the ancient Romans were conquering most of the current Mediterranean region, these stories were already at least 15 000 years old. In other words, we have to put this bill into perspective and remind ourselves of the sheer magnitude, historic scale and rich history of Australia's Indigenous people.

We have before us a bill that we already support, a bill that will serve to deliver real and tangible results for Victoria's traditional elders. As our federal government counterparts argue over who will occupy an Indigenous affairs portfolio, the Victorian government is establishing a true and meaningful partnership with our traditional elders. What the federal government's Native Title Act 2010 failed to deliver for our Indigenous people the Andrews Labor government is addressing in the form of this bill.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Minister for Corrections

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is to the Minister for Corrections. Minister, the Premier said today you have repaid funds calculated from transporting your dogs between Trentham and Parkdale. Exactly how much have you repaid to cover these costs?

Mr HERBERT (Minister for Corrections) — I thank the member for her question. As I indicated, I made a mistake. On one or possibly two occasions the driver took my dogs from Parkdale to Trentham. I indicated I would repay that. I sought information from the Department of Premier and Cabinet around that, and I have provided a cheque for $192.80 to cover the costs of these trips. This represents the cost of fuel and also covers additional vehicle expenses consistent with Australian Taxation Office (ATO) guidelines. Can I also say that I have had an opportunity to also make a donation to the Pets Haven animal shelter in Woodend, which does a wonderful job with rescue dogs — one of my dogs was a rescue dog — in and around my electorate.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the minister for outlining that he has paid $192.80 in repaying those funds. Minister, can you please detail the basis on which the repayment was calculated? This would reasonably include how many trips — because it is not definitive in your answer — how many kilometres per trip, at what petrol price and any other variables that you factored in.

Mr HERBERT (Minister for Corrections) — The basis of it is on the one and possibly two — one occasion I do recall, possibly two — trips from Parkdale to Trentham, based on advice on fuel costs per litre of petrol for a Ford Territory and on ATO fair travel costs. As I say, I have also donated $1000 to Pets Haven.

Minister for Corrections

Mrs PEULICH (South Eastern Metropolitan) — My question is also to the Minister for Corrections, and I ask: you have advised the house that Patch and Ted undertook chauffeured one or possibly two trips in your ministerial car between Parkdale and Trentham. On what dates were each of those trips undertaken?

Mr HERBERT (Minister for Corrections) — As I have indicated in the answer to the question lodged with Ms Wooldridge, there has been a thorough review of the drivers' logs and the details sought were not recorded. I have provided the answer as to the best of my recollection.

Honourable members interjecting.

Mr Dalidakis — You are very quiet, Mr Davis. I wonder why that would be?

The PRESIDENT — Order! Perhaps it is a courtesy to the Chair.

Supplementary question

Mrs PEULICH (South Eastern Metropolitan) — Minister, in your written response today you have been very specific to detail that driving Patch and Ted unaccompanied occurred on 'one, possibly two occasions' — and you have confirmed that today — between Parkdale and Trentham. On how many occasions have Patch and Ted travelled unaccompanied in the ministerial car to locations other than Trentham — for example, to or from the Melbourne CBD?

Mr HERBERT (Minister for Corrections) — As I indicated in my answer, there were one or two occasions when I was not in the car at all. I have also indicated in the answer that the dogs were in travel containers — I just want to make this clear: they were always in travel containers — in the back of the car with luggage and with equipment. Apart from those two occasions, they were part of my travelling to and from my home.

Mrs Peulich — On a point of order, President, I am sure that you would be aware that the minister actually did not answer the question. The question was simply to specify on how many occasions Patch and Ted travelled unaccompanied in the ministerial car to locations other than Trentham — for example, to or from Melbourne's CBD — and he has not answered that question.

The PRESIDENT — Order! I think the time had expired at any rate. I will allow the minister, if he can finalise that, to do so.

Mr HERBERT — As I say, there are no logbooks of this, but the dogs only travelled between my Parkdale city residence and Trentham. There are no logs of it. I cannot give an accurate answer, but they travelled with me and with luggage and with ministerial briefing cases and equipment.

Minister for Corrections

Mr MORRIS (Western Victoria) — My question is to the Minister for Corrections. Minister, can you advise on how many occasions your ministerial driver has transported Patch and Ted with you in the vehicle?

Honourable members interjecting.

The PRESIDENT — Order! Mr Morris, could you just repeat that question? The minister did not quite catch it, partly due to his colleagues.

Mr MORRIS — Certainly, President. Minister, can you advise on how many occasions your ministerial driver has transported Patch and Ted with you in the vehicle?

Mr HERBERT (Minister for Corrections) — As I had indicated, there is no one specific number to that. As I put in my answers, a thorough review of the drivers' logs has been undertaken and an accurate figure for this is not possible.

Supplementary question

Mr MORRIS (Western Victoria) — Thank you, Minister, for your response. Minister, can you advise on how many occasions your ministerial driver has transported Patch and Ted without you but with another person other than the driver in the vehicle?

Mr HERBERT (Minister for Corrections) — Thank you for your supplementary question. The dogs were transported once, possibly twice, between Parkdale and Trentham unaccompanied. This was a mistake, and I have repaid that funding. They have been in the car with me travelling to and from my house of residence in their travel cases, along with luggage, along with equipment, along with other stuff — other briefing cases. My wife was in the car with me on a few occasions, but there is no answer to that question according to the logs, that sort of detail, just as I would think Ms Wooldridge's driver would not detail and Ms Wooldridge would not detail what is in the back of her car.

Minister for Corrections

Mr O'DONOHUE (Eastern Victoria) — My question is also to the Minister for Corrections. Minister, in your written response and in your responses today you have said that the number of times that your dogs have been transported unaccompanied is based on your recollection, but obviously your ministerial drivers themselves may have a clearer recollection, so I ask: were the ministerial drivers interviewed to help you remember exactly how many times your dogs had been chauffeured unaccompanied?

Mr HERBERT (Minister for Corrections) — Thank you very much. I doubt that I would have the capacity to do that, nor would it be appropriate. So I do not believe so, no.

Supplementary question

Mr O'DONOHUE (Eastern Victoria) — Noting that the minister said no, he has not spoken to the ministerial drivers, I ask: will you now ask your drivers about the number of times Patch and Ted have travelled unaccompanied, to ensure that you provide accurate and fulsome responses to this house?

Mr HERBERT (Minister for Corrections) — I have provided as accurate an answer as I can. In terms of the — —

Honourable members interjecting.

Mr HERBERT — The questions of course do relate to ministerial drivers and vehicles, and there are clear rules on that. In regard to some of the questions you are asking — —

Honourable members interjecting.

Mr HERBERT — Well, there are. But, no, it is not my intention whatsoever to interrogate the three drivers that I have had.

Minister for Corrections

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is to the Minister for Corrections. On Friday, 28 October, you said you had updated your register of members interests. What exactly have you added and/or deleted in your register of interests declaration?

Mr HERBERT (Minister for Corrections) — I believe this relates to inadvertently my — —

Honourable members interjecting.

The PRESIDENT — Order! The minister has 4 minutes to answer a question, and he, like me, is quite prepared to run down the clock if he has continual interjections. The minister, to continue without assistance.

Mr HERBERT — My principal place of residence in Trentham, I was made aware, was not on the register. Incidentally that property is in my wife's name, but nevertheless as soon as I was made aware of that I sought to put it on the register.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — Minister, the 30 June 2016 register of members interests shows that recently you updated your return, adding your block of land in Trentham, adding a share in a racehorse, deleting a share in another racehorse and deleting hospitality and transport provided by the Sri Lankan government. That is quite a detailed set of changes in June 2016, and despite all of this you failed to declare a new principal place of residence. Was the failure to declare your new principal place of residence an attempt to deliberately mislead the Victorian community, incompetence or both?

Mr HERBERT (Minister for Corrections) — I thank the member for her question. No, it was not at all. In fact Mr Morris has seen me in Trentham having a bite to eat in the Cosmopolitan Hotel beer garden on a number of occasions. I do not think there is any secret whatsoever. I changed what I thought were new items on my register, and I thought that was on the register. It was an inadvertent slip and certainly not deceptive. I am pretty well known in Trentham. Let me tell you that I have had terrific support from Chris and Henry and a lot of the locals in Trentham who I had a beer with over the weekend.

SPC Ardmona

Ms LOVELL (Northern Victoria) — My question is for the Minister for Agriculture and Minister for Regional Development. The Premier promised Victorians his government would fight for every job. Today it has been revealed that thousands of jobs in Shepparton may be at risk due to Woolworths reconsidering the agreement they made with SPC and the commitment that they made to the Victorian public that Woolworths Select home brand fruit products would contain Australian grown and processed fruit sourced from SPC. I ask: Minister, have you personally met with SPC to discuss what this would mean for SPC and jobs in the Goulburn Valley. If so, when, and if not, why not?

Ms PULFORD (Minister for Agriculture) — I thank Ms Lovell for her question and her interest. As Ms Lovell has rightly indicated, the future of SPC is of critical importance to the Goulburn Valley, for the many farmers who supply the cannery and for the many hundreds and at peak times up to a thousand people who work there. I have a meeting scheduled with SPC for 4.00 p.m. today and look forward to talking to them about these issues.

I met with SPC a number of months ago and visited the plant probably in around June of this year, when I had an opportunity to see the first part of the work that represents the co-investment by the Victorian government and Coca-Cola Amatil, as the parent company, which is absolutely essential for securing a strong future for the company. The additional line represents a move into greater value-added work in the suite of products that come out of that factory, and indeed the government has been working with SPC and with Austrade as well to assist the company to take those new products to new export markets.

But absolutely essential for this business are strong domestic sales, and Woolworths should most certainly stand by the undertaking that they made a couple of years ago — a five-year undertaking that was made — that was a very important component of the arrangements that were entered into by the former government. I will be having discussions with the company this afternoon, and indeed representatives of Regional Development Victoria have been in contact with them last night and during the course of this morning as well.

Supplementary question

Ms LOVELL (Northern Victoria) — Thank you to the minister for confirming she has not met with SPC on this issue, but I appreciate that she will meet with them this afternoon, so that is great. Further to that, to protect Goulburn Valley jobs will you meet with Woolworths as a matter of urgency to ensure they fulfil

their agreement with SPC and the commitment that they made to the Victorian public?

Ms PULFORD (Minister for Agriculture) — I thank Ms Lovell for her further interest and her supplementary question. I will be discussing this matter with SPC in the first instance, but Woolworths should absolutely feel a great responsibility to the Goulburn Valley, to the many growers that supply SPC and to the many hundreds of people who work in that plant. The government will certainly do whatever is required to ensure a strong future for a company that is so important to such an important region in our state.

Christmas Day public holiday

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Small Business, Innovation and Trade, Mr Dalidakis. Minister, could you please detail to the house why it is that Victoria is the only state which has not declared an additional public holiday when Christmas Day falls on a Saturday or Sunday?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Barber for his question. What I would point out at the outset, Mr Barber, is that in fact all that Victoria is doing under the Andrews government is maintaining the status quo, which was the practice in 2011 of those opposite when they were in government. When they were in government in 2011 they held to the same practice of providing a substitute public holiday. What I will tell you, Mr Barber, is that we are not avoiding the desire to have a public holiday for Christmas. In fact the substitute day will be on Tuesday, 27 December, and people that are required to work on the Sunday will be provided with penalty rates, as is in keeping with the jobs that they perform. In fact Victorians will have a Christmas Day public holiday. They will have it on Tuesday the 27th, and they will receive penalty rates should they have to work on the Sunday.

Honourable members interjecting.

Mr DALIDAKIS — Mr Barber, all I can say is that those opposite who continue to bark are shedding crocodile tears, because when they had the opportunity in 2011 they chose to maintain the status quo then, as we have decided to do today. Just because other states and/or territories may do something different is no reason for Victoria to follow suit, which is why Victoria continues to be the engine room within the business community. When we took over government from that sad and sorry lot, unemployment was at nearly 7 per cent. Unemployment is now down in the mid-5s, but of course those opposite are not interested in that. They are not interested in talking the state up; they are interested in talking the state down. But you know what? When they talk the state down they actually talk themselves down.

Honourable members interjecting.

The PRESIDENT — Order! The minister, to continue without assistance.

Mr DALIDAKIS — Thank you, President. In finality, Mr Barber, what I can tell you is that the existing holiday arrangements for Christmas Day will in fact remain the same. There will be no change to the arrangements that the previous government held in 2011. We will hold the same arrangements for 2016.

Supplementary question

Mr BARBER (Northern Metropolitan) — Thank you, Minister, for seemingly confirming that Victoria is the only state where there is no declared additional public holiday and that that was the status quo presumably under the Baillieu government and the Brumby government and the Bracks government as well. In your answer to my substantive question you said that that will not change in 2016. Can you tell me if this is under any kind of review at the moment — formally, I mean — and whether it is likely that Victorian workers will not be as disadvantaged sometime in the future?

Mr DALIDAKIS (Minister for Small Business, Innovation and Trade) — I thank Mr Barber for his question. Can I just say at the outset again in relation to this issue that a review was undertaken in keeping with our election policy. In fact I remember receiving questions from Mr Ondarchie late last year in relation to this very issue, and I informed the house then that the review would be undertaken in keeping with our election commitment. We put out a release in February of this year affirming that the review was undertaken and that the decision was that there would be no change and the status quo would remain.

I also recollect that that announcement was made not just by media release; I believe it was covered by media at the time. At the same time, President, I can also inform you that I believe we had questions from the opposition on this. So this is not new news, but I am happy to inform Mr Barber that a review was undertaken and completed.

End-of-life choices

Ms PATTEN (Northern Metropolitan) — My question is to the Minister for Health represented by Minister Mikakos. It is becoming clear that the tragic death of an elderly couple in Rosebud last Wednesday was a murder-suicide. While investigations by Victoria Police continue, what we do know is that both the victims, who were in their 80s, had been battling long-term serious illnesses and were dealing with constant pain and suffering. If this government needed any more convincing that we urgently need to put in place laws to give Victorians the right to a peaceful and gentle death, then this is it. The horrific scenes that confronted police and neighbours have shocked Mornington Peninsula residents and thrown entire families into the depths of grief. When will the government respond to the end-of-life choices inquiry report handed down earlier this year that recommended legislative change to allow for a dignified death?

Ms MIKAKOS (Minister for Families and Children) — Thank you to Ms Patten for her question. Can I say at the outset that the premature death of any person is a terrible tragedy, and whilst the specific case that Ms Patten referred to is subject to an ongoing police investigation and I will never compromise these investigations and discuss them in a public way, I want to thank the member for her question and for her personal commitment to end-of-life choices for Victorians. The report that was undertaken was a very comprehensive one, and in fact all the members of that committee should be very proud of the fact that they gave an opportunity to many Victorians to speak publicly about matters like palliative care and advance care directives.

Our government will be responding consistent with the time lines expected of government responses to parliamentary committee reports, but what I can say to the member is that we are making strides forward in relation to end-of-life matters. The Andrews Labor government is overhauling Victoria's current model of palliative care, which has many barriers that prevent people from dying at home in line with their wishes. The government has recently released a new end-of-life and palliative care framework that will support more people with a terminal illness to die at home.

For the work that needs to be done alongside that framework our government has allocated $7.2 million to create the right infrastructure to allow more Victorians with a terminal illness to die at home. We have also introduced legislation that gives protection to advance care directives to ensure that the wishes of Victorians are respected as they near the end of their lives. These are very important steps that will allow more families to have their wishes respected.

During the course of 2016–17 some of these reforms have included reviewing the after-hours support services for home-based palliative care across Victoria; optimising the specialist home-based palliative care by developing core packages of care; testing new integrated models that deliver flexible end-of-life and palliative care; improving regional coordination and referral pathways to support local health services to provide end-of-life care; centralising and improving end-of-life and palliative care information and resources; working with palliative care education and training experts to develop an interactive education program for clinicians; establishing a medical scholarship to support Aboriginal palliative medicine trainees and developing culturally responsive palliative care strategies; strengthening the role of the palliative care clinical network in leading clinical improvement; supporting the development of volunteer training, education and mentoring strategies; and also developing a single point of entry for all referrals to community palliative care across metropolitan Melbourne to improve timely access.

I know that the Minister for Health is a minister who is deeply compassionate about people who are experiencing these very, very difficult issues, and I know that this is a report that she is giving the due consideration that it deserves. It deals with very, very complex issues facing many Victorians at the moment, and as I indicated to the house, our government will be responding consistent with the time lines expected of government responses to parliamentary committee reports, but I thank the member for what I think has been the most insightful and important question we have had in this question time.

Supplementary question

Ms PATTEN (Northern Metropolitan) — Thank you, Minister, for a very comprehensive answer. I think in noting that answer it is encouraging to hear that a number of the recommendations that were made by that committee as an outcome of that very intensive inquiry are being met, so my final question is: will you meet our final recommendation, which is to implement legislation to allow for physician-assisted dying in Victoria?

Ms MIKAKOS (Minister for Families and Children) — I note the member's question is kind of skirting a little bit the standing orders in terms of calling for particular legislative reforms. But as I said at the outset in my substantive answer, these are very, very

complex issues, and I am sure Ms Patten and the members of the committee that sat in that inquiry would agree that these are very complex issues, and as I indicated, I am not going to pre-empt the Minister for Health's response in relation to these matters. Our government is going to be responding to the committee report within the time lines that are expected of government responses to parliamentary committee reports. My understanding is that that time is not yet up and that that there is still some time to go in relation to those usual time frames, and we will have more to say about these matters at that time.

Portland economic development

Mr PURCELL (Western Victoria) — My question is for Minister Pulford in her capacity representing the Minister for Industry and Employment. Last week's announcement that the Hazelwood power plant would close next March with the loss of up to 1000 jobs highlights the devastating impact of industry closures in regional areas. In my Western Victoria Region electorate Portland is a small town of 10 000 residents heavily reliant on the Alcoa aluminium smelter. The smelter directly and indirectly provides something in the order of 2000 jobs. Alcoa continues to face an uncertain future, and Portland will become a ghost town if it closes. I therefore ask the minister: does the government have a plan to help regional communities other than the Latrobe Valley that may be devastated by large industry closures?

Ms PULFORD (Minister for Agriculture) — I thank Mr Purcell for his question and his raising for the first time in this question time the very significant development in the Latrobe Valley this week, with the announcement by Engie of the closure of Hazelwood. The government is providing — and I think Mr Purcell's question goes to this in some part — an unprecedented level of support to the community of the Latrobe Valley. This is not simply in response to this decision but in response to an enduring set of economic and indeed other indicators that, combined, make the case for trying things differently, for taking a different approach, and so the government has established the Latrobe Valley Authority. The government has also had a ministerial task force working on the challenges facing the Latrobe Valley for some time, and Ms Shing is very much an important part of that work.

The Premier and the Premier's department are taking the lead in this particular instance and working very closely with many ministers in the government, including the Minister for Energy, Environment and Climate Change, the Minister for Industry and Employment and indeed other ministers who are in this place, including me as Minister for Regional Development.

But Mr Purcell's question relates to the challenges facing Alcoa and indeed the Portland community and its particularly high level of reliance on one very significant employer, and in the same way Ms Lovell's question earlier went to the impact of SPC as again a very significant regional employer in the Goulburn Valley. I think we always need to guard against any one community having too much of its economic wellbeing tied to the fortunes of one particular decision, be it one made close to home, close to the affected community or indeed literally on the other side of the world. So the government has been in close and regular contact with Alcoa. Ministers have been engaged in discussions with Alcoa. We certainly will continue to work with them, and we recognise absolutely the importance of Alcoa to the south-west and in particular Portland.

In saying that, I respond to Mr Purcell's question about 'What else is the government doing?'. The government is doing a great deal to support the strengthening and diversifying of local economies, and it is doing this in a number of different ways — for instance, in developing the Regional Tourism Infrastructure Fund and a pipeline of some 300 projects. We want to unlock the potential of the visitor economy in regional Victoria — we think there is considerable opportunity for jobs growth in that area — and Portland being such a beautiful part of the state has certainly got its role in that.

The most significant industries and employers for regional Victorian communities are, of course, in agriculture and in food production. So whether it be working with communities and with industries who are struggling — in the south-west, of course, significant employers have been watching very closely the plight of Victorian dairy farmers — or whether it is strengthening and supporting small businesses and medium-sized businesses to undertake a range of things, the government certainly is working with the Portland community to explore all opportunities to further strengthen the economy. It is certainly something that I look forward to working with Mr Purcell on over coming months and years.

Supplementary question

Mr PURCELL (Western Victoria) — I thank the minister for her comprehensive reply. Members have heard me raise the issue of big industries and Alcoa on many occasions, and it is important that the work is done before their closure or the pressure comes on the government. We have been working with industry

leaders and also the Portland community to develop a framework for the Portland action plan that would look at contingency plans and also the loss of a major industry. I ask: will the government support the development of the Portland action plan as a model that can be used for other regional communities?

Ms PULFORD (Minister for Agriculture) — I thank Mr Purcell for his question. As has been the case in recent months, really since we came to government, in supporting the Latrobe Valley community, in supporting the work that SPC have been undertaking in Shepparton or in supporting Portland, the government does and will continue to work with community leaders, local councils and other representatives of local communities who wish to be involved in this kind of dialogue with government and in promoting stronger local economies with the government.

I understand that the regional director for Barwon south western region has been meeting with the Committee for Portland and others as part of this work that has been underway, and I look forward to further reports on that and opportunities to meet with Portland community leaders to discuss these issues in more detail. But certainly the government stands ready to work with communities to fulfil all of their ambitions.

QUESTIONS ON NOTICE

Answers

Ms PULFORD (Minister for Agriculture) — I have answers to the following questions on notice: 7007–8, 7124, 7192, 7452, 7486–7, 7491, 7497–9, 7502, 7504, 7510, 7516, 7522, 7524–5, 7641.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! In respect of today's questions, I would seek from Minister Herbert further responses in respect of three supplementary questions, those being Ms Wooldridge's first question, Mrs Peulich's question and Mr Morris's question — only the supplementary questions.

Ms Wooldridge — On a point of order, President, just on that can I put to you that Mr Morris's first question was 'How many occasions did the ministerial driver transport Patch and Ted with you in the vehicle?'. Minister Herbert did not answer that question. He said it was impossible to answer. He did not even give an estimation; he just ruled it out completely. My request to you is: is it possible to have that reinstated in line with the further question about potentially asking drivers and getting further input so that we can get an indication, even if it is an estimate, of how many times the dogs have travelled with the minister in the car?

The PRESIDENT — Order! I have not perused the minister's answers to the house today or the written responses that were requested from the previous occasion, but I understand that one of those answers indicated or used the word 'numerous'. Is that correct?

Mr Herbert — 'On occasions', I recall.

The PRESIDENT — 'On occasions', was it? Not 'numerous'; it was 'on occasions'.

Ms WOOLDRIDGE — 'Other occasions'.

The PRESIDENT — 'Other occasions'. The minister has indicated he is not in a position to provide that advice. He does not have recall of the number of occasions. Given the point of order, I will be charitable on this occasion to the opposition and allow the minister to give it further consideration. But I acknowledge that the minister has already indicated that he would have some difficulty in providing the number because he does not have the records to substantiate it and provide an answer to the house. On that basis, for Mr Morris's substantive and supplementary questions I would seek a written response and ask if the minister could reflect on those matters.

Ms Wooldridge — On a further point of order, President, the minister has responded in a written answer to a question asked on Thursday, 27 October, that:

> A thorough review of driver log records has been undertaken to get an accurate figure …

My point of order is in relation to clarification, because the driver travel logs actually detail in quite some detail the kilometres on a daily basis, the purpose of the journey, destination and passengers, which could include the dogs as well as the minister if they were separate. The evidence is that the driver travel logs are quite detailed in relation to the kilometres, the distance, the destination and the purpose of the journey. But the minister's response says that he has not been able to ascertain that from the drivers' logs and therefore has had to guess or it is on the basis of his recollection. I suppose I am requesting further clarification and detail about why, when there are such detailed records, they have not been able to ascertain, even on the basis of distance travelled, when the dogs have been transported between Parkdale and Trentham.

The PRESIDENT — Order! If that information could be provided to me, I will give that further consideration.

CONSTITUENCY QUESTIONS

Southern Metropolitan Region

Mr DAVIS (Southern Metropolitan) — My constituency question today relates to the Minister for Police's portfolio, and I am seeking from her the steps the minister will take in relation to the Apex gang and what she will do in terms of police resources and allowing them to restore order in Southern Metropolitan Region. What is clear is that this Apex gang is out of control; it is running rampant. It is thumbing its nose at the police and authorities. There are now carjackings and home invasions that we were not used to at a previous point. Under this government these have arisen. It is also the case that the four locations for the raids on the stores in the last couple of days have been quite extraordinary — Officeworks all across Southern Metropolitan Region, in Carnegie, Chadstone and South Yarra. This is out of control, and it is time it was stopped.

Western Metropolitan Region

Mr MELHEM (Western Metropolitan) — My constituency question is directed to the Minister for Suburban Development, the Honourable Lily D'Ambrosio. I note that the Andrews Labor government recently established Metropolitan Partnerships, which recognise the importance of community involvement in decision-making about infrastructure and services. Indeed the partnerships will allow communities to have a greater say about the issues that matter to them and ensure that their needs are heard by government. A total of six Metropolitan Partnerships will be established across Melbourne. My constituents in the west are very keen to be involved. Can the minister please inform me how my constituents in Western Metropolitan Region can be involved in the local partnership arrangement?

Western Metropolitan Region

Ms HARTLAND (Western Metropolitan) — My question is for the Minister for Agriculture, Ms Pulford, in her capacity of representing the Minister for Roads and Road Safety, Mr Donnellan. Yesterday a large container truck hit the Napier Street rail bridge in Footscray. As a result the container fell off the back of the truck and onto the adjacent bike lane and footpath. It is a miracle that nobody was killed. This is not the first time, and it will not be the last accident of its kind. People in Footscray should be able to walk and cycle without fear of being killed or seriously injured by a container truck. My question is: can the minister explain what action is being taken to prevent this kind of accident happening yet again?

Northern Metropolitan Region

Ms PATTEN (Northern Metropolitan) — My question is directed to the Minister for Housing, Disability and Ageing, Mr Foley. Recently I held a roundtable discussion to gauge the views of organisations providing services to Victorians who are homeless or at risk of homelessness. It included representatives of Melbourne City Mission, Salvation Army, Launch Housing and the Women's Property Initiatives. That discussion recognised that homelessness is not a standalone issue, with mental health and substance abuse being serious drivers and continuing concerns. We know that effective treatment plans start with accommodation. Melbourne is in desperate need of short-term accommodation facilities, so much so that organisations in the sector are spending millions of dollars on putting their clients up in hotels and the like just to meet demand. With vast tracts of land available to this government on the edges of our CBD and with a wide range of easy-to-erect, environmentally friendly short-term building solutions available, my question is: will the minister ensure that there are funds in the next state budget to identify suitable areas to build such facilities?

Mr Finn — On a point of order, President, they are very important issues raised by Ms Patten, but at no time did she refer to her constituency. As I understand it that does render her question ineligible to be a constituency question.

The PRESIDENT — Order! I must admit I was not attentive to that part of it.

Ms Patten — On the point of order, President, Melbourne's CBD is my constituency and the homeless people in the Melbourne CBD are my constituents. The organisations that I met with — Melbourne City Mission, Salvation Army, Launch Housing — are all within Northern Metropolitan Region, so I would say this is absolutely relevant to my constituents and my electorate.

The PRESIDENT — Order! I will accept that on this occasion that was consistent with the electorate.

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Roads and

Road Safety. I point out to the minister that commuters in Melbourne's west faced a bleak start to the working week yesterday. The West Gate Freeway was gridlocked right back to Point Cook. Motorists on the Calder Freeway faced similar gridlock from Calder Park Raceway. The Deer Park bypass was at a standstill and the Tulla was holding its usual basket case status. Nothing in today's announcement by the government will bring any relief to these roads. When will the minister move to solve the daily debacle on the aforementioned roads?

Western Victoria Region

Ms TIERNEY (Western Victoria) — My constituency question is directed to the Minister for Emergency Services, Mr Merlino, in the other place. Last Thursday I had the opportunity to visit Carisbrooke and Charlton and to sit down with residents and emergency service members to talk about the impact that the recent floods have had on those communities. We talked about what did and did not happen leading up to the floods and what happened during the critical emergency period of the waters rising. We also talked about damage that has been inflicted on those communities, how we can rebuild and ideas in terms of what can be done to reduce or prevent the impact of future flooding on those communities. My question for the minister is: what are the next steps in terms of assisting communities to ensure the prevention and reduction of damage to those communities as a result of floods?

Western Victoria Region

Mr MORRIS (Western Victoria) — My constituency question is to the Minister for Public Transport. Will Ballarat V/Line services be stopping at the new Caroline Springs station when it comes online next year? Ballarat commuters have had to suffer through Labor's rail fails since June 2015, and Ballarat commuters should know about the minister's plans for the Caroline Springs station. The Ballarat service certainly has grown in terms of the number of passengers, and as a result of this many passengers have quite uncomfortable trips on the Ballarat service, both to and from work.

If the Caroline Springs station were to be added as a further stop, these concerns and the congestion would only be increased by the number of passengers expected to be utilising the Caroline Springs station. I certainly expect that the minister will provide some certainty to Ballarat commuters.

Eastern Victoria Region

Mr MULINO (Eastern Victoria) — My constituency question is to the Minister for Small Business, Innovation and Trade, and it relates to small business buses. Small business buses are an extremely useful resource to small businesses throughout metropolitan and regional Victoria. My question is in relation to those small businesses in the Cardinia area in my electorate, and it is to ask the minister to provide information in relation to the schedule of small business bus visits over 2017 so that I can provide that information to my constituents.

South Eastern Metropolitan Region

Mrs PEULICH (South Eastern Metropolitan) — On the weekend I visited the Edithvale and Seaford wetlands, wetlands of international significance. Last sitting week the house did not oppose a motion I put forward calling on the proponents of the sky rail level crossing proposal to refer the project to the federal government for an environmental impact study under the federal Environment Protection and Biodiversity Conservation Act 1999. I note that there are three grounds on which that particular legislation is engaged: the hydrology, the ecology and the migratory bird paths. I noted from our discussions that such a study may take three breeding cycles or three years. I ask the Minister for Energy, Environment and Climate Change in this instance what plans she has underfoot to ensure that this referral is made promptly.

Western Victoria Region

Mr RAMSAY (Western Victoria) — My constituency question is to the Minister for Public Transport, and it relates to one of the traffic lights that was recently installed just on the west side of Winchelsea as part of the new duplication of the road between Waurn Ponds and Winchelsea. Even though there are speed restriction zones from 80 kilometres an hour as you come in from the east into the township of Winchelsea, down to 70 kilometres an hour and then to 60 kilometres an hour, there are a number of pedestrian crossings with light signals — two in fact on the western side. We have noticed that the traffic, given the new duplication of the road, is still travelling at quite excessive speeds and is also not stopping at the red lights. In fact quite a number of pedestrians have had very near misses as a result of vehicles ignoring the lights. I ask the minister to look at installing safety signs and red-light cameras at those locations, given that the Country Fire Authority has also raised those concerns locally.

TRADITIONAL OWNER SETTLEMENT AMENDMENT BILL 2016

Second reading

Debate resumed.

Mr EIDEH (Western Metropolitan) — I continue my contribution on the bill. I was saying that we have before us a bill that I wholeheartedly support and that will serve to deliver real and tangible results for Victoria's traditional owners. As our federal government counterparts argue over who occupies the Indigenous affairs portfolio, the Victorian government is establishing a true and meaningful partnership with our traditional owners. Where the federal government's Native Title Act failed to deliver for our Indigenous people, the Andrews Labor government is addressing this in the form of this bill. In consultation and cooperation with Victoria's traditional owners, the government has reached settlements with the Gunaikurnai people of Gippsland and with the Dja Dja Wurrung people of the Loddon Valley.

The Traditional Owner Settlement Amendment Bill 2016 authorises numerous activities under natural resource agreements, including rights to hunt wildlife and game, fish, and gather flora and forest produce. This is a much-needed aspect of our relationship with traditional owners and could even be considered natural justice. All existing traditional owner leases, licences and other interests on Crown land are preserved after a grant of Aboriginal title is made.

The bill enhances the operation of the Traditional Owner Settlement Act 2010 and ensures that the act provides an alternative to seeking Federal Court determination under the Native Title Act 1993 for Victorian traditional owner groups. The bill will amend the Traditional Owner Settlement Act 2010, the purpose of which is to, first, further provide for grants of Aboriginal title under the land agreements under part 3; second, revise the operation of land use activity agreements under part 4 and further provide for compliance with those agreements; third, revise the operation of natural resource agreements under part 6 as they apply to the carrying out of certain activities on land that is subject to the agreements and to provide for agreements about natural resources for land owned by traditional owners; fourth, to amend the Crown Land (Reserves) Act 1978, the Fisheries Act 1995, the Flora and Fauna Guarantee Act 1988, the Forests Act 1958, the Land Act 1958, the National Parks Act 1975, the Prevention of Cruelty to Animals Act 1986, the Water Act 1989 and the Wildlife Act 1975 to provide for agreements about natural resources with traditional owners; fifth, to make a minor amendment to the Aboriginal Heritage Act 2006; and sixth, to provide for other minor and related matters.

All of the above amendments are necessary to achieve the Victorian government's commitment to traditional owners and of this government's support for self-determination of Aboriginal Victorians. Let us not forget that Victoria is the only state to have consulted and worked closely with traditional owners to develop an all-encompassing alternative to the Native Title Act. I commend the bill to the house.

Mr HERBERT (Minister for Training and Skills) — I begin by thanking the speakers on this bill for their passion and concern for traditional owners and their efforts to ensure that we live in a just and fair society. The Traditional Owner Settlement Act 2010 has served this state and traditional owners well in terms of defining native title and defining how the government's relationship with traditional owners, particularly in relation to Crown land, should be undertaken. However, it has been six years since the original legislation was enacted, and we recognise that we have learnt lessons and there are some improvements that can be made. That is what this bill does. The amendments will help to ensure that Victoria's native title framework meets the needs of traditional owners so that the state can continue to make settlements and agreements into the future. Traditional owners and key organisations have been consulted at every stage of the development of this bill, further demonstrating that we are committed to the self-determination of our first peoples.

Key changes that will be made by the bill, which have been mentioned by others, go to ensuring that grants of Aboriginal title can be made while existing interests on Crown land are protected — for example, resource pipelines, power poles and other infrastructure that already exists on that land. The bill expands the existing jurisdiction of the Victorian Civil and Administrative Tribunal (VCAT) as part of measures that protect traditional owners by ensuring that proper land use is adhered to. If a third party, say a government agency, breaches this, VCAT will have the ability to review those decisions.

Under changes made by the bill, traditional owners will more easily be able to exercise their rights to access and use natural resources, such as hunting on their land. The amendments do this by making the natural resource agreement itself the source of those rights, and while the relevant minister must be consulted, this will simplify the process and reduce red tape. All in all, I think these amendments will serve us well. They are

born out of experience and the need for change and improvement. I commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Ms CROZIER (Southern Metropolitan) — I thank the minister, and I am pleased he is at the table, because I will go to some of the comments he made in summing up. I go to the first part of the bill in relation to a comment I made in my contribution earlier around the Federation of Victorian Traditional Owner Corporations fact sheet, which goes to the Traditional Owner Settlement Act 2010 and the Native Title Act 1993. In my contribution, I quoted from this fact sheet, which says:

> Over time it is expected that close to 100 per cent of the state will be covered by native title determinations and/or traditional owner settlement agreements that provide recognition of the special relationship of Aboriginal peoples with their land and waters, and in particular confer a range of procedural rights in relation to activities on Crown land, including consent and negotiation rights, recognition as the registered Aboriginal party under Aboriginal heritage legislation and rights to natural resources.

My question is: does the government have any idea about what time frame the Federation of Victorian Traditional Owner Corporations is referring to in relation to the Traditional Owner Settlement Act and in particular this bill?

Mr HERBERT (Minister for Training and Skills) — I was not here for your contribution, Ms Crozier, and I am unaware of that fact sheet, but I will seek advice on the substantive matter you have raised in terms of that time frame.

I am advised that the government does not have any time frame in terms of this. Of course not every traditional owner group has put in a settlement claim, and when they come in we process them and negotiate them as quickly as possible, but we do not have any time frame for it.

Ms CROZIER (Southern Metropolitan) — If I could just go to another general reference before moving on to the clauses. In summing up you said that there would be no changes to the infrastructure that is already on land affected by this act. Could you confirm for me that I heard that correctly?

Mr HERBERT (Minister for Training and Skills) — This bill recognises interests in the land; when there are new settlement discussions they will not be impacted by those discussions. For instance, if there is a pipeline running through the land, then there is a pipeline running through the land and that will be maintained in terms of any outcome in the various negotiations.

Mr BARBER (Northern Metropolitan) — I just have some questions about the progress of the Eastern Maar settlement process under the principal act and quite possibly under the provisions of this bill as well. Can the minister please detail the progress of that settlement claim up to the minute, as I believe there may have been some more progress as this bill has worked its way through the house?

Mr HERBERT (Minister for Training and Skills) — In regard to Mr Barber's important question, I can advise that the government is committed to resolving claims under the Traditional Owner Settlement Act as quickly as possible. I am further advised the Department of Justice and Regulation is actively engaged with Eastern Maar and Native Title Services Victoria to resolve remaining threshold issues, and we expect that the Eastern Maar group will meet towards the end of the month to determine their position.

Mr BARBER (Northern Metropolitan) — Thank you for that answer, Minister. A threshold statement is a legal claim for recognition of traditional owner rights under the Traditional Owner Settlement Act — that is, the principal act that we are amending. However, the process for that is not necessarily described in the act. Part A of a threshold statement is the administrative, preliminary work to establish whether the group making the claim is the correct group and that the group has appointed an appropriate traditional owner organisation to represent them. The Eastern Maar group lodged a native title registration claim and a threshold statement within a few days of each other back in December 2012. They were able to get their claim registered with the courts by March 2013. Why was the Federal Court process to register a native title claim so much faster than the threshold process — that is, under this law — when the point of creating the Traditional Owner Settlement Act was to avoid long court processes and get on with negotiations right here in Victoria?

Mr HERBERT (Minister for Training and Skills) — That is a good question. I will seek some advice on that one.

It is a day of learning today. I can advise Mr Barber in regard to his question that when it comes to the Federal Court registering a claim, it has a relatively low threshold. It does not determine the claim; it is just basically a registration process. For Victoria our threshold is higher because we have to identify that the right traditional owners and groups of traditional owners are there for the right area of land and that there has been proper consultation with other neighbouring traditional owners before we begin negotiations. I imagine there are no hard boundaries to this in many cases, so it is a major threshold issue which needs to be determined before we can make sure we are having the right discussions with the right group about exactly the right area. That is the reason for the difference in time frames.

Mr BARBER (Northern Metropolitan) — It was nearly three years after the claim was lodged — that is, December 2015 — before the government notified other groups and called for submissions on the claim. Do you agree that is a rather long time for a piece of legislation that was created for the purpose of avoiding ponderous court processes and really getting on with the job here?

Mr HERBERT (Minister for Training and Skills) — In regard to the three years, which does seem like a long time, I guess it is fair to say that Indigenous people have lived on this land for tens and tens of thousands of years, and a point in time in terms of traditional ownership arrangements needs to be done properly and we need to get it right in everyone's interests. I am advised that there were complexities in these particular threshold negotiations which related to a lack of clarity about what sort of consultation occurred with neighbouring groups.

I am advised by the department that there has not been any desire to delay this. In fact they have been trying to work solidly with the traditional owners, going backwards and forwards and clarifying things over that time period.

Mr BARBER (Northern Metropolitan) — The minister and I may disagree about whether the Federal Court processes are necessarily less stringent than Victoria's process, but I just have one final question. For my update on the current status of this claim — that is, exactly which stage of the process it is at now — I am relying on the Native Title Services Victoria annual report for 2014–15, which details some matters in relation to the Eastern Maar group. Can the minister advise the house what the current step is that this claim is going through?

Mr HERBERT (Minister for Training and Skills) — On the first point, that we may disagree, I think it is fair to say that I have not had any part in these negotiations, so I rely on advice from some very committed public servants. I am advised that what we are up to is that the department is now waiting for a discussion and an agreement from Eastern Maar about whether they accept the threshold areas, which should occur later this month. Once that occurs the department will then seek instructions from the Attorney-General. If it does not occur, then obviously more discussion will occur around the threshold issues. If there is agreement from Eastern Maar — obviously they are having discussions amongst themselves — and threshold areas are agreed upon, the department will seek instruction from the Attorney-General.

Clause agreed to; clauses 2 and 3 agreed to.

Clause 4

Ms CROZIER (Southern Metropolitan) — Clause 4 amends and inserts new definitions in section 3 of the principal act. In particular it mentions the new definition of 'alpine resort' and 'Alpine Resort Management Board'. The definition of 'public land' in section 3 of the principal act is also amended by substituting 'land under the Alpine Resorts Act 1983' with 'land in any alpine resort'. Can the minister explain why there is a need for this change and why there has been a broadening of this definition?

Mr HERBERT (Minister for Training and Skills) — I thank Ms Crozier for her question. I am advised that the changes in regard to the definition of 'alpine resort' basically bring the definition in line with the Alpine Resorts Act 1983 and the Alpine Resorts (Management) Act 1997 and that there is no substantive change in terms of policy change. It is a technical amendment to bring the wording in line with the two acts.

Ms CROZIER (Southern Metropolitan) — If there is no substantive change, how will it affect alpine resorts into the future regarding any current or future plans that they might have? I suppose that goes to the point in my opening remarks about existing infrastructure. If they have got future plans to have further infrastructure put in place, how would this particular aspect be affected?

Mr HERBERT (Minister for Training and Skills) — I think I can be very definitive here. I thank Ms Crozier for her excellent question. The change of definition in this bill will not alter the way alpine resort land is treated. Under the Traditional Owner Settlement

Act 2010 it will not increase costs or impact on snow sports or infrastructure.

Ms CROZIER (Southern Metropolitan) — So that would not have any impact on any lease arrangements or management of any lease arrangements?

Mr HERBERT (Minister for Training and Skills) — No, I said it will not, and there will not be additional costs incurred by alpine resorts as a result.

Ms CROZIER (Southern Metropolitan) — Are the alpine resorts aware that, as the minister described, there will be no impacts on current arrangements or future plans that they might have? Are they well and truly aware of those circumstances that the minister just described?

Mr HERBERT (Minister for Training and Skills) — I am advised that they were not consulted on the development of this because it has no impact on them. I dare say we will have some consultation now to make sure they know there is no impact on them.

Ms CROZIER (Southern Metropolitan) — I suppose I am a little bit surprised by that because there were media reports in relation to concerns about the impact of this bill on snow sports in Victoria. I am probably a little surprised that consultation with a very major stakeholder that will be impacted by this bill has not taken place. Perhaps the minister could reaffirm to me when that consultation will take place.

Mr HERBERT (Minister for Training and Skills) — I am advised that the media reports were not accurate, but I can assure the member that the department will write to the alpine management boards to ensure that they are aware that this bill will not impact on their operations.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister. I just note that you said the media reports were not accurate, but in actual fact those media reports came out some time ago. If it is the case that they were inaccurate and there was no concern, why has the department not written to assure the stakeholders that they will not be impacted, and how can they have confidence that in actual fact that is the case if it was known to the government and to the department what the stakeholders' concerns were? I find that quite extraordinary.

Mr HERBERT (Minister for Training and Skills) — It would be fair to say that the views of stakeholders, even where there is no area of concern, are important. I think this was an oversight, to be honest, by the department, and it will now work to address that.

Mr RAMSAY (Western Victoria) — In relation to that, I would perhaps ask the minister what the extension or change from the definition of 'land under the Alpine Resorts Act 1983' to 'land in any alpine resort' now encompasses that the current act does not. I am trying to understand if there is now concern among alpine resort stakeholders, particularly given the lack of consultation with them. If they want to build a road, under the new definition, which is all inclusive in relation to land in any alpine resort, are they compromised now under these changes where they might well not have been before? I am just trying to get some idea of the commonsense practicalities about this. For example, if the resort wants to build a road or provide a new snowfield run under these changes, are they now more restricted or do they have to refer to the native settlements corporation to get permission to do certain things? What are the restrictions now under this change?

Mr HERBERT (Minister for Training and Skills) — I thank Mr Ramsay for his question. He may not have been in the chamber or he may have missed Ms Crozier's question, which was similar. I am happy to go through it. The amendments are basically minor and technical and are there to harmonise the definitions of alpine resort boards and land with the Alpine Resorts Act 1983 and the Alpine Resorts (Management) Act 1997. They will not in any way alter the way alpine resort land is treated under the Traditional Owner Settlement Act. I have been advised they will not increase costs nor impact on snow sports or infrastructure.

Ms CROZIER (Southern Metropolitan) — Minister, I know that you have reassured that there will be no costs to the snow sports stakeholders, as Mr Ramsay described them, but I notice from other information that there has been concern in other parts of the country about the impending costs after processing existing native title claims and any future liabilities. Are you saying that at no time in the future will those stakeholders have any costs incurred under this act? Is that what you have just reaffirmed?

Mr HERBERT (Minister for Training and Skills) — No, what I am saying is that I could not possibly talk about whatever time in the future, but I am advised that the changes made here are technical and will not result in any additional costs or processes or changes to the way alpine resorts operate or are treated as part of this act. The amendments are technical in

nature, and they do not make any changes per se to the previous act.

Ms CROZIER (Southern Metropolitan) — Just to clarify again — my apologies — in terms of the way alpine resorts currently stand, if they have an extension of their leasehold of land or there is some change or potentially a new greenfield site established, that would not be covered under this current act and there could be costs incurred?

Mr HERBERT (Minister for Training and Skills) — I am advised that the changes here do not expand or alter the current situation. I could not bind a future government on costs that are incurred, but in terms of the Traditional Owner Settlement Act and how it is handled, these are technical amendments that will not make a difference in terms of costs or imposts compared to how the act stands currently before these amendments.

Clause agreed to; clauses 5 and 6 agreed to.

Clause 7

Ms CROZIER (Southern Metropolitan) — Clause 7 ensures that all existing statutory authorities, contracts, arrangements and agreements relating to public land survive a grant of Aboriginal title. They include some areas that have already been highlighted, is my understanding, such as the Dja Dja Wurrung Clans Aboriginal Corporation in the northern parts of Victoria. Will this particular area of the legislation be retrospective or prospective? Will it be either?

Mr HERBERT (Minister for Training and Skills) — I know that on this issue clarification was requested by the Scrutiny of Acts and Regulations Committee. Perhaps the best way that I can answer the question is to read out the answer from the Honourable Martin Pakula to this very question, if that is okay with you. He said:

> Clauses 7–10 of the bill protect existing interests in Crown land that are the subject of an Aboriginal title grant. These clauses are necessary in order to allow the state to deliver on some outstanding commitments to make grants of Aboriginal title under the Gunaikurnai and the Dja Dja Wurrung settlements.
>
> I am advised that the original policy intention of the Traditional Owner Settlement Act 2010 was that existing interests should survive a grant of Aboriginal title. Aboriginal corporations that currently hold grants of Aboriginal title received those grants knowing that existing interests were intended to survive.
>
> Further, the state is not aware of any existing interests that have not survived the granting of Aboriginal title (over the 13 parks and reserves already granted). Therefore, it is my view that no person is expected to be adversely affected by the retrospective application of new section 93 proposed by the bill.

What that is saying is that existing interests and claims are preserved. There is obviously a retrospective nature in that in terms of protection of what has already been agreed and is in place.

Ms CROZIER (Southern Metropolitan) — It is my understanding that this granting of Aboriginal title to land is depth limited. As you said, it does not alter anything that is existing, so if there were mining interests that were affected, would they remain the same or would they be affected under this bill? If mining exploration licences had been issued, would they be affected under this bill?

Mr HERBERT (Minister for Training and Skills) — I have been advised that if there were such a thing as a mining lease, then that would be preserved.

Clause agreed to; clauses 8 to 15 agreed to.

Clause 16

Ms CROZIER (Southern Metropolitan) — I see that the provisions of clause 16 relate to the involvement of the Victorian Civil and Administrative Tribunal (VCAT) in making determinations relating to land use activity agreements, looking at compliance, enforceability and other issues that might be related to those agreements. Do the arbitrators who are overseeing these VCAT applications have a full understanding of the titles and the issues surrounding these affairs around Aboriginal land use agreements and the environment and natural resources? Will they be specialists in those areas? Will they have a full appreciation of the complexity of what is addressed here?

Mr HERBERT (Minister for Training and Skills) — It is fair to say that VCAT members obviously deal with a whole range of areas. They obviously try to have people who have the expertise and the capacity to ensure that legislation is adhered to. On your specific question, I will seek some advice.

I can advise you that VCAT already have specialists in this area to handle these cases. What the new sections do is enhance VCAT's capacity in three main areas, such as to determine the classification of land use activity under a land use activity agreement, determine whether negotiations under a land use activity agreement have been undertaken in good faith and determine whether negotiation costs have been calculated in compliance with the regulations. So they

are the additional powers of VCAT in regard to this bill as well as its capacity to issue a determination.

Ms CROZIER (Southern Metropolitan) — Thank you, Minister. Yes, I appreciate that, but how will the government ensure that these mechanisms used through that process will not frustrate, if you like, the progress of any third party that might have an interest?

Mr HERBERT (Minister for Training and Skills) — Thank you, Ms Crozier. I am advised that there has not been any referral to VCAT of these matters since 2013. We do not anticipate that this will be a frequent event consequently, and it is thought that the mere fact that these powers are there should assist with compliance. But we are not anticipating that this would add lengthy delays to the process.

Mr RAMSAY (Western Victoria) — Just in relation to this clause, I get the feeling that VCAT, or the promotion and use of VCAT, is to provide the big stick or to perhaps dissuade any stakeholders that might wish to challenge a traditional owner group entity in relation to any change in land use activity that that entity might see as compromising the native title right or the traditional owner settlement. So what does entity mean? What entity are we talking about? I have already flagged with you in my prior contribution that there are representatives of traditional owners that are ethical and some that are not so ethical. When you have entities having the power of VCAT behind them to challenge different stakeholders in land use arrangements, it could be open for abuse.

I guess I am seeking from you, Minister, one, a clarification on what the clause means in relation to 'entity' and who that might be; and two, what protection there is for those that are engaged in, say, building a highway. There might be certain agreements, contractual arrangements and leases, and suddenly an entity decides it is not fit for purpose for land use activity as described in the act, but the developer says, 'Hold on, we've already signed a heap of contracts and lease arrangements and we are abiding by the terms and conditions, yet this entity decides that they either want to stop progress or negotiate a settlement — a financial settlement — to allow that development to go ahead'. I am seeking from you, one, in relation to the entity, what that means and who that means; and two, what protections there are for the third parties to not be compromised by the power of VCAT on this issue.

Mr HERBERT (Minister for Training and Skills) — Thank you, Mr Ramsay. I am advised that an entity technically is the traditional owner group entity and the corporation that represents the traditional owner group. In regard to capacity to go to VCAT, obviously the traditional owner group — the entity — has it, as do other people with an interest. You mentioned road building. The government, or anyone else, in putting in a road could have the capacity to go to VCAT to seek an order in regard to the land use activity.

Of course VCAT themselves are not behind any group. The reason we have VCAT is that they are an independent body that needs to look at things in conjunction with the law and the process that applies to that law in terms of making a determination.

Clause agreed to.

Clause 17

Ms CROZIER (Southern Metropolitan) — I think the minister in his answer was referring to a lot of what this clause was actually responsible for in terms of VCAT making an order or directing a person to stop or not start a land use activity. They are quite specific. According to the explanatory memorandum, new section 66B(1):

> … provides for VCAT, in response to an application made under new section 66A, to make an order directing a person to stop or not start a land use activity, to cancel or suspend the land use activity or to restore the land to its former condition prior to the land use activity (insofar as is practicable).

If we go back to the example of alpine resorts, if they were to do something such as extending their infrastructure, would VCAT direct them to pull down a road?

Mr Herbert — For a new resort.

Ms CROZIER — Yes, exactly — restore that land to what it was. Is that what this provision means?

Mr HERBERT (Minister for Training and Skills) — It is a very topical question, with the appalling act of vandalism on the Corkman hotel.

Ms Crozier — That is what I am talking about.

Mr HERBERT — Yes, absolutely. I am advised that in regard to alpine resort land the only obligation is to advise the traditional owners of the activity so that there can be negotiations. That is the only obligation in regard to alpine resort land. VCAT would have a role if the alpine resort had not advised the traditional owners entity that they wanted to do a development, if that makes sense, as opposed to being able to stop that development in alpine resorts.

Ms Crozier interjected.

Mr HERBERT — Yes, I am told that is correct.

Ms CROZIER (Southern Metropolitan) — Is there a time frame or time limit on that?

Mr HERBERT (Minister for Training and Skills) — I would think before the activity occurred, but I will just seek some advice on that.

I can advise that the traditional owners entity has to be advised 28 days in advance, which, given the time frames for any development in an alpine park, is probably a reasonable time frame.

Mr RAMSAY (Western Victoria) — What consultation has been had with third-party stakeholders in relation to VCAT being used as the tool to try and mediate disputes between the traditional owner settlers corporation and the government or other utility stakeholders in relation to land use? I am just trying to work out why there is the need for this amendment, particularly the clause in relation to the new provision for groups being able to make applications for enforcement or interim enforcement orders to stop or start land use activities or to cancel or suspend land use. Quite a lot of power is now given to the corporation as such, or corporations. I am wondering what the feedback was from other groups in relation to how that might impact on their attempts to mediate and whether there are some issues arising out of development work or proposed development work, given that I understand costs will be up to the discretion of VCAT in relation to the process.

Mr HERBERT (Minister for Training and Skills) — Thank you, Mr Ramsay, for your question. As you have mentioned, this broadens the role of VCAT. I am advised, though, in terms of the substantive question, that there has been consultation with the minerals council, with VCAT themselves, with the earth resources regulation branch of the Department of Economic Development, Jobs, Transport and Resources, with traditional owners and with native title groups, and there has been broad support for improving compliance in this way.

Clause agreed to.

Clause 18

Ms CROZIER (Southern Metropolitan) — I understand that this clause relates to natural resource agreements, and those agreements will now be made directly between the government and the traditional owner groups who can then set the scope and limit for an agreed activity that they decide under that agreement. I also note in clause 18 that the heading is amended in order to account for additional agreements that are made available in part through this bill, but in relation to the definition of national resources why has that been amended?

Mr HERBERT (Minister for Training and Skills) — I am advised that the definition of native resources was tied to forest production under the Forests Act 1958. This is a technical change, and it is basically a drafting preference to no longer rely on forest produce but to have a definition which better reflects the variety of native title rights pertaining to different types of land.

Ms CROZIER (Southern Metropolitan) — That is all right. So you are saying 'natural resources' is just confined to the timber industry; it does not extend to any other elements or fish or fauna or anything else that might be indigenous to that natural environment?

Mr HERBERT (Minister for Training and Skills) — No, I am not saying that, I am saying that previously — and I will get a little more information on the various types of flora and fauna and things like that — it was a technical amendment that related the 'natural resource' term to forest products in the Forests Act, and in the drafting it was thought that that was inappropriate and it should better reflect the gamut, I guess you would say, or the variety of native title rights. But let me get a little more specific information on that.

Ms CROZIER (Southern Metropolitan) — If I may, I would just like to clarify something for the minister before he speaks to the advisers. I am just trying to understand the extent of how far this reaches, because it goes into further clauses about the agreed activities and how far that is going to reach and how they will be impacted.

Mr Herbert — And whether there has been change because of things like that.

Ms CROZIER — Okay; thank you.

Mr HERBERT (Minister for Training and Skills) — Let me attempt this one. I am told that it is broadly consistent with the previous definition; however, there could be some expansion of the resource that could be taken from the land.

Ms Crozier — There could be?

Mr HERBERT — Yes, there could be. However, of course, in these discussions the government of the day has discretion about what it agrees could be taken and under what circumstances, so the government would have to agree. As I understand it, there could be

native grasses which are to be used for weaving purposes or making produce, and depending on the grasses, depending on what the environment is, that would be the subject of negotiations with the government of the day.

Ms CROZIER (Southern Metropolitan) — I suppose that is really my concern, because you have just highlighted an example about using grasses for weaving. How long is a piece of string? I am trying to understand how broad these resources can be. Who is going to be monitoring them? Through this process how can you be sure that they will not be exploited? You came in and you said it was about timber, and now we have gone to grasses. I am thinking we have got water, we have got fish and we have got native fauna and flora, and from your answer I am not clear how far this can go. We are trying to simplify the process to make these agreements — exactly what we are not discussing — but I do not get that clarity through these answers.

Mr HERBERT (Minister for Training and Skills) — In regard to your earlier question, I was referring to when the natural resource was defined as a forestry product under the Forests Act 1958, and this bill has the capacity to broaden the definition as opposed to timber. I will seek a bit more clarity.

Let me have a further crack at this one. Under the existing act natural resources are defined in relation to different areas and are the flora, fauna, fish, forest produce and wildlife on or depending on the land and the water on the land. So in regard to those questions you asked, that is in the existing act. I am advised that what this change does is broaden the definition of forest produce and protected flora to include vegetation.

Further, clause 83 of the bill will give the government the ability to place conditions on what can be taken under a natural resource agreement, which I believe is existing. Just one moment while I seek advice. The government already had the capacity to have to agree on what can be taken from the land. What this clause does is enable them to put conditions on how many and how much — those types of conditions relating to the natural resource agreement.

Ms CROZIER (Southern Metropolitan) — Just a point of clarification — I think I misheard you — was that an expanded list of forestry products?

Mr HERBERT (Minister for Training and Skills) — No, I read from the existing act's definition of natural resources.

Mr RAMSAY (Western Victoria) — This bill originally started out by enabling a mechanism for traditional owner settlers through the corporation to be able to negotiate their way through without being bogged down by the Native Title Act 1994 and federal government legislation. I understand that. The idea was to do out-of-court mediation and settlement, and I certainly support that process. It enables all parties to reduce the time and the costs associated with disagreement.

But what we have seen here since the committee started trying to get clarification in relation to these clauses is that you are broadening out nearly all of the key ingredients under the principal act, starting with the alpine resorts. You have broadened that out to mean all land within an alpine resort. You are using VCAT as a vehicle now to try and shepherd compliance by third-party stakeholders to make sure they are compliant and will not kick up a fuss. The threat of all the legal costs associated with going through VCAT is supposed to act as a deterrent so a quick resolution is found.

Then we have the land use agreements, which we have had some discussion about in seeking clarification. I am not convinced yet that the traditional owners will not have greater capacity to be able to stall projects and use the legal machinery to seek restitution or fiduciary restitution to reach agreement. Then we have the natural resource agreements, which Ms Crozier has been trying to get some understanding of in relation to what they mean and the broadening out of what was forestry refuse.

Mr Herbert interjected.

Mr RAMSAY — I know this is a statement, Mr Herbert, but I am getting to the question. Now we are looking at a whole range of activities. Suddenly we have moved from VCAT being the big stick to land use agreements to now a minister being the big stick to natural resource agreements. Then I read in clause 19 that in fact it might not be the minister at all; it could be the department secretary or some public servant in the department that ultimately could make some decision around a natural resource agreement.

Only the other day the government released their *Water for Victoria* document, and in it there is now a specific water entitlement for Indigenous water use. So you sort of question: given the government's policy on Indigenous water use, does that actually impact on any future natural resource agreements that the traditional owners and the minister will come to some arrangement over that actually might affect other water

entitlement users, whether it is the environmental users, the irrigation users or any other users? When you broaden out these acts and clauses to encompass a whole lot of other activities that have not been under the principal act — the 2010 act — previously, you are creating potential trouble.

The question I ask is: where are the safeguards for those that are going about their business and trying to meet the requirements of the traditional owners but are at the same time doing it on the basis of doing it legally? Certainly in relation to this clause and the next one I raise concerns about the lack of safeguards built into this bill to protect those third parties that no doubt will find themselves in heavy water as they are challenged consistently in relation to the land use agreements, the new natural resource agreements or even the broadening of the alpine resorts and associated activity.

Mr HERBERT (Minister for Training and Skills) — I wondered whether that was your viewpoint when this bill first came through, Mr Ramsay. I think you were in the Parliament then. I do not agree with a number of the statements you have made. I think they are a bit extreme. Your salient point is: what are the safeguards in terms of ensuring that native title works well and protects the rights of traditional owners, which is the whole basis of the bill. In regard to the bill we have before us, your salient question is: what are the safeguards within the current bill that the amendments will not be abused? Is that basically — —

Mr Ramsay — Good starting point, Minister.

Mr HERBERT — It is incorrect; that is the first thing. There is no change to the extent of land captured by the new definition of the alpine resort land. There is not any new land captured. In regard to the issue of delegations, they must be approved by the minister. As you would be aware, this happens regularly across government in a whole range of areas.

Your salient point is a good one in terms of the safeguards for proponents of land use activities within the negotiations. They too can apply to VCAT for a determination in relation to those matters, something they could not do prior to these amendments. So they have enhanced VCAT rights, like native title groups.

Mr RAMSAY (Western Victoria) — I am not sure that is a safeguard, Minister. My experience with VCAT is that if a party wants to contest an agreement or a planned activity — and I can cite the Ballarat ring-road, where in fact negotiations between the traditional owners and VicRoads are now in their third year — it is not a speedy process. The safeguard I would seek if we are going to use VCAT is a determination body between traditional owners and second parties. There needs to be a speedy resolution to whatever it is that is affecting the land use agreements and in relation to the minister's determination in relation to natural resource agreements. There is nothing stopping a minister from redrafting a natural resource agreement along government lines or party lines. Those could be ongoing agreements that become living documents.

To my mind the safeguards you are indicating, like VCAT, are new; they have not been there before. But I do not see that as a safeguard for a $1 billion project by developers that suddenly stalls at the VCAT gates, where we know that two to three years is a normal length of time for VCAT to come to any sort of determination, by the time you go through the panel hearings, judgements, costs and so on.

I guess I raise the alarm in that respect. I do not intend to speak further on any of the clauses. I have concerns about the way the bill will change the principal act. I believe the intentions are honourable, but I think the ramifications will be poor in relation to abuse of the system, without the appropriate safeguards that I requested you clarify. I am not convinced they are there.

Mr HERBERT (Minister for Training and Skills) — I appreciate you have strong views on VCAT and on the operations of a range of things, Mr Ramsay. What I answered before — and I do not know if I have any further advice on this — is that in regard to the amendments, the change here, there is a strengthening of provisions for proponents of land use activity, and they can go to VCAT to get a determination, which is not in the existing bill. I am not redebating the existing bill but the amendments that come through it. I appreciate that there are different viewpoints.

Clause agreed to; clauses 19 to 23 agreed to.

Clause 24

Ms CROZIER (Southern Metropolitan) — Minister, I note clause 24 involves agreed activities and new section 82 provides for those 'agreed activities' that a member of a traditional owner group bound by a natural resource agreement may be authorised to carry out. The clause goes on to explain that this section provides for a broader range of activities to be authorised than was provided for in the principal act prior to the amendment made by this bill, and new activities include gathering to conduct cultural activities. I would like to know what other agreed

activities will now be included in the definition of agreed activities that have not been included prior to this amendment coming before the house, because I gather that there is no definition of what an agreed activity is and again I want to know how broad that will be and whether that will extend into other areas. Again it goes to the points that I think Mr Ramsay and I have been trying to make in relation to how broad this will go. What are the safeguards, and how will it be contained?

Mr HERBERT (Minister for Training and Skills) — Are you asking: essentially in terms of the specifics of agreed activities, is there a defined list of what is anticipated in terms of the changes that are made in proposed new sections 82 to 86?

Ms CROZIER (Southern Metropolitan) — Yes, again if I could, and also the new activities include gathering to conduct cultural activities, so they are probably cultural activities that we are all aware of, but I want to know what these agreed activities are and how much broader they go beyond just those cultural activities.

Mr Ondarchie — On a point of order, Acting President, the normal course of action in this house during the committee stage is that ministers go to the advisers box and return reasonably quickly. For the last answer it was over a minute, and for the one before that it was 2 minutes and 45 seconds. We are nearly at 3 minutes now from the time the question was asked, and the minister has not returned. I ask for efficiency because we do not want the government accusing the opposition of holding up the business program when it is taking, on average, 3 minutes to get a response per question.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Mr Ondarchie, you know very well that is not a point of order.

Mr HERBERT (Minister for Training and Skills) — This is an important piece of legislation to many people, and I want to make sure that we get the answers as best we can. Some examples that are included are, for instance, flora that is not protected. Flora can now be taken outside a state forest for cultural activities. Holding not-for-profit cultural events on public land is now allowed, and family reunions are now part of the agreed activities. The specific activities will be negotiated through the natural resource agreement, however, I am advised.

Ms CROZIER (Southern Metropolitan) — I apologise. I am trying to get some clarity here, because I am not quite sure I understand the answer in relation to those agreed activities. Does that include camping as well? This clause also refers to camping, so is that included in that?

Mr HERBERT (Minister for Training and Skills) — Camping was previously included and is still included.

Ms CROZIER (Southern Metropolitan) — So to take into consideration all of those activities you have just listed, do any other parties that might be directly impacted need to be consulted for the agreements, like Parks Victoria, fishing authorities or any community organisation that go camping — any of those peak bodies et cetera?

Mr Ondarchie — School camps.

Ms CROZIER — Yes, school camps, scout camps — anyone that might be affected.

Mr HERBERT (Minister for Training and Skills) — Anyone might be affected, but I will try to be specific about who is consulted — fisheries and Parks Victoria, definitely. In regard to the consultation regime for other parties and groups, we would take advice from the relevant department about who the peak groups are and who should be consulted. I think it is fair to say that there are hundreds and hundreds of different groups with different interests, so when it comes to narrowing it down to who is relevant to an area and to an activity, we would take advice and consult with those groups.

Ms CROZIER (Southern Metropolitan) — I think that is my point: there are potentially hundreds of organisations that may be impacted, so I am just trying to understand what the agreed activities are, who those certain entities are and how that will impact on them. It is a statement rather than a question. That was my point in relation to asking those questions, because I do think it is still very open ended.

Mr HERBERT (Minister for Training and Skills) — Of course there are further complexities — peak groups may represent other different groups — and that is why I advise that in terms of holding proper consultations, you need to be as broad as you can and get advice from the relevant departments about the activities. That is crucial to ensure that we get a holistic view about the viewpoint of those relevant groups. Most government departments would be au fait with consultative processes in their areas and with who the key groups are.

Clause agreed to; clauses 25 to 33 agreed to.

Clause 34

Mr RAMSAY (Western Victoria) — This is an interesting one, because I note that in relation to the government's role and responsibilities around natural resources, the minister concerned is the minister who administers the Prevention of Cruelty to Animals Act 1986 (POCTA act). I note that clause 34 amends the POCTA act to exempt traditional owners carrying out an agreed activity in accordance with part 6 of the Traditional Owner Settlement Act 2010 from those offences in the POCTA act that would otherwise apply to everyone else. Can I ask the minister: from which activities listed in the POCTA act would traditional owners be exempt that others would be bound to?

Mr HERBERT (Minister for Training and Skills) — They are not exempt. What this does is basically clarify the range of activities that can be covered by natural resource agreements, and it relates to exemptions that are provided to others who have a game hunting licence or a recreational fishing licence.

Mr RAMSAY (Western Victoria) — I am sorry. I know it is late in the afternoon, Minister, but could you just explain that to me again?

Mr HERBERT (Minister for Training and Skills) — You asked if there are activities that would be exempted under the amended Prevention of Cruelty to Animals Act. People who have recreational fishing licences or game hunting licences are exempted also because of the nature of their licences. What this does is provide equivalence in terms of the natural resource agreement — an equivalence to those game hunting and recreational fishing licence conditions. They are the exemption.

Clause agreed to.

Clause 35

Mr RAMSAY (Western Victoria) — My question is similar to the last one, and the only understanding I have of that is that under this bill traditional owners would not require a licence to hunt, fish or kill game like everyone else. They would be exempt from that, but they would still have to adhere to the POCTA act like everyone else. You are not being cruel to animals by doing that — you are not actually contravening the Prevention of Cruelty to Animals Act — but they do not require licences.

Clause 35 does worry me a lot, because when we start talking about water and exemptions for traditional owners in relation to taking and using water on land — under this particular clause, that would be subject to an agreement under part 6 of the principal act; I am actually not familiar with part 6, so I perhaps need some reminding of that — the exemptions would only apply to water taken from a place that it may be taken from under section 1 of the Water Act 1989. If anyone knows the Water Act, it is about 600 pages long, and it outlines the areas in which a person has the right to take water for domestic and stock use.

Do I understand this provision to mean that traditional owners can take water away from an existing right or a place where water has been able to be taken away under a section of the Water Act for stock and domestic use, where it does not require a licence under the Water Act for stock and domestic use? What powers do traditional owners have of using that stock and domestic water that traditionally would be used for stock and domestic use under the act? What sort of exemption would they have in relation to the use of that water?

Mr Herbert — Exemptions being, for instance, they do not need a water licence for stock or domestic use, that sort of thing; is that the key point?

Mr RAMSAY — In relation to land use agreements — and we know we have got corporations and co-ops that actually manage land — are you telling me that a land manager can access stock and domestic use water without any licensing regime at all?

Mr HERBERT (Minister for Training and Skills) — Thank you, Mr Ramsay. I am advised that this is a drafting change, that traditional owners already have this exemption under the act. It takes out authorisation orders, which is in the language of the existing act. There is no policy change, so to your salient point: traditional owners can use water for traditional purposes, not for commercial purposes.

Mr RAMSAY (Western Victoria) — Without labouring the point, Minister, there will be change because you have already developed a policy that recognises Indigenous water in your new *Water for Victoria* policy. While it might not be connected to this clause I am just flagging with you that once you start changing the Water Act, which you are doing in amending this clause, while you might not see any sort of repercussions here now from traditional Indigenous water use, you will in the future where you have already outlined a policy in relation to the use of Indigenous water and preservation of Indigenous water for a whole range of uses. So I take on board what you have said, but it will be interesting to see how it plays out under the new *Water for Victoria* regime.

Clause agreed to; clauses 36 and 37 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

OWNERS CORPORATIONS AMENDMENT (SHORT-STAY ACCOMMODATION) BILL 2016

Second reading

Debate resumed from 15 September; motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr O'DONOHUE (Eastern Victoria) — I am pleased to speak in the first instance on behalf of the opposition in relation to the Owners Corporations Amendment (Short-Stay Accommodation) Bill 2016, and I flag at the outset that I will be moving a reasoned amendment to refer this bill to the Standing Committee on Environment and Planning for inquiry, consideration and report. I will formally do that later in my contribution.

The short-stay accommodation sector has grown and evolved significantly in recent years in a very short time. It is another example of an industry developing rapidly with the advent of better technology and better communication, and the ability for people to book accommodation for a day or two or three or four online at short notice has opened up a whole range of new accommodation options and choices for people. Indeed people have been able through Airbnb and other businesses to rent out a spare bedroom, a spare half of a house or an apartment that they may live in but be away from for a week or two in ways that were not possible in years gone by. It has created new opportunities in the marketplace. It has created a new supply, particularly for major events, when supply can be tight. It has increased supply in response to market demands at particularly busy times. So in a general sense there are benefits to be derived from the short-stay accommodation sector that has grown up and matured, both for the individual or the organisation that may be generating revenue through short-term letting and rentals and also for the broader economy because it increases supply in the marketplace, and therefore more people can come to major events, such as the footy, shows et cetera.

In a general sense there are benefits that can be derived for the economy and for people in relation to this sector. But of course, as we have seen, there can be issues with apartments being used as party pads by people renting on a short-term basis through some of those websites. There has been significant media coverage of some of these issues. I cite a *Sunday Age* article by Chris Vedelago and Cameron Houston of 18 October last year:

> The *Sunday Age* understands apartments and short-stay hotels in the suburb —

that is, the Docklands —

> are increasingly being used as 'safe houses' and party spots for those on the wrong side of the law, including a number of the city's most influential up-and-coming drug dealers.
>
> Criminals worried about safety but still keen to flaunt their rising wealth and power are attracted to luxury apartments in Docklands buildings where secure underground carparks and extensive CCTV systems are standard features.

An article by Liam Mannix in the *Age* of 7 December last year is headed 'While Uber is illegal, Airbnb gets government help'. It reads:

> Tourism Victoria is getting into bed with Airbnb, as the online app's money-minting hosts claim they are out-competing 5-star hotels.
>
> The government's official tourism agency is working with Airbnb to promote Melbourne's middle and outer suburbs, such as Fitzroy and St Kilda, in an effort to encourage tourism to non-traditional areas.
>
> Australian Hotels Association chief executive Brian Kearney acknowledges that Airbnb is a legitimate competitor — but he's not happy the hosts don't have to pay tax.

He said:

> An Airbnb is not taxed at all. If you're running a hotel business, you bear the full federal and state taxes.
>
> Some would form a view that you challenge all competition that's put in front of you. That's probably not the way that we're looking at it — the tourist has got the right to choose whatever accommodation they see fit.

On 7 August last year an article by Karen Collier in the *Herald Sun* headed 'Party town mayhem' stated:

> Wild partygoers renting CBD apartments for short stays are urinating, vomiting and stripping off in public view to the horror of regular residents.
>
> Reports include bottles and furniture being dropped from balconies, dirty linen in hallways, nudity in pools, vandalism, stolen car parks, security concerns and lifts cluttered with cleaner trolleys.
>
> While many people have positive experiences with holiday rentals, there are plenty of horror stories, such as a Canadian

> couple who returned to find their home destroyed by Airbnb renters who hosted a drug-fuelled orgy there.

The story goes on.

I suppose I have cited those articles just to give the flavour of some of the issues that have come before us, both from the perspective of the Australian Hotels Association in the level playing field context but also in regard to the regulation space as well. These short-term accommodation options can sometimes lead to places being trashed and to unsavoury behaviour taking place.

Before the 2014 election the then government made a commitment to improve short-term accommodation, and the Andrews government has also made commitments in this space. Part of that was in relation to the appointment of an independent panel to recommend ways to improve the regulation of residential buildings so that the property is protected from unruly parties in short-stay accommodation, as the second-reading speech cites.

I should note that this bill deals specifically with owners corporations and not the broader property sector. The terms of reference for the panel should recommend reform that maximises the amenity of living in apartment buildings and, secondly, minimises interference with property rights as well as any negative impact on the Victorian tourism industry, investment in Victoria and the Victorian economy generally and divisiveness within owners corporations and apartment buildings.

This bill seeks to implement the recommendations of the panel, which included Mr Simon Libbis, Mr Michael Nugent, Ms Kristina Burke, Mr Paul Salter, Ms Angela Meinke, Mr Justin Butterworth and Mr Roger Gardner. It also seeks to make other changes, which, again, the second-reading speech cites is a result of subsequent consultation with stakeholders to address key problems with unruly short-stay parties.

The bill seeks to do a number of things. No. 1 is that it sets out inappropriate conduct that is characteristic of unruly short-stay parties. It empowers the Victorian Civil and Administrative Tribunal (VCAT), which was the subject of much discussion in the previous debate, to award loss of amenity compensation of up to $2000 to a resident whose amenity has been affected by inappropriate conduct, and short-stay accommodation providers will be made jointly and severally liable with the occupants for that compensation. The bill empowers VCAT to make an order prohibiting the use of an apartment for short-stay accommodation for a certain period. The bill empowers VCAT to impose civil penalties up to $1100 on short-stay occupants for breaches of the conduct prescriptions.

The bill makes short-stay accommodation providers jointly and severally liable with short-stay occupants for damage to property in the apartment building caused by their short-stay occupants. The bill mirrors the same dispute resolution processes that currently exist pursuant to the Owners Corporation Act and the conciliation powers of Consumer Affairs Victoria (CAV). Whilst I note those reforms that are before the house, the Standing Committee on Legal and Social Issues has received significant evidence in its current inquiry about CAV's powers of conciliation. That is a matter for another day, but I note that they are being discussed at length as part of that inquiry.

The second-reading speech summarises the bill. It says:

> The bill aims to reduce, and potentially to eliminate the problems caused by unruly parties in apartment buildings and so to improve the livability of those buildings for this sector of Victoria's population.

The bill itself is relatively straightforward and brief. The first clause contains the purpose of the bill, which is to amend the Owners Corporation Act 2006 to regulate the provision of short-stay accommodation arrangements in lots or parts of lots affected by owners corporations. The bill comes into effect next July. It provides some definitions, which I think will be most helpful in this space, including — —

The ACTING PRESIDENT (**Mr Ramsay**) — Order! Members of the public in the gallery cannot take photos; I am sorry. And please also remain seated; you cannot hang onto the rails. Thank you. I am just trying to protect the members in the chamber.

Mr O'DONOHUE — The bill defines short-stay accommodation as:

> … a lease or licence for a maximum period of 7 days and 6 nights to occupy a lot or part of a lot affected by an owners corporation that is …

Then it goes on to describe a building wholly classified as a class 2 building, and so on. Short-stay accommodation is defined as seven days and six nights, and a short-stay occupant means a person who occupies a lot or part of a lot under a short-stay accommodation arrangement.

Clause 5 provides the complaints and procedures component of the bill, clause 6 refers to the conciliation and mediation powers that I referred to before and clause 7 deals with the jurisdiction of the Victorian Civil and Administrative Tribunal. As I said, the bill is

relatively straightforward, but having said that, I know that my colleague the shadow minister for consumer affairs, Mr Northe in the Legislative Assembly, has undertaken consultation, and it is fair to say that there is general feedback that this bill may not have it exactly right. Some are suggesting the bill goes too far; others are suggesting it does not go far enough. These issues are always challenging to settle given the competing interests and perspectives of those who are impacted by this sort of bill — from residents of apartment buildings to those who are seeking to run a business using an Airbnb-type service, or indeed those who are the consumers of the short-stay accommodation — and what rights they have.

As I flagged in my introductory remarks, I seek to move a reasoned amendment to the motion. I move:

> That all the words after 'That' be omitted with the view of inserting in their place —
>
> '—
>
> (1) pursuant to sessional order 6, this bill be referred to the environment and planning committee for inquiry, consideration and report in relation to —
>
> (a) undertaking proper consultation with peer sector economy providers, individuals and owners corporations short-stay letting providers;
>
> (b) the impact on individuals, families, apartment owners and owners corporations of short-stay letting in apartment buildings;
>
> (c) the adequacy of owners corporation rules in managing impacts on amenity, noting also the lack of adequate planning on the part of the building and construction sector to accommodate the impact of high-intensity short-term lets;
>
> (2) the committee will present its final report to the Council no later than 7 March 2017; and
>
> (3) the second reading of this bill be deferred until the final report of the committee is presented to the house in accordance with the terms of this resolution.'.

As I said before, there has been widespread media attention on short-stay accommodation issues in recent times with a variety of positions enunciated depending on the individual or the particular stakeholder. Some believe this legislation goes too far in a regulatory sense while others contend it does not go far enough.

The opposition acknowledges that there has been a degree of work done through the panel that the minister's second-reading speech refers to, but the bill goes further than the panel recommendations without providing much context about that extra consultation that is referred to. We believe that the most appropriate course to get this legislation right is to refer it to the environment and planning committee for further consideration, for the committee to report back to the house no later than 7 March next year and for the second reading of the bill to be deferred until the report of the committee can be presented so that any suggested changes and improvements that flow from that report can be considered by the house prior to the passage of this bill.

Ms SPRINGLE (South Eastern Metropolitan) — I rise to speak on the Owners Corporations Amendment (Short-Stay Accommodation) Bill 2016. In the view of the Greens this is a fairly weak bill. Insofar as it establishes a complaints procedure for apartment block residents who find their lives disturbed by short-stay tenants, we in the Greens say that that is okay, that it is better than nothing — but only marginally. Our main problem with this bill and the main problem many long-term residents of apartment buildings have with this bill is that it does not actually address the issues.

Since the Victorian Court of Appeal confirmed in 2013 that there is no effective regulation of short-stay accommodation arrangements in apartment blocks, long-term residents have had very little power to do anything when those arrangements get out of hand. The media and the Labor government have commonly highlighted unruly parties and loud music, but actually long-term residents have very legitimate concerns that go further than complaints about schoolies, bucks nights and loud parties. Long-term residents have bought into or signed leases in buildings which have been designed for long-term living. They were not designed as hotels. Because of the frequency with which hotels are used by short-stay residents, hotels are subject to a different set of requirements under the Building Code of Australia, and the expected quality of life in hotels is very different from that in apartment buildings.

What we have seen, especially in the CBD but also across Melbourne, is that some apartment buildings have now become basically de facto hotels, where 40 or 50 per cent of the apartments, sometimes even more, are being used exclusively for short-stay accommodation arrangements. Those apartments are owned by short-stay businesses which rent them out basically as hotel rooms. Long-term residents are finding that they face long waits for lifts, as the lifts are occupied by cleaners who ferry linen up and down every few days. Long-term residents are finding that they are subsidising those short-stay businesses through their owners corporation fees. When communal property needs to be replaced more often because it is being used more often by short-stay businesses, it is the

long-term residents who foot the bill. And long-term residents are finding that they have additional security concerns with new people coming and going every week or every few days, which is not what they expected.

This bill does absolutely nothing to address any of these concerns. It sets up a complaints and dispute resolution procedure that relies heavily on the cooperation of the owners corporation, but it does not contain very many clues about what happens when an owners corporation is majority controlled by short-stay accommodation businesses and it ultimately leaves the responding to problems caused by short stayers up to individual owners, who need to be prepared to take a problem all the way to the Victorian Civil and Administrative Tribunal.

The issues raised by unregulated short-stay accommodation businesses operating in residential apartment buildings do not affect only residents. They must also have a detrimental effect on housing availability and affordability across Melbourne. Every apartment that is used exclusively for short-stay accommodation arrangements is an apartment that is not available for someone to live in, either as an owner or a long-term tenant. Housing affordability is one of the most significant challenges facing Victoria and Melbourne in our time, and we need to be tackling that challenge from every conceivable direction. This bill does nothing to address the housing affordability challenge; indeed it probably enhances it.

We understand that this bill came out of an independent panel process and the report of that independent panel is publicly available. The biggest problem that long-term residents have with the so-called independent panel is that they were not adequately represented on it. One lonely representative of apartment residents cannot seriously be expected to represent the hundreds, if not thousands, of residents who will be affected by this legislation, especially in a context where, as was the case here, the panel membership was significantly skewed toward business and short-stay operators. Given the extent of business representation on the panel, there should have been several representatives of resident owners to ensure that the variety of views held by residents affected by the short-stay industry could be adequately canvassed.

Because of this the Greens will be supporting Mr O'Donohue's motion for an inquiry into this bill. However, we have a small amendment to Mr O'Donohue's reasoned amendment, relating to the reporting date of the inquiry. I would appreciate it if that could be circulated now.

The purpose of pushing the date on is essentially due to the current workload of the committees. We have been advised that due to resourcing it is very difficult for some of the committees that have several or multiple inquiries going on at the same time to carry out their duties. I believe this would be the fourth inquiry for this particular committee. We believe that we need to be realistic about what is possible, and that to give each inquiry the attention it deserves the committee probably needs a bit more time. Therefore we are proposing 9 May next year as the reporting date.

Mr SOMYUREK (South Eastern Metropolitan) — I rise to make a brief contribution to the debate on the Owners Corporations Amendment (Short-stay Accommodation) Bill 2016. This bill implements an important commitment made by Labor at the last election. It is representative of the government's awareness of how legislation can complement and ultimately respond to the rising shared economy in Victoria. Here we have a bill that will amend the Owners Corporation Act 2006 and implement a package of reforms that will address the issues that arise from short-stay accommodation. In particular, the bill aims to reduce and potentially eliminate the problems caused by disruptive and unruly parties in apartment buildings and improve the livability of other residents in those buildings.

The impetus for this government inquiry arose from concerns conveyed by stakeholders, such as residents of CBD residential buildings, owner-residents, owners of short-stay apartments in CBD apartment buildings, owners corporations in CBD apartment buildings and the tourism industry, regarding the conduct of short-stay occupants. Whilst we have seen a considerable rise in short-stay accommodation in the CBD and surrounding areas, this has also led to increased concerns about the legal safeguards regarding which parties are responsible in instances where damage is caused or bad behaviour is exhibited by short-stay occupants. In order to address these concerns, in March 2015 the government appointed an independent seven-person expert panel to look into short-stay accommodation. This bill responds to recommendations provided by that panel.

This package of reforms to the Owners Corporations Act 2006 will apply to multiple short-stay accommodation rentals. Most importantly, it ensures that the Victorian Civil and Administrative Tribunal, otherwise known as VCAT, is empowered and able to exercise greater control over compensation. VCAT will be able to award loss of amenity compensation of up to $2000 to a resident whose amenity has been adversely impacted by inappropriate conduct and make an order

prohibiting the use of an apartment for short-stay accommodation if short-stay occupants of that apartment have on at least three separate occasions within 24 months breached the conduct proscriptions. It also empowers VCAT to impose civil penalties of up to $1100 on short-stay occupants for breaches of the conduct proscriptions and make the short-stay accommodation providers jointly and severally liable for the penalties of short-stay occupants.

There are many complex and competing interests involved in the regulation of short-stay accommodation, and this bill in fact manages to balance these complexities. In the panel's final report to government, the panel notes the significant increase in bookings for short-stay accommodation through peer-to-peer websites such as Airbnb and Stayz. According to the Holiday Rental Industry Association, in Melbourne there are currently 1173 establishments providing short-stay accommodation, of which 757 are in fact apartment establishments. That represents 65 per cent. This statistic is indicative of the changing landscape of Victoria's accommodation industry.

Furthermore, in its the report the independent expert panel estimated that there are some 169 000 short-stay properties in Victoria, representing 27 per cent of the national total. It stated that the short-stay apartments in Victoria generated around $792 million in revenue and $161 million in wages paid in 2014–15. This represents a multimillion-dollar industry that supports more than 64 000 jobs in Victoria. It is clear that short-stay accommodation, therefore, is a valuable part of our state's tourism industry and provides a significant contribution to economic activity, job creation and property owners, with choice and flexibility around accommodation.

Labor made a commitment to address these inappropriate short-stay issues, and this bill is representative of a government that is able to respond to advancements in technology, massive industry change and a growing shared economy. With this bill, the Victorian government is not only improving the accountability of short-stay providers for unruly occupants but ensuring that mechanisms and safeguards are actually in place to guarantee public safety and security. We are implementing well-balanced reforms that support the residents, occupiers, individuals and families who have invested in apartment complexes and deserve a safe environment. This bill will ensure that residents will have an avenue to have their concerns for compensation addressed and a way for them to actually obtain assistance through VCAT.

In summary, let me just say that these reforms are intended to work in combination with industry self-regulation — which does not always work — and to educate short-stay accommodation providers. I am sure it will work in this instance. The Victorian government is aiming to eliminate the misuse of short-stay apartments and educate short-stay apartment providers in relation to avoiding letting their apartments to unruly short-stay occupants.

I would like to highlight again the extensive consultation with stakeholders regarding the recommendations and outcomes of these reforms. I am aware that reform and review of the Owners Corporations Act 2006 is ongoing. This is an area of law that government will have to be vigilant about in order to ensure it is able to respond to market changes and trends, particularly with future advancements in technology and the competitive nature of the short-stay accommodation market going forward. With that, I commend the bill to the house.

Mr DAVIS (Southern Metropolitan) — I am pleased to rise and make a contribution to the debate on the Owners Corporations Amendment (Short-stay Accommodation) Bill 2016. It is not my intention to repeat the worthy contribution of Mr O'Donohue, our lead speaker. It is sufficient to say that the Owners Corporations Amendment (Short-stay Accommodation) Bill seeks to amend the Owners Corporations Act 2006. Short-stay occupants and short-stay accommodation are defined.

The bill empowers the Victorian Civil and Administrative Tribunal (VCAT) to award certain compensation, although there are very many problems with the way this is constructed. It empowers VCAT in theory to make an order prohibiting the use of a lot or part of the short-stay accommodation for a certain set of circumstances. It empowers VCAT to impose certain civil penalties. It makes short-stay accommodation providers jointly and severally liable for their short-stay occupants. In certain circumstances it seeks to adapt some internal dispute resolution processes in the Owners Corporations Act 2006.

I pay tribute to Russell Northe in the other place. I have spoken to many people impacted by this bill. The issues that owners corporations and occupants of many of the large towers in the community face with short-stay accommodation peer-sector approaches are significant. It is very clearly an area of growing problems, and I am convinced by the submissions from many owners corporations around the central city area and in my electorate of Southern Metropolitan Region. I pay tribute particularly to the We Live Here group and the

work that they have done to put many of these issues firmly on the agenda.

I have also spoken to the industry. It is not the intention of the opposition or indeed, I am sure, any other party in this place to unreasonably or unhelpfully inhibit what is potentially a very important part of our tourism industry, but it is an area where there needs to be better regulation. Untrammelled access can lead to very poor lifestyle and living outcomes for many occupants of some of the large towers that we now have. We need to find a better way forward. Unfortunately this bill does not do that. The industry is not happy with it, and in particular many of the owners corporation groups are not happy with it either.

Remarkably, in attempting to balance interests the government has achieved the unique outcome of irritating and failing to please both groups. I give it marks towards some sort of award for achievement in that regard. But the fact is our responsibility in this Parliament as a house of review is to say, 'What can we do to improve this legislation? How can we get better outcomes for the industry in a way that actually protects and enables those in many of the large buildings that have been built over recent periods that are now subject to the activity of the peer sector, the short-stay accommodation sector, and the trammels of some of that sector on the individual property owners and the owners corporation cost structures?'. All of that has got to be looked at closely.

I thank Mr O'Donohue for bringing his reasoned amendment to the house. The reasoned amendment says, 'This has not been properly consulted', and I do not think that anyone really believes that it has been properly consulted. It says, 'We need to look at this more closely'. The proposal is that this goes to the environment and planning committee, which is a committee that I am a member of and indeed that I chair. I believe that committee can look at this legislation. It can come back with improvements to the bill in such a way that will support the owners of many of these buildings and ensure that there is a better apportionment of rights and responsibilities, and it can seek to do so in a way that does not unreasonably impede the relevant business sector.

The amendment moved by Mr O'Donohue is worthy of support, and I seek the support of all members of the chamber for it. I note that the Greens are seeking to move an amendment that changes the date that the committee would report. I understand some of the reasons for that. This is of course a matter of balance and weighing the different dynamics here. On one hand we want to deal with the bill as swiftly as possible to get solutions. It is also a question of getting the right solutions, the right outcomes. Equally, on the other hand, we do not want to delay unnecessarily or unreasonably any improvements that can be achieved. It is not the opposition's intention to support the Greens' proposed amended date because we think the earlier date is achievable. I am conscious of the period we are now in, leading up towards Christmas. It might mean that the committee has to do some work in January. That might be unfortunate, but I am up for it, and I suspect others would also be up for it if that is what we need to do. Working in February also would give us sufficient time to hold any hearings that would be required.

If indeed we find we do need to come back and seek the support of the house for an amended date, that is of course available to us — if we truly find we cannot manage these issues in that period. I think we can, and I think we can meet the early March date. For that reason, I think it is Mr O'Donohue's intention to persist with the proposed date. I do not want hold this up unnecessarily. I do not want to slow whatever small solutions the government has proposed. But I think if we hold some hearings and actually deal with some of these issues more constructively, we can come forward with some proposals that will more successfully get to an outcome that the community would be happy with.

With those brief comments, I want to reiterate that we support the objectives of the bill, but we do not think the government has actually got the right solutions here. We do not think the government has found a way to make sure that building owners, property owners and owners corporations are protected sufficiently. They certainly have not done that in a way that properly balances the business interests. This is about genuinely striking a balance. As I say, the government has achieved the remarkable feat of irritating those on both sides of the equation. I pay tribute to it for that remarkable and unusual feat, but I think the way forward that Mr O'Donohue has proposed is the right one.

Ms PATTEN (Northern Metropolitan) — I would like to speak also to the Owners Corporations Amendment (Short-stay Accommodation) Bill 2016. I have to say that when I looked at this bill I had very mixed views about it. On the one hand it is about the government realising that there is a sharing economy that brings its own unique challenges to how our owners corporations operate and how our residents live harmoniously in those buildings, but on the other hand it does not seem to be responding to them in what I would say is an optimum way. We had an independent panel that the government brought to the table to look at

this issue of short-stay accommodation, but the bill does not reflect a lot of the recommendations that that independent panel made.

Let us remember that the shared economy is not something new in Victoria or in Australia. We are playing a bit of catch-up with this bill, and I do not think we have caught up enough. Many people may not realise that Airbnb opened its first office in Australia in 2012 — four years ago. That was when they had reached their 1 million users mark in Australia, and that was back in 2012. This economy is here to stay, and it is growing and it is large.

Mr Davis — And it is important.

Ms PATTEN — And it is extremely important, Mr Davis, absolutely, and Airbnb is only a part of the short-stay sharing economy. We are also seeing companies — and I have certainly been a user of these companies — which are buying large numbers of apartments in one building and then providing them furnished for short-stay accommodation. This is a very important sector in our accommodation in Victoria and in Melbourne in particular, and certainly in my electorate of Northern Metropolitan Region, which takes in Docklands and the city.

In thinking about the bill and speaking to constituents about the bill, I was reminded of the case of the Docklands Executive Apartments. Some people owned 40 apartments in the Watergate complex and let them out as short-stay rentals. A dispute arose between the Watergate owners corporation and the Docklands Executive Apartments, but they owned 40 of the apartments in the building, so they had a significant seat at the body corporate table. So this dispute went through the Buildings Appeal Board, the Supreme Court, the Court of Appeal and then back to the Building Appeals Board, where resolution was finally found. But one can imagine the time, the money and the court resources that went into that dispute, and there was actually no legal certainty at the end.

We know that there are now 169 000 short-stay properties in Victoria, so obviously we need some clear regulation that is fair for businesses, fair for the Airbnb or the short-stay users but also absolutely fair for the residents, and I do not think this will really hit that balance. As Mr Davis says, this bill has managed to make no-one happy, which is hitting a balance of sorts. One example that I find troubling is the definition of a short-stay accommodation arrangement in the bill. This was brought to my attention and certainly was part of the concerns of the We Live Here coalition, which is a group established down in the Docklands but which represents a number of body corporates around the inner city.

The bill has somewhat randomly defined short-stay as six nights and seven days. Now, the owners corporations and the We Live Here coalition would argue that that should be around 30 days — that short-stay is actually around 30 days, not six nights — that some of these provisions should apply to people who are staying longer than six nights and that the provisions at the moment do not apply to them. I do not know whether the government has any evidence to suggest that people who stay for six nights cause more problems than people who stay for seven nights. I certainly was not able to find any evidence or information to suggest that restricting the remedies in this bill to very, very short stays was appropriate or that there was any evidence to show that that was a good mark to find in short-stay accommodation.

The bill also focuses solely on noise and loss of amenity. I have lived in high-rise apartments, and I have lived in a number around many cities, including Melbourne. I appreciate that prohibiting things like excessive noise or causing safety hazards is not heavy-handed. It sounds heavy-handed within the bill, but I do not think it is. What I am hearing from the residents of these buildings and from the people who are on the body corporations is that it is the safety of the residents that they are concerned about and the wear and tear on the building and on the amenities in the building — the wear and tear on the gym and the breakages around the swimming pool. It is those sorts of things that really are affecting the amenity of the residents of those buildings, not just the noise of the bucks nights or the fairly narrow areas that this bill covers.

So I think this is an area where legislative change could make a real difference and that maybe we need to broaden this to allow for the concerned residents to make applications to VCAT for compensation when property is damaged, not just for safety hazards or when there has been unruly noise, and this does this to a degree but not to a position that would satisfy residents as well as the businesses. So while you can go to VCAT to ask for compensation for up to $2000 when property is damaged, why would we not also allow any proven extra security that was required or wear and tear costs to also be somewhat recoverable from those businesses that are providing short-stay accommodation in these high-rise buildings in Docklands and in the city in particular?

Also, we know that this is a really important form of accommodation within Victoria and Melbourne. In

Victoria this short-stay accommodation generates $798 million in revenue. It is a significant sector of our accommodation portfolio, as it were. The ability to lease rooms or whole properties on sites like Airbnb provides much-needed income for a diverse range of people, whether they be students, retirees or working families struggling to pay mortgages, and I am very concerned that this bill again does not look at this big picture of this sharing economy or, as the coalition's reasoned amendment says, the peer sector economy, which sounds very posh.

Under this, I think the sharing economy is here. It is a disruptive economy, it is happening and I would not like to see local councils insisting, which some are now doing, that if someone is renting some space in their house, they now must be accredited as a bed and breakfast and go through the accreditation process. I do not think that is necessary. So I think this bill goes some way to addressing some of the concerns that body corporates and the residents of high-rises have, but certainly I do think that we need greater clarity, and the Australian Sex Party is actually calling for a new shared economy portfolio, and this could sit alongside a small business portfolio. This would enable us to seize the opportunities presented by disruptive digital technology and the new business models that it is creating while at the same time genuinely addressing issues that are presented and that have been presented to me by the We Live Here coalition and other concerned residents.

I think this bill is a wake-up call for the government to realise the opportunities that clear and effective regulation of the sharing economy can provide, and we have started to see that with the move towards Uber. We have started to see the recognition of these disruptive technologies.

In closing, I will support the reasoned amendment from Mr O'Donohue. I was very pleased to hear Mr Davis, the chair of the Standing Committee on the Environment and Planning, assure us that the committee needed no later than 7 March to complete this inquiry. I think that is very encouraging. I am very pleased that they are happy to work over their summer holidays to get this done. If we can get this done, it needs to be done quickly. I support the reasoned amendment on this bill to refer it to that committee.

Ms SPRINGLE (South Eastern Metropolitan) — I move:

In paragraph (2), for '7 March 2017' substitute '9 May 2017'.

The PRESIDENT — Order! We are dealing with an amendment to a reasoned amendment proposed by Ms Springle that alters the time frame for a review of the legislation proposed by Mr O'Donohue.

House divided on Ms Springle's amendment:

Ayes, 19

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

Noes, 20

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

Amendment negatived.

The PRESIDENT — Order! I propose now to put Mr O'Donohue's reasoned amendment, which has not been amended, so it is as Mr O'Donohue moved it.

Amendment agreed to.

The PRESIDENT — Order! Just as members quietly resume their seats — you can resume your seats while I am talking this time — I was actually torn on the amendment that was proposed by Ms Springle because I do have concerns ongoing about the number of inquiries that we are sending to committees and their ability within a time frame to deal with those inquiries and of course the resourcing of those inquiries. I think members are actually becoming aware of that issue themselves, because we have had a number of motions in recent times to extend reporting dates, which is a recognition that it is difficult to complete these examinations of legislation or the inquiries, particularly where there are significant public submissions. I just ask members to bear that in mind as we look at these issues in the chamber from time to time.

EQUAL OPPORTUNITY AMENDMENT (RELIGIOUS EXCEPTIONS) BILL 2016

Second reading

Debate resumed from 11 October; motion of Mr DALIDAKIS (Minister for Small Business, Innovation and Trade).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I am pleased to rise this evening to speak on the Equal Opportunity Amendment (Religious Exceptions) Bill 2016, which is an incredibly significant piece of legislation for this Parliament and for the people of Victoria. The bill, as I will outline shortly, is of itself quite a small bill. It is a bill which seeks to amend essentially two clauses of the existing Equal Opportunity Act 2010, and the subject matter of this is something that this Parliament has considered on two previous occasions. But it is very significant insofar as the impact that the carriage of this bill will have on the Victorian community, will have on Victorian religious organisations and will have on Victorian people of faith.

It is appropriate that the house this evening gives this legislation the careful consideration it requires and sees it for what it actually is, because this bill is an attack on Victorian religious institutions and it is an attack on Victorian people of faith by an extreme left-wing government, one of the most extreme left-wing governments the state has seen in generations. This is not a bill about fixing a problem; this is a bill about delivering an ideology. It is a bill about the Andrews government imposing its ideology on the broader Victorian community, and I will come to that in a little more detail later on in the contribution.

Victoria's equal opportunity legislation is in fact a legacy of the Hamer Liberal government of the 1970s. In 1977 the Hamer government introduced Victoria's first equal opportunity legislation. It was legislation that was very much focused on recognising and addressing the issue of largely sex discrimination in the workplace, recognising that there were barriers within mainstream employment for women entering the workforce or seeking to stay in the workforce as they progressed in their lives — got married and had children et cetera. There were a range of barriers that those women faced either in entering or in remaining in the workforce, and it was a Liberal government that introduced the first Equal Opportunity Act in 1977 that sought to remove those barriers and to address discrimination of that sort that blocked the entry of women into mainstream employment in Victoria or required the resignation by women from mainstream employment in Victoria. It was a piece of legislation that served Victoria well. It was a piece of legislation that recognised that the type of discrimination as occurred in the workplace up to that point in time was not appropriate — denying women those opportunities was not appropriate — and that legislation gave redress for that type of discrimination.

More recently we saw in 2010 a rewrite of the Equal Opportunity Act in this state. This followed a review by the Brumby government, driven by the then Attorney-General, Rob Hulls, which sought to introduce a very substantial change in the way in which equal opportunity legislation operated in the state. It was legislation that sought to expand the scope of the legislation beyond that which had been amended from the original 1977 act in any case and sought to make it far more difficult for various groups within the community, such as religious institutions, to exercise and to practise their faith. That is something that was dealt with by the previous Parliament in 2010 and was subsequently amended by the Liberal-Nationals Baillieu government in 2011, and I will come to those changes shortly.

But the current Equal Opportunity Act of 2010 as it stands today sets out at part 4 examples of where discrimination is prohibited. Part 4 of the current Equal Opportunity Act talks about discrimination in employment in division 1. Division 2 talks about discrimination in employment-related areas. Division 3 talks about discrimination in education. Division 4 talks about discrimination in the provision of goods and services and the disposal of land. Division 5 talks about discrimination in accommodation. Division 6 focuses on discrimination by clubs and club members. Division 7 refers to discrimination in sport. Division 8, which is the final part of part 4, deals with discrimination in local government.

We can see from part 4, which sets out the types of discrimination, that from the original act of 1977, which sought to focus on sex discrimination in the workplace, the scope of discrimination legislation or discrimination that is prohibited by the Equal Opportunity Act has been broadened substantially from that original employment-based focus. Part 4 of the Equal Opportunity Act is effectively the main operative provision of the current act in that it is part 4 that sets out where discrimination is prohibited, sets out the circumstances of discrimination in each of those categories and divisions I outlined, talks about the responsibilities of the parties in each of those scenarios — workplace, education, clubs et cetera — and sets out what is discrimination and what is not discrimination with respect to those eight separate

scenarios each covered by its own division in the legislation.

Part 5 of the current act then goes on to set out general exemptions to and exemptions from the prohibition of discrimination. The way in which part 5 of the act is currently set out is to provide that part 4, which sets out what discrimination is and where discrimination is prohibited, does not apply in the circumstances which are set down in part 5 — the exemptions to those discrimination provisions. Part 5 has a number of exemptions which are currently listed, and to give the house a flavour of those exemptions it covers things which are done with statutory authority — that is, under other pieces of legislation made by this Parliament; things done to comply with orders of courts and tribunals; matters relating to pensions; matters relating to superannuation — and it makes the distinction between superannuation that existed prior to 1 January 1996 and superannuation post 1 January 1996; charities; and exemptions in relation to religious bodies and religious schools, which of course is the subject matter that we are discussing in the bill today. It goes on to talk about exemptions in respect of religious beliefs and principles; exemptions with respect to legal capacity and age of majority; exemptions with respect to provisions relating to the protection of health, safety and property; exemptions with respect to age benefits, concessions and special needs; and exemptions by virtue of the tribunal being the Victorian Civil and Administrative Tribunal. It also goes on to talk about factors that would be considered by the tribunal in considering exemptions.

There are a number of exemptions from the provisions in part 4 that are set down in part 5 of the bill, and the ones that are relevant today are those provisions that are set out for religious bodies, which are currently section 82 of the Equal Opportunity Act, and religious schools, which are set down in section 83 of the act. For the purposes of the record, I would just like to run through section 82 of the current Equal Opportunity Act. Section 82(1) states:

> Nothing in Part 4 applies to —

part 4 being, as I said before, the circumstances of where discrimination is prohibited —

> (a) the ordination or appointment of priests, ministers of religion or members of a religious order; or
>
> (b) the training or education of people seeking ordination or appointment as priests, ministers of religion or members of a religious order; or
>
> (c) the selection or appointment of people to perform functions in relation to, or otherwise participate in, any religious observance or practice.

Section 82(2) states:

> Nothing in Part 4 applies to anything done on the basis of a person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity by a religious body that —
>
> (a) conforms with the doctrines, beliefs or principles of the religion; or
>
> (b) is reasonably necessary to avoid injury to the religious sensitivities of adherents of the religion.

Section 83 of the current act in a similar vein relates to religious schools, and section 83(1) currently states:

> This section applies to a person or body, including a religious body, that establishes, directs, controls, administers or is an educational institution that is, or is to be, conducted in accordance with religious doctrines, beliefs or principles.

Section 83(2) states:

> Nothing in Part 4 applies to anything done on the basis of a person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity by a person or body to which this section applies in the course of establishing, directing, controlling or administering the educational institution that —
>
> (a) conforms with the doctrines, beliefs or principles of the religion; or
>
> (b) is reasonably necessary to avoid injury to the religious sensitivities of adherents of the religion.

Section 82 of the principal act, relating to religious bodies, and section 83, relating to religious schools, make it quite clear that the activities of both religious bodies and religious schools are exempt from part 4 of the act, which contains discrimination provisions, in respect of activities which relate to or are necessary for conforming with the doctrines, beliefs or principles of their religion. Similar language is used in respect of both religious organisations and religious schools. The practical implication of this has been to make it clear that religious bodies and religious schools are able to conform with their doctrines, their beliefs and their principles in conducting their operations, notwithstanding other provisions of the Equal Opportunity Act, which may require them to employ, engage with or otherwise deal with people on the basis of prohibitions from discrimination in the act.

The act is very clear that a religious institution or a religious school may act in accordance with their faith and doctrines, and in doing so they may avoid otherwise breaching the discrimination provisions of

part 4 because they are acting in accordance with their faith or doctrine. We believe that that is an entirely appropriate provision in the existing legislation. It is entirely appropriate that religious bodies and religious schools are able to act in accordance with their doctrine, faith and belief in the conduct of their operations, in the way they act as institutions, in the way they carry out their functions and in the way in which they select and employ people within their institutions.

What we have before the house today in the Equal Opportunity Amendment (Religious Exceptions) Bill is a proposal from the Andrews government to turn on its head the way in which the exemption applies to religious institutions, religious bodies and religious schools with respect to the employment of persons. The bill's operative clauses are 3 and 4, and I will run through them. In clause 3, which relates to religious bodies, the bill proposes to amend section 82(2) by inserting after 'anything done' '(except in relation to employment)'. The purpose of this provision is to restrict the provision I referred to earlier, the general exemption that exists for religious bodies, and make it clear that that general exemption, which has allowed religious bodies to act in accordance with their doctrine, faith and belief as they currently do, could not be applied to the employment of people.

In relation to the employment of people — and there is a parallel provision for religious schools — new provisions would come into effect. The new provision that would apply in respect of the employment of people by a religious body or a religious school is proposed subsection (3) of section 82, which would provide that:

> Nothing in Part 4 applies to anything done in relation to the employment of a person by a religious body where—
>
> (a) conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position; and
>
> (b) the person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity means that the person does not meet that inherent requirement.

Proposed subsection (4) states:

> The nature of the religious body and the religious doctrines, beliefs or principles in accordance with which it is conducted must be taken into account in determining what is an inherent requirement for the purposes of subsection (3).

What is proposed here is the removal of the general exemption that applies for religious bodies with respect to the exemption from the discrimination provisions in part 4 of the Equal Opportunity Act in relation to employment and restricting that exemption so it is only available where conformity with the doctrines of the religion or belief is an inherent requirement of the position.

In clause 4 of the bill we see that a parallel provision is proposed to be inserted for religious schools. I will also put this clause on the record because it does vary slightly in its construction. Clause 4, concerning religious schools, states:

> (1) In section 83(2) of the **Equal Opportunity Act 2010**, after "anything done" **insert** "(except in relation to employment)".

Again, this new provision only applies to employment by a religious school. Clause 4 goes on to state:

> (2) After section 83(2) of the **Equal Opportunity Act 2010 insert**—
>
> "(3) Nothing in Part 4 applies to anything done in relation to the employment of a person by a person or body to which this section applies where—
>
> (a) conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position; and
>
> (b) the person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity means that the person does not meet that inherent requirement.
>
> (4) The nature of the educational institution and the religious doctrines, beliefs or principles in accordance with which it is conducted must be taken into account in determining what is an inherent requirement for the purposes of subsection (3).".

What we see in clauses 3 and 4 of the bill are two provisions that run in parallel. They state that for both religious bodies and religious schools the general exemption in the discrimination provisions will no longer apply in respect of employment by either religious bodies or religious schools. If this legislation is to pass, those religious bodies and religious schools would need to be able to demonstrate that it is an inherent requirement that their faith, doctrines, beliefs or principles be taken into account in relation to appointing a person for a particular position. In relation to the employment of an administrative assistant, for example, the institution would need to demonstrate that adherence to their faith and belief is an inherent requirement of the position.

This dramatically shifts the balance that the current equal opportunity legislation provides, and it imposes a vastly higher burden on religious bodies and religious

schools to demonstrate that their staff should be of the faith practised by the institution or school. We believe that that is inappropriate. We believe that the current legislation, the current exemption, which applies to the employment of persons by religious bodies and religious schools, is the appropriate mechanism for those institutions to undertake employment in a way that reflects and respects their values and beliefs as religious institutions.

In Australia we have seen an evolution in the way in which equal opportunity legislation has developed and has been used over the last 40 years during which it has been in place. That applies both at the state level here in Victoria as well as at the commonwealth level. When the Hamer government introduced equal opportunity legislation to Victoria in the 1970s, it was very much focused on facilitating engagement and participation in, as I said before, mainstream employment, particularly by women. It was about making it easier, about promoting engagement and about promoting participation by women in the mainstream, but over the last 40 years and particularly in the last decade we have seen a shift in the way in which equal opportunity legislation is used in Australia and equal opportunity legislation is used in Victoria, because increasingly — and you only need to look at the front pages of the *Australian* newspaper over the last 10 days to see a demonstration of it — we see equal opportunity legislation used not to facilitate engagement and to facilitate participation but as a tool to suppress freedom of association and to suppress diversity of views and opinions in our society.

Of course the most current example of this is what we have seen with the commonwealth Racial Discrimination Act 1975 and the use of the very controversial section 18C of that legislation as a tool to suppress debate, a tool to suppress ideas and a tool to suppress engagement. I must say it is pleasing to see the federal government announce today that it will have a parliamentary inquiry into the operation of that commonwealth statute and the way in which that provision is used not to facilitate participation and engagement but to suppress debate and suppress ideas. Of course the example which has played out over the last week, as highlighted by the *Australian* newspaper, of the Queensland University of Technology case is a prime example of where legislation which was intended to aid participation and engagement is actually being used to suppress ideas and participation and diversity of ideas in Australia.

We need to consider legislation and legislative change like the bill we have before the house this afternoon in the context of the way in which this type of legislation has been used in recent years. Is it to promote engagement and participation, or is it to suppress ideas, suppress freedom of association and suppress diversity of views in our community? One of the questions in our mind in considering this bill is: what is the motivation of the Andrews Labor government in bringing this bill to the house at this point in time?

It is a very small bill. For members of the house that have seen it and members of the gallery that have seen it, it is a bill that runs to only four pages. Its only provision is to remove the existing exemption for religious bodies and religious schools with respect to employment. That is all this bill does. It does not seek to change other elements of the equal opportunity or anti-discrimination framework. It does not seek to expand its scope elsewhere and does not seek to remove exemptions in respect of other organisations. It only seeks to remove the exemption with respect to the employment of people by religious bodies and religious schools. So a fundamental question there is: what is the motivation of this Andrews Labor government in seeking solely through this legislation to attack religious institutions and religious schools by removing this exemption? What is the motivation? Why is this occurring now?

We have seen over the last two years that the Andrews Labor government and the Premier himself are a government and a Premier that set out to create winners and losers. We have seen over the last two years how this government and this Premier set out to divide the community. We have seen how this is a government which ignores the voice of the Victorian community. It ignores the voice of the Victorian community so it can listen to its own vested interests. We need no better example of that than to look at what this government and this Premier have done with the Country Fire Authority (CFA). This is a government and a Premier which have ignored the interests of the Victorian community and ignored the concerns of 60 000 CFA volunteers across the state so that they can deliver a sweetheart deal for their masters in the fire services unions.

Peter Marshall is dictating terms to this government and to this Premier, and that is who the Premier is listening to. He is listening to his vested interests and delivering for his vested interests — the people that fund the Labor Party and the people that man polling booths for the Labor Party — and ignoring the interests of the Victorian community. We are seeing this time and time again, and this legislation, which attacks religious bodies and attacks religious schools is a further example of that.

We also have in Daniel Andrews a Premier who likes to preach diversity. He likes to preach how he is the champion of diversity in Victoria, how he is the champion of tolerance in Victoria, how he stands up for the underdog and stands up for minorities in this state, that he ensures that all voices are heard and that he listens to and values all opinions. Now, we have seen particularly in the last six months that in this regard the Premier is one of the biggest hypocrites in this state that we have seen in decades.

We have seen the Premier, while preaching diversity and tolerance, take pot shots across the chamber and be caught out in attacking opposition MPs over their weight, which he then had to back down and give a faux apology over. We have seen him attacking — and it has been caught on camera — the Leader of the Opposition over his height. Again the Premier is out there preaching tolerance and diversity but is happy to attack an opposition MP over their weight and happy to attack the Leader of the Opposition over his height when he thinks no-one is listening and when he thinks no-one sees it, but he has been caught out on camera.

We have had the Premier apparently attacking cancer victims over their condition and their state, again when he thought no-one was listening. He has had numerous colleagues in the Labor Party confirm off the record that it happened, yet he denies it. We have had this Premier, who talks about diversity and tolerance, say that anybody who opposes the Safe Schools program is a bigot. That is how tolerant this Premier is of other people's views, of other people's values and of diversity. If you do not agree with him, if you do not agree with his extreme left-wing Safe Schools program, you are a bigot. That is how committed this Premier is to diversity and tolerance.

It is in this context that we need to consider what the motivation is for this legislation, because in reality, notwithstanding the rhetoric from the Premier, which he has been caught out and shown to be a hypocrite on, this is not a government that values a diversity of views. This is a government that values only its own view and the views of its own stakeholders and its own fellow travellers. This is a government which is happy to use the institutions available to it to oppress a diversity of views and to oppress a diversity of faiths. We see in this legislation a government which is happy to oppose and oppress freedom of association by this direct attack on religious bodies and religious schools.

It is very telling that no case for this legislation has been made out in the Attorney-General's second-reading speech. In a speech that lasts barely two pages there is no justification given as to why this bill should come before the Parliament today — a bill which, as I said, deals only with the issue of employment exemptions for religious bodies and religious schools — why this is such a priority for the government or why there is such a need to do this. No argument is made in the second-reading speech. No argument has been made publicly, and the only justification we can see for this is that it fits with the Premier's ideology and this left-wing government's ideology.

In 2010, when the Hulls version of this legislation came to Parliament — and if you want another example of someone who was intolerant of views other than their own, you need to look no further than Rob Hulls, the Attorney-General in the Brumby and Bracks governments — and was subsequently enacted — —

Business interrupted pursuant to sessional orders.

Sitting extended pursuant to standing orders.

Mr RICH-PHILLIPS — I am delighted that the minister is keen to hear the rest of my contribution. The act of 2010 was the work of Rob Hulls, who was, as I said, like this Premier in that he had no regard for a diversity of opinion despite his rhetoric — —

Mr Finn — He was a political thug.

Mr RICH-PHILLIPS — I hear from my friend Mr Finn the description of former Attorney-General Rob Hulls as a political thug. You may well have that view, Mr Finn. I think you may not be alone in having that view of Mr Hulls, a man with no regard for the opinions and views of others. When he brought this legislation to the house in 2010 it was also removing the current exemption for employment by religious bodies and religious schools. That legislation passed the Parliament in 2010 and was due to come into effect the following year. When the Liberal-Nationals coalition government was elected at the end of 2010 we quickly legislated to remove that provision, which would have removed the exemption for employment by religious bodies and religious schools. As a consequence of that amendment by the Liberal-National coalition in 2011 the existing exemption for religious bodies and religious schools and the respective legislation was preserved and continues to this day.

What we have here tonight is a further attempt by this government to attack religious bodies, to attack religious schools and to attack the people who are associated with them and their views by seeking again to impose legislation which removes that exemption in respect of employment. This is in the face of substantial community opposition. In the months since this

legislation was first introduced to the Parliament we have seen substantial opposition from the Victorian community to this legislation. We have seen widespread opposition from religious organisations and from people of faith who simply want to practise their religion with people of their own faith, which is not in any way an unreasonable expectation.

Mr Finn — This is not China.

Mr RICH-PHILLIPS — Mr Finn says this is not China. This is not communist China. It is important to reflect that this is not communist China. The way in which this government and this Premier with their left-wing ideology want to dictate the way in which people associate, the views that they hold, the views that they articulate and the way in which they mix with people of their own beliefs, values and views is very much something you would expect from a communist regime rather than an Australian state.

It is interesting to reflect on the statement of compatibility with the Charter of Human Rights and Responsibilities, which is something that is required to be presented to Parliament whenever a new bill is introduced. It is, I must say, an interesting exercise. It is often something that the Parliament does not have a great deal of regard for. It is often something that is quite irrelevant to the legislative process, notwithstanding the enormous cost that it imposes on the legislative program. But it is always interesting to reflect on what is stated in a statement of compatibility with the charter.

This particular bill is no exception in that regard because in his statement of compatibility the Attorney-General seeks to deal with the charter very expeditiously. When talking about rights under the charter and the way in which this bill violates the rights which are set down by the Charter of Human Rights and Responsibilities, the Attorney-General states:

> The charter makes it clear that only human beings have human rights. It is therefore not necessary to consider whether the bill limits any human rights of religious bodies and schools, as employing organisations rather than human persons. In any case, to the extent to which the bill, in reinstating an inherent requirements test, might limit any such rights, I am of the view that any limit of the right to freedom of religion of a religious body or school must be appropriately balanced against the right of job applicants and employees to be free from discrimination.

That must be one of the most disingenuous statements the Attorney-General could put in a statement of compatibility with the charter. To simply dismiss the whole issue of the right to religious freedom by simply saying that the charter does not apply to a religious body or a religious school and therefore does not matter is completely disingenuous. You have to ask what the Attorney-General thinks a religious body or a religious school is made up of.

It is made up of individual citizens who are seeking to exercise their religious freedoms, and for the Attorney-General to say that because they are a religious body the charter does not apply is simply outrageous. It reinforces that this is being done for nothing other than ideological reasons and not for any substantive reasons or because of any substantive miscarriage in weighing up the consideration of the rights of individuals to employment versus the rights of individuals to practise their religion with people of their own faith.

On the second point of the Attorney-General's statement on the charter in relation to the balance, we actually believe that the current legislation gets that balance right and that the current exemption which extends to employment scenarios establishes that balance. It gets the balance right. What the Attorney-General and his left-wing Premier are seeking to do is tip the scales too far in one direction against the interests of people who simply want to practise their religion with people of their own faith.

In relation to the community opposition that has been coming forward in respect of this bill, I would like to refer to a paper which members of Parliament received in the last couple of days or so. It is from Mark Sneddon, executive director of the Institute for Civil Society (ICS), who makes a very clear case for why this legislation is bad and should not be supported. I refer to the fifth paragraph of this paper, which states:

> The law will make it very difficult for, say, an Orthodox Jewish school which seeks to educate students to be Orthodox Jews to knock back an applicant for a teaching role on the basis that applicant is a Muslim or is a person who advocates a swinging sex life with multiple partners, contrary to Orthodox Judaism. Or the other way around: Muslim schools would have the same problem if a Buddhist or a swinger applied for a similar position. A church (or mosque) would have to justify why its youth leader needs to be a Christian (or Muslim) —

respectively —

> and follow Christian (or Islamic) teaching on sex and marriage.

That really highlights the shortcomings of this legislation. The paper goes on to state:

> The proposed law will make it hard for religious organisations to maintain their religious identity and culture. Imagine if the Collingwood Football Club were forced to accept one-eyed Carlton supporters as members of the

> Collingwood cheer squad. How would that work? Or what about a political party? Imagine if the pro-abortion sex party could not refuse to hire an anti-abortion activist as their election campaign manager? It wouldn't work.

The points made by Mr Sneddon in this ICS paper go exactly to why this is bad legislation and is legislation which is driven by ideology rather than legislation which has a practical outcome in mind.

Another piece of correspondence that has been received by members of Parliament is a letter from a mother named Marianne. I will not use her surname. Marianne writes in the second paragraph of her letter:

> I am a Christian and chose to send my daughter to a Christian school. I wanted her to be taught the same Christian values and principles that she is taught at home. I value the partnership that we share e.g. family, school and church. All the staff at my daughter's school are Christians and that is very important to me. Although my daughter has now finished school, I am still part of the school board. I wish all children could go to a nurturing Christian school like my daughter was able to do.

That is a very powerful message, especially the reference in Marianne's letter, 'All the staff at my daughter's school are Christians and that is very important to me'. There are reasons that parents choose to have their children educated at religious schools — surprise, surprise! It has often got something to do with the religious aspect of the schools. In supporting the religious aspects of those schools, it would be helpful to have staff that adhere to the same religious philosophy. Yet we have a proposal from this government that would make it virtually impossible for a school such as the one that Marianne sent her daughter to — in that case, a Christian school — to employ a staff of people who identify as Christians, because unless that school could specifically identify that each and every position at the school needed to be held by a Christian person, they would not be able to maintain a school environment and a staff which was Christian in its nature and outlook.

We as a coalition believe that that is wrong. The current provision which allows religious organisations and religious schools to employ their staff having regard to their religious views and the outlook of their staff is important. It is an essential characteristic of a religious organisation to be able to employ people of the same religious views. For that reason we believe this legislation is wrong, and it should be opposed. This bill is not about righting wrongs. It is not about correcting some massive miscarriage of justice. It is about this left-wing government delivering on its ideology for its fellow travellers. This bill is about undermining the right to freedom of association and the right to diversity for people of faith.

As I said, this bill is not wideranging in scope. It does one thing: it attacks the religious freedoms of religious organisations and religious bodies, and it attacks the religious freedoms of religious schools. This is bad legislation. It is legislation from an extreme left-wing government that is pushing an extreme ideology, the same ideology that is seeking to deliver the Safe Schools program upon Victorian students. It is also seeking to limit the capacity for parents to have their children educated in religious schools where the staff adhere to the parents' religious beliefs. We believe it is wrong, it is unnecessary and no case has been made for it. It will be strongly opposed by the Liberal-Nationals coalition.

Interjections from gallery.

The ACTING PRESIDENT (**Mr Melhem**) — Can I remind the people in the gallery that clapping is not allowed. Should you do it again, I will ask you to leave. You are allowed to observe what is happening in the chamber but not to contribute to the debate or to clap, regardless of what side of the debate you are on.

Dr CARLING-JENKINS (Western Metropolitan) — I rise tonight to speak on the Equal Opportunity Amendment (Religious Exceptions) Bill 2016. Let me say right at the start that the DLP, which I represent in this house, will not be supporting this bill. We will not support any of the bills this government seeks to put up that seek to limit the rights of Victorian citizens and to empower a state to punish citizens who do not agree with its myopic view of the world. Having said that, let me say that I do welcome the opportunity to debate this bill in one of the only forums still available to Victorians to have such a debate, free from the abuse and bigotry of progressives that is so common in our modern public square. I wish to commend Mr Rich-Phillips for his speech on this bill. I think he very accurately described this bill.

The DLP, as many of you would know, is a proud defender of the core freedoms that constitute the foundational ethos of our civilisation. The DLP was formed in the crucible of our defence against the toxic effects of the communists in our labour movement. The war goes on. The battleground shifts, and our adversary has simply donned a new guise. At the heart of this legislation lies the ideological attack on Victorian citizens' religious rights and more broadly the imposition of a cult of equality creed by the state. A big call? Well, let us look at the facts.

There is no contemporary event that anyone can point to that serves as an example for the need for such a bill. There is no actual case of someone complaining that

they were denied employment because their beliefs contradicted their potential employer's belief. There is no case before our courts, no complaint before the human rights commission, no exposé in the *Herald Sun* — nothing. So in essence this is a solution looking for a problem, a prejudice trying to masquerade as a moral cause.

But it is more than that. If this legislation is passed, it will form the basis of more lawfare against the true agencies of social justice in our society. Recently we saw the ridiculous situation in Tasmania where an activist complained to the human rights commission about Bishop Porteous because that activist was offended that a Catholic bishop would teach Catholic doctrine to his Catholic flock. Do I need to repeat that to emphasise the absurdity? A man of God was taken to court because someone was subjectively offended that a Catholic bishop would teach Catholic doctrine to his Catholic flock. This person was not a member of that faith community and was not even being addressed by that bishop and yet still found a way to be offended — legally offended, thanks to Tasmanian legislation, which this government is attempting to replicate.

Freedom of association and religious liberty are international human rights. Whilst not expressed as inalienable, they are the fundamental principles of social freedom and a bulwark against oppressive regimes attempting to impose an unpopular ideology upon the citizens of the state. The bill itself highlights the fundamental flaw in the Equal Opportunity Act 2010. Rather than free association of citizens needing exemptions from the state, it is the state that needs licence from its citizens — and these rights supersede any imagined right to equality, a vague and contentious concept.

At this time I want to refer to the work of Murray Campbell, who wrote a blog yesterday on this bill. He wrote in part:

> For most of our nation's history churches and governments have enjoyed a mutually beneficial relationship, understanding their distinct roles while together serving for the good of society. Both have had their failings as well as making enormous contributions to building our society, but Australians have always been careful not to confuse the two. Tomorrow —

which of course is today, or tonight —

> this judicious relationship may come to an end as the Victorian government proposes a hostile takeover of all religious organisations.
>
> The Victorian Legislative Council will … debate and vote on the proposed inherent requirements test. The purpose of this amendment to the Equal Opportunity Act is to require religious organisations to demonstrate that their employees must necessarily subscribe to the beliefs and values of that church, school or charity.
>
> Religious organisations currently have freedom to employ persons who affirm the beliefs and practices shared by that organisation; this is only sensible. Should this legislation pass, a tribunal will be appointed by the government who will determine what constitutes inherent requirements for all religions across the state. In other words, the government is posturing itself as a teacher and arbiter of theology, with power to inform churches, synagogues and religious schools whom they are to employ.
>
> The government has presented the amendment as a natural extension in the fight for equality, but the reality is quite different. Labor wants sameness not equality. This bill will inevitably work against a pluralist and diverse society and instead demand that Victorians fall into line with a rigid and historically dubious view of secularism.

Mr Campbell continues:

> I cannot speak for all religious organisations, but when it comes to Christian churches they are, for the most part, welcoming of anyone from any cultural, religious, sexual orientation background. I am not denying that there are appropriate rules and requirements for those who would serve in a formal capacity, and neither am I ignoring that associations can sometimes get it wrong. But the Christian gospel is all about welcoming men and women who have no rights on God, no inherent claims on him, and yet in Jesus Christ we are lovingly forgiven and welcomed. This conviction has forged a tradition throughout the world of Christians starting not only churches but also schools and hospitals and aged-care facilities, without which both our government and society would collapse.
>
> …
>
> All the good that this government may achieve is being swallowed up by their rigid and aggressive social agenda. This legislation is not only nonsensical; it is dangerous. They have reached the Rubicon and are intent on crossing it, and Victorians have no assurances that the government will stop there.

I thank Mr Campbell for his clear thinking and articulation of the problems of this bill.

The biggest concerns around this bill have come from the private school sector, a sector which, until the arrival of the Andrews government, enjoyed a mutually beneficial relationship with the state. The state provided some funding, and churches, organisations and parents, through school fees, paid the rest. Private schools — this point cannot be overemphasised — operate on a percentage of government funding. Many schools have been founded by parents, and it is their goodwill and their desire for a non-state-based education which drives them to seek what they know is best for their child and for their family. Other schools have been founded by a church, a church looking out for its members' best interests.

Victorians freely choose to have their children educated by a school that reflects their values and standards. Make no mistake: these schools exist because parents want them. Victorians make sacrifices to send their children to these schools. They do so in the knowledge that the schools operate according to certain agreed principles and a shared understanding of life and society. That is their right as parents, and that is their duty as adults.

Currently there is a debate about the appropriateness of the Safe Schools program in our public system. The most controversial element of this program is the Marxist gender theory component. This is a radical theory without mainstream scientific support and with mounting evidence of harmful effects on children. This is being imposed by the state in the state system against the wishes of some parents and against the knowledge of most. It is reasonable and responsible parents who must remain the final arbiters of their child's best interest, not the state. I have had to remind this house of this before, and I am afraid that I will have to do so over and over again during my term. As I said, this bill is a solution looking for a problem. It represents a prejudice looking for justification, and it is yet another attack on the freedoms of people who hold to Judaeo-Christian values.

I note that the term 'discrimination' has increasingly become used in a derogatory sense. However, the definition of discrimination is to recognise and understand the difference between one thing and another. It is to discriminate between right and wrong, between true and false or between toothpaste flavours, if you will. It is to differentiate and to make distinction between competing ideas. It is to do what we are here in Parliament to do — to discriminate in favour of the better argument towards the best possible outcome for Victorians. This may involve striking a balance between competing ideas, or it may involve standing firm on a position. Unfortunately the term 'discrimination', like the term 'equality', has been coopted by activists to mean anything that does not favour their view of the world. They wish for their view to prevail not in the public square, where it should be and could be openly debated, but by being imposed by law, and this is what we are seeing with the piece of legislation we have before us tonight.

The Andrews government claims that equality is not negotiable, which is a convenient catchphrase. However, they cannot and will not address how restricting the freedoms of one group for the perceived benefit of another fits in with this equality agenda. I would suggest that this present government is for equality for some citizens of Victoria, not for all. The problem the government is having with selling the equality agenda for some brings to mind the Orwellian concept that all animals are equal, but some animals are more equal than others.

One constituent, who emailed me just this morning, described his concerns regarding this bill in this way. Tim writes:

> I would like to express my concern regarding the vote on the Equal Opportunity Amendment (Religious Exceptions) Bill being voted on today.
>
> I think it is absurd that in our free country we are trying to dictate to religious bodies that they must dilute their core bodies of employees away from those who share their core beliefs.
>
> 'Dilute' is an apt term for this, as what I see this creating is a watering down of religion by tying the hands of leaders of faith and preventing them from keeping a core body of like-minded people supporting their values and mission.
>
> It's absurd to think that the Liberal Party should have to employ Labor supporters or vice versa. This would never allow for effective management based on the absolute core values of the party. Why it is okay for religious bodies to function that way?
>
> I strongly urge you to keep this level of freedom active in our country. Diversity is a massive part of what makes Australia so fantastic, and watering down the diverse groups seems like we are heading toward some sort of cookie-cutter, everyone-should-be-the-same society.

I thank Tim for his email. I believe he has accurately described the type of so-called equality this bill seeks to achieve, one which at its core undermines and dilutes our diversity, limits our freedoms and imposes unfair restrictions on one group — people with religious convictions — by targeting the organisations which support them.

Before turning to the specifics of this bill it is important to understand the context — the Equal Opportunity Act itself. This act defines discrimination broadly. It includes direct discrimination, defined by section 8 of the act, to occur if a person treats or proposes to treat a person with an attribute unfavourably because of that attribute. 'Attribute' in this context refers to any of the 18 attributes listed in section 8 of the act, which include religious belief or activity, lawful sexual activity, gender identity, age, race and sex. Discrimination is also defined in the act to include indirect discrimination, which occurs if a person imposes or proposes to impose a requirement, condition or practice that has or is likely to have the effect of disadvantaging persons with an attribute, and that is not reasonable.

The act then relies on a large number of exceptions. There are over 40 sections of the act which provide

exceptions to the general prohibition on discrimination. These exceptions include, for example, section 24, which allows discrimination when hiring someone to work in your home providing personal or domestic services. This is reasonable. Without this exception, the state would be dictating your choice of a personal carer for yourself or your children. Similarly in section 51 it allows you to discriminate in disposing of land by will or by gift. These exceptions make the act workable. They are balancing provisions or exceptions.

Mark Sneddon, the executive director of the Institute for Civil Society, in an article published on 22 September 2016, explained this in detail. He wrote:

> … while the act seeks to give expression to the broad value of treating people who are in the same position in the same way, it is the balancing provisions or exceptions which make the act workable. These provisions balance the value of equal treatment with all the other values our society prizes such as:
>
> > multiculturalism and pluralism accommodating and permitting the expression of different cultures and faiths (and people of no faith) with different values;
> >
> > giving rewards for greater achievement or effort (competitive sports up to and including the Olympics and academic or other competitions which give such rewards are highly discriminatory);
> >
> > giving special assistance to the disadvantaged which are not available to most people;
> >
> > freedom of conscience and freedom to associate with those we wish to and freedom not to associate with those we don't want to even though that involves a differential treatment (for example Family Planning Victoria should not have to employ advocates for the right to life and vice versa).
>
> Some 42 sections in the act create different exceptions or balancing provisions which help balance the value of equality with these other values which our society holds dear.
>
> Under the act, discrimination can only occur if the unfavourable treatment is based on a protected attribute. The classic protected attributes were race and gender but the categories … have been expanded greatly over the years and now include age, disability (impairment), political belief or activity, religious belief or activity, lawful sexual activity, pregnancy, breastfeeding, physical appearance, sexual orientation and gender identity. The expansion of protected attributes brings with it complications for the policing of discrimination; hence the need for exceptions.
>
> For example, it is reasonable to bar pregnant women from some carnival rides which might injure them or the child they are carrying, but it is discrimination under the broad definition in the act. Another pertinent example: it is reasonable for one political or religious organisation not to employ people who hold and pursue starkly contrary beliefs to the organisation. But it is discrimination under the broad definition in the act.

Now I turn to the specific aspects of this bill, a bill to amend the Equal Opportunity Act 2010 to modify the religious exceptions in relation to the employment of a person by religious bodies and schools. The explanatory memorandum has this to say about clause 1:

> In particular, the bill reinstates an 'inherent requirements test' for a religious body or school that may seek to rely on a religious defence to discriminate in the area of employment.

This bill seeks to impose on religious bodies, including religious schools and churches, the onus of proving that it is an inherent requirement of a particular job for the employee to share the religious belief of that religious body or school. Furthermore, the state is proposing itself as the adjudicator as to whether or not these inherent requirements are met. The government is ignoring the rights of parents to engage a school which shares their values.

In an op-ed piece written by Mark Sneddon this week, Mr Sneddon clearly sets out the implications of this bill. This article was also read out in part by Mr Rich-Phillips, but I think it is worth repeating. Mr Sneddon says:

> The law will make it very difficult for, say, an Orthodox Jewish school which seeks to educate students to be Orthodox Jews to knock back an applicant for a teaching role on the basis that applicant is a Muslim or is a person who advocates a swinging sex life with multiple partners, contrary to Orthodox Judaism.
>
> …
>
> The proposed law will make it hard for religious organisations to maintain their religious identity and culture.

We all heard the example of the Collingwood Football Club and their cheer squad.

Mr Sneddon goes on to say:

> Organisations should be allowed to choose to employ people who are uphold their core values, rather than undermine them.
>
> The proposed law also contains a massive double standard. Churches, mosques, synagogues, religious charities and welfare agencies, and religious schools will all need to justify to the government their 'conformity to values' requirements in employment. But no other organisation will have to do this.

Mr Sneddon sets out a very interesting example of this. He says:

> A gay men's club, set up to preserve a minority culture, can refuse to have members who aren't gay men. And they don't have to justify their decision to the government.

I would say that this is fair enough. Mr Sneddon continues:

> Those organisations can rightly maintain the integrity of their values in hiring and membership decisions. But why should

> religious organisations have to get the government approval to maintain the integrity of their values in hiring? Especially when so many Victorians choose to pay fees (on top of their taxes) to send their kids to the local Catholic school or other religious schools precisely because they want the values of the religion taught and modelled to their children by all the staff at the school.
>
> This law will undercut the ability of religious organisations to continue to be true to their basic beliefs and values. And if it doesn't make sense to do that to the Collingwood Football Club or a political party, it doesn't make sense for religious organisations either.

I thank Mr Sneddon for his views.

I now want to turn to the views of Martin Hanscamp, the executive officer of the Australian Association of Christian Schools, who has provided 12 reasons why the inherent requirement changes should be rejected. I think it is important to go through each of these reasons. The first reason is:

> It looks relatively harmless, but it's not
>
> The rationale behind the ALP amendments may appear, at first glance, to be reasonable, i.e. don't treat LGBTI people unfairly. But what it really means is that Christian schools will have to prove why faith is needed as an occupational requirement for each and every staff member's role. Not only will Christian schools no longer have authority over whom they may employ but the bedrock of Christian schooling is completely misunderstood or completely disregarded.

The second reason is:

> Employing staff who align with your values and beliefs
>
> Christian schools were established by Christian parents or churches seeking an authentically Christian educational expression for their faith. Being able to employ Christian staff, people who are in step with the religious values and beliefs of the school community, goes to the very heart of why Christian schools exist.
>
> This has been a long-held freedom and practice …
>
> So, why should a Christian school be required to prove that faith is needed to teach in their community?

The third reason is:

> It takes a village to raise a child.

This is something that I think our society has really lost focus on. Mr Sneddon says:

> The 'inherent requirements' argument says that you can only use your religion as a basis to decide on employment positions where faith is 'relevant'. This dualistic understanding of faith separates the secular (maths, administration, library, maintenance staff) from the sacred (biblical studies teacher) and means that Christian schools wouldn't be able to ask the administration staff, the maths teacher, the camping program coordinator, the school gardener what their faith position is. It would be illegal. Why? Because in the view of the commonly held dualistic understanding, faith has nothing to do with maths. Christian schools, by contrast, say that our God is interested in every part of our lives, all areas of study and every part of the school's life. We say every employee within the school community plays their part in community life. Christian schools strive to be holistic learning communities in which everyone plays a part. As the old saying goes it 'takes a village to raise a child'.

The fourth reason provided by Mr Hanscamp is 'The problem of who decides?'. He says:

> When legislation has an 'inherent requirement test' it requires an authoritative body to interpret and enforce. Here a secular tribunal like the Victorian Equal Opportunity and Human Rights Commission (VEOHRC), which deals with systemic discrimination, will decide what religion means and what's inherent. As an example of the problem, back in 2010 the then VEOHRC chair … said it was not an 'inherent requirement' for a maths teacher to have to share the 'doctrines, beliefs and principles' as written in the school's documentation in order to teach maths. This essentially means that faith would only be needed for 'expressly religious' subjects, a viewpoint at stark odds with our ethos.

The fifth reason is that the case for change simply is not there. The present exemptions have provided a baseline protection for religious institutions for a long time. In attempting to adjust these long-held religious freedoms the ALP claims that it is defending individuals and society from unfair discrimination. Here proponents are listening to voices that portray Christian schools as being separatist, bigoted and discriminatory places with far too much freedom. We know that such misguided stereotypes are simply not the case.

The sixth reason is this: disagreement is not discrimination. This relates to the point I made earlier about discrimination being an overused and misunderstood term. The proponents of removing or reducing the religious exceptions are of the view that Christian schools need to stop being havens of bigotry and that they need to get in step with the rest of society. Christian schools would fully agree that treating people fairly and with respect is a value that should be expected of everyone and all societal institutions. However, when Christian schools seek to employ staff who are supportive of the Christian faith and understanding, does that mean we are being unfairly discriminatory? This example was used around the traditional marriage viewpoint. To put it another way, if I believe that marriage should be between a man and a woman to the exclusion of all others, does that mean I am unfairly discriminating against LGBTI people? It is this question that is at the heart of this whole debate.

So do Christian schools discriminate? In one sense they do in much the same way that the football club chooses a football expert rather than a hockey one to be their

coach. They do so on the basis of a value that everyone — every organisation — should have a right to do so. Is this form of discrimination unreasonable or unfair? Should the state outlaw it? Of course not. Should the state foist its particular sexual orthodoxy, a particular moral viewpoint on a religious body that does not share that viewpoint? Again, of course not. When a state does that it is overstepping its authority, and this bill is certainly an example of it overstepping its authority.

The seventh reason is that you can choose. Christian schools seek to reflect the values of the Christian faith in all that they do. They clearly state their beliefs and their values up-front. It is impossible to miss that they are steeped in the teachings of the Bible. Some may agree with this but many do not. Those who disagree can simply choose another option. They do not have to choose a Christian school.

The eighth argument is the rights debate — that religious freedom needs to be balanced against the rights of quality. I have covered this point already. Christian schools understand that the right to religious freedom needs to be balanced against other rights. Religious freedom does not provide an open slather approach, but Christian schools are responsible citizens within a pluralistic democracy that by its very nature should allow for differing religious outlooks and moral views.

The ninth reason proposed by the Australian Association of Christian Schools is that parental choice and religious freedoms are crucial, and this is something that this government has really lost sight of. The rights of parental choice and religious freedoms are a vital part of Australian democracy, although they are now being eroded. Human rights covenants that Australia has signed protect the right of parents to choose their child's school, and they uphold religious freedom. The right of parents to send their children to a Christian school is a freedom we expect in a democratic, tolerant and pluralistic society, and this is covered in the *International Covenant on Civil and Political Rights* in article 18.1 and in the *UN Universal Declaration of Human Rights* in article 26.3, which states:

> Parents have a prior right to choose the kind of education that shall be given to their children.

The 10th reason is the thin edge of the wedge. This subtle compliance measure, needing to prove an inherent requirement, crosses a line that should not be crossed and represents a dangerous directional change. Starting down this path has the potential of further meddling in religiously shaped practice. Christian schools are good social citizens and conduct themselves in responsible and reasonable ways. They do not want to be shaped by secular guidelines that would distort their very character.

Number 11 is consultations that suit your purpose. The ALP claims that it has consulted with the stakeholders within the church and religious schools sector and that these stakeholders were satisfied with what they called the 'inherent requirements' compromise. The voices that have said 'No problem' certainly do not speak for the Christian schools sector, which is united in its voice against these changes. That consultation process did not listen to the Christian schools sector voice, which is made up of over 20 000 students in 50 schools across Victoria, and I note here that there are also 493 Catholic schools across Victoria representing approximately 200 000 students.

In summary, the last reason, no. 12, is that the changes undermine religious freedom and threaten Christian schools. The supposed innocence rationale behind the bill explains that Christian schools will be required to show a closer nexus between the need to discriminate and the requirements of the particular job. Parents within Christian schools need to be aware of the bigger and more subtle issues afoot in this debate. This legislation strikes at the heart of the distinctive nature of Christian schools currently protected by the right to make employment decisions which reflect the values of those communities as well as parental freedom of choice and fair expression of religious thought and understanding in our society.

I thank Martin Hanscamp for so clearly articulating his thoughts and for his advocacy for and representation of the Christian schools sector in this debate. I want to note here that one of the schools in my electorate, Heathdale Christian College, states its purpose as 'to glorify God through Christ-centred education that helps children develop their God-given potential'. Their purpose will be undermined and their existence threatened if this legislation is passed. This is but one example of the many independent Christian and Catholic schools which will be compromised should this legislation pass. I point to this example not only because it is in my electorate but because many parents from Heathdale have written to me expressing their concerns and explaining the reasons why they felt it necessary to enrol their children at this school, the investment they have had in doing so and their fear that this will be undermined should this legislation pass — their very real fear.

This bill quite simply unfairly targets parents like these. Heathdale Christian College was established by

Christian parents seeking an authentic Christian education which expressed their faith in action. This is a freedom these parents should be able to expect in a democratic, tolerant and pluralistic society. However, while political, ethnic and cultural organisations would remain exempt, religious organisations would not under this legislation, so it is democracy, tolerance and freedom for some. Religious bodies would be forced to accept and accommodate the views and conduct of employees whose value systems do not align. However, I can continue to employ only people who align with DLP values, freely discriminating against potential employees who hold Marxist ideals. It is hardly surprising that the government which supports Safe Schools being rolled out across the state school system is now after Christian schools. I will note that this is contrary to the UN *Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion Or Belief*, article 5(2), which states:

> Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his or her parents …

The wishes of parents have been conveniently and consistently ignored in this debate.

I also wish to emphasise that the claim that this bill is necessary to protect the fundamental rights and freedoms of others simply cannot be made. There is no fundamental right to demand employment by a religious body while holding beliefs that contradict the beliefs of that body.

The other fundamental right being attacked by the Andrews government in this bill is the right to freedom of association. Religious bodies, including religious schools, form a significant component of our civil society — that network of natural associations of families and voluntary organisations that alongside the realms of government and business make up the fabric of a vibrant and living community. This legislation undermines that vibrant and living community. The state should only intervene in the affairs of voluntary organisations when necessary. I do not find any evidence that the state has any right to intervene in this instance.

I note that 2506 Victorians, along with 813 signatories from interstate or overseas, have signed the petition coordinated by Anne-Marie Quinn of CitizenGO, which states:

> We believe that the proposed Equal Opportunity (Religious Exceptions) Bill is a backwards step which strongly undermines the principles of a pluralist society.
>
> We believe that parents should have the right to educate their children according to their religious and moral beliefs. As such we need schools and institutions that reflect these beliefs in our communities.
>
> If passed, the Religious Exceptions Bill will restrict many religious organisations and schools from promoting a Christian worldview through their staff and perhaps more critically, challenge their very reason for existence.
>
> We also feel that the bill is discriminatory in its very nature. The proposals single out religious organisations, yet do not apply to other organisations who might similarly exclude members on the basis of their beliefs.

In addition to this, a number of handwritten petitions have been presented directly to this house, bearing approximate 1000 signatures, appealing to this house to vote down this bill. I believe it is time for this house to listen to the people.

Dan Flynn, the director of the Australian Christian Lobby in Victoria, has said this:

> This bill would be the end of Christian schooling as we know it.

I agree with him. This is a deliberate attack on religious freedoms. This is a deliberate attack on the rights of parents to choose a school which matches their values — a school they have confidence in. This is another deliberate attack on people who hold to Judaeo-Christian values — my values — and it is getting harder and harder to not take this personally.

I want to acknowledge the support in the gallery, which is full of people who have a vested interest in the defeat of this legislation. It is time for us to take a united stand against the broader agenda behind this bill — but I digress. As I said in my introduction, the bill before the house tonight is a solution looking for a problem, a prejudice looking for a justification, and as such the DLP will not be supporting this bill.

Interjections from gallery.

The ACTING PRESIDENT (**Mr Melhem**) — Order! I will not warn members of the public in the gallery again. If there is any further clapping, I will ask them to leave.

Ms PENNICUIK (Southern Metropolitan) — I am pleased to rise to speak on the Equal Opportunity Amendment (Religious Exceptions) Bill 2016. At the outset I note that what I have to say about the bill will be very different from what has been said by the previous speakers, Mr Rich-Phillips and Dr Carling-Jenkins. In fact the bill that is before us is a rather modest and simple bill. It seeks only to reverse the changes made in 2011 by the coalition government

to the religious exceptions in the Equal Opportunity Act 2010, which was introduced by the previous Labor government.

The changes removed the inherent requirements test in the 2010 act for employment by a religious body or a religious school, which was intended to limit the ability of such organisations to discriminate unreasonably against people with particular characteristics. The government acknowledges that the removal of this test has meant that too many Victorians remain vulnerable to unjustified discrimination in employment in religious organisations and religious schools.

The Greens are supporting the bill, but we say the bill does not go anywhere near far enough to protect against the potential for discrimination in employment by religious bodies and religious schools. Ideally the Greens and many in the community would like to see that there are no exceptions for religious schools or organisations and that they are not able to discriminate in matters of employment.

It was way back in 2007 that I first raised this issue. In May 2007, when I had been elected to the Legislative Council for six months, I raised the issue of the inappropriateness of the exceptions under the act that applied at that time to religious organisations, religious schools and small business.

At that time there was a wider range of exceptions. In fact those organisations I have just mentioned could discriminate on the basis of age, breastfeeding, gender identity, impairment, industrial activity, lawful sexual activity, marital status, parental status or status as a carer, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, sexual orientation and personal association. That was the very long list of attributes to which there were exceptions to the prohibition against discrimination under the act.

In fact I moved a motion that there be an instruction to the committee that I would be able to move amendments to that bill:

> to repeal the exception for small businesses from the prohibition of discrimination relating to employment and to ensure that the exception for religious schools from the prohibition of discrimination did not extend to anything done in the course of employment in such schools.

Nine and a half years later we are still grappling with this issue in terms of the bill that is before us now. But a lot of changes have happened, I would say, since that time and in terms of the awareness of the discrimination that does exist in the community and the harm that that discrimination causes to people.

In fact the instruction was that I be allowed to move amendments which were outside the scope of the bill. The 2007 bill moved by the previous government was basically just to remove some of the attributes in regard to industrial activity from the act. The motion to move the instruction was in fact agreed to and I was allowed to move those amendments, but sadly they were not supported. So those exceptions for small business — that is, businesses with under five employees — were allowed to remain in the act until the 2010 bill came to us three years later, following the Gardner review in 2008.

Business interrupted pursuant to standing orders.

Sitting extended pursuant to standing orders.

Ms PENNICUIK — It has been a long time that I have been advocating in this place and taking the opportunities I can in terms of amendments to the Equal Opportunity Act to remove the exceptions under the act for discrimination by religious bodies and religious schools in matters of employment.

I mentioned that in 2007 I moved an instruction to the committee that was agreed to and I was able to move those amendments. Today I will also be moving an instruction to the committee to allow me to proceed with some amendments which have been deemed by parliamentary counsel and by the clerks to be outside the scope of the bill. As I said, this is a very, very simple bill. It replaces the inherent requirements test that was removed by the previous government. I am happy to have those amendments circulated.

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

Ms PENNICUIK — As I said, the 2008 Gardner review of the Equal Opportunity Act 1995 highlighted the link between discrimination and disadvantage, the costs of discrimination and the benefits of addressing discrimination in the community. It provided a comprehensive insight into Victoria's equal opportunity laws at the time, and where they were inadequate based on extensive community consultation, it made several recommendations for much-needed reform. While not all of these important recommendations were implemented by the then Labor government in 2010 with its bill — such as the need to include homelessness and an irrelevant criminal record as attributes under the act that were prohibited to be discriminated against — other recommendations were included to address discrimination under the new act.

The Greens supported the legislation. However, I did seek to amend the bill when it was first introduced by the government. Amongst areas of concern then were the remaining exceptions for religious bodies and religious schools under the bill that created the new act. Our position was that the exceptions, even with the inherent requirements test as it was, still allowed certain members of the community to be discriminated against, whereas the vast majority of the rest of the community could not be discriminated against.

The 2010 act also included some changes to the Victorian Equal Opportunity and Human Rights Commission to allow it to undertake systemic inquiries into discrimination, which have not been reinstated by this bill and we feel should be reinstated by the government. It is unfortunate and a lost opportunity that that has not happened.

The bill before us, as I said, is a very simple bill of only four clauses, the fifth clause being the repealing clause. It makes changes to section 82(2) and section 83(2) of the act. Section 82(2) pertains to religious bodies. Basically the amendments say that nothing in part 4, which is the main part of the Equal Opportunity Act 2010, applies to anything done in relation to the employment of a person by a religious body where conformity with the doctrines, beliefs or principles of the religion is an inherent requirement of the particular position and the person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity means that the person does not meet that inherent requirement. The bill makes similar changes to section 83(2), which relates to religious schools.

In effect the simple changes that are made by the bill say that discrimination based on any of those attributes is only allowed if it can be shown that the attribute is an inherent requirement of the job. Unfortunately there is another small subsection (4) that is added to both of those sections, 82 and 83. That subsection says:

> The nature of the religious body and the religious doctrines, beliefs or principles in accordance with which it is conducted must be taken into account in determining what is an inherent requirement for the purposes of —

this subsection. I think that is a very unfortunate addition to those two sections of the act, because it actually undermines the earlier changes made through the amendments that the bill makes to the act in that it undermines the principle which I believe the government is trying to get to, and certainly should be trying to get to, which is: what is the inherent requirement of the position?

If you are, for example, a teacher in a religious school, I would say, as I have on many occasions, that your sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity has nothing to do with the inherent requirements for the position or for any position in a religious organisation or a religious school. As I have said in this Parliament before, I cannot understand how those questions could ever be asked of either a current employee or potential employee — how those questions could ever be put to someone who is applying for a job or already has a job in a religious school or organisation. They are completely irrelevant to any job. The purpose of the bill, as I see it, is about the inherent requirements of a position.

The amendments that I have circulated do further narrow and limit the amendments to the bill that have been put forward by the government. Basically the amendments would replace section 82(2) of the Equal Opportunity Act 2010 with the words:

> Nothing in Part 4 applies to anything done (except in relation to employment) on the basis of a person's religious belief or activity by a religious body that conforms with the doctrines, beliefs or principles of the religion.

The amendments go on to remove references to the attributes that a person holds — their sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity.

I will move the same amendment to section 83(2) of the act such that it reads:

> Nothing in Part 4 applies to anything done (except in relation to employment) on the basis of a person's religious belief or activity by a person or body to which this section applies in the course of establishing, directing, controlling or administering the educational institution that conforms with the doctrines, beliefs or principles of the religion.

To put that in plain language, it would mean that in a religious school or a religious organisation, if it was an inherent requirement of a position that a person held a particular religious belief — for example, that they be of Catholic faith to be able to teach religious instruction in a Catholic school — that would be allowed, but under my amendments none of the other attributes would be allowed to be included as an inherent requirement of the job. So, as I have said, I fail to see how any of those other attributes could be in any way an inherent requirement of a job or of a position in any of those cases.

I bring members back to the objectives of the Equal Opportunity Act 2010. The objectives under section 3 of the act are:

> (a) to eliminate discrimination, sexual harassment and victimisation, to the greatest possible extent;
>
> (b) to further promote and protect the right to equality set out in the Charter of Human Rights and Responsibilities;
>
> (c) to encourage the identification and elimination of systemic causes of discrimination, sexual harassment and victimisation;
>
> (d) to promote and facilitate the progressive realisation of equality, as far as reasonably practicable, by recognising that —
>
> (i) discrimination can cause social and economic disadvantage and that access to opportunities is not equitably distributed throughout society;
>
> (ii) equal application of a rule to different groups can have unequal results or outcomes;
>
> (iii) the achievement of substantive equality may require the making of reasonable adjustments and reasonable accommodation and the taking of special measures …

I believe the act as it stands, with those exceptions still in it, do not achieve the objectives of the act, and the exceptions need to be limited to achieve the objectives of the act.

As I said, the legislation was enacted in 2010 — and at the time it was a reasonable rewrite of the act, which was then 15 years old — and it is now another six years older. Five years ago, in 2011, the former government removed the inherent requirements test, which was a most modest change to the act because it still left in place those attributes that people could be discriminated against under sections 82 and 83. At that time the majority of the attributes by which people could be discriminated against, such as race, political activity, industrial activity, physical features, impairment and those sorts of things, were actually removed from the act as exceptions. What was left in the act were the attributes that I have just mentioned and what in fact this bill leaves in place.

The former government took out a lot of the attributes that were in the original 1995 act and left in that a religious school and a religious organisation — not a small business, because small business was removed from the 2010 act — could still discriminate based on sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity. It left those attributes in there and, as I said at the time, that basically highlighted those categories of attributes as the only remaining attributes by which religious organisations and religious schools could discriminate, and for me that made it worse, and they are still there now. As I have said, this is such a simple bill, but it has, with its new subsection (4), confused itself about the point it is trying to make, which is the establishment of the inherent requirements test. So the amendments that I have circulated would take out those attributes but would leave in place religious belief or activity if it is an inherent requirement of a position in a religious school or a religious organisation, such as the teaching of religious instruction, for example, in a religious school.

Mr Rich-Phillips said there was no justification for the modest bill that the government is putting forward and Dr Carling-Jenkins said there was no evidence; in fact there is justification and there is evidence. There is justification in terms of making sure that nobody, in terms of their employment activities, who already works in a place or who would like to work in a place is discriminated against based on those attributes — for example, whether they are a parent, whether they are married or not married, what their lawful sexual activity is or what their gender identity is. These are not matters which should be raised with employees or prospective employees by employers — and religious schools and religious organisations are employers.

It is not correct for Mr Rich-Phillips to use examples such as people barracking for particular football teams being allowed in football clubs; that is not a comparison. We are talking about people's livelihoods. These organisations do employ a lot of people, and people should be employed based on their skills to carry out the particular position — their skills, their experience, their qualifications — for which they are being employed. In relation to the other attributes which I have mentioned, I would point out that the Attorney-General in his statement of compatibility went for several pages before he actually listed them. In fact it was at the bottom of page 3 of the statement of compatibility before he even went there. Those attributes cannot be shown to be an inherent requirement of any position, but I do say that perhaps a religious belief or activity could be shown to be an inherent requirement of some positions in a religious organisation or a religious school.

I would also say that it is probably time that the Equal Opportunity Act underwent another overhaul, and there are some other parts of it that need modernising and bringing more into line with what I would say the majority of community values are now. I would say too that Dr Carling-Jenkins and Mr Rich-Phillips mentioned some people that had written to them; I received a letter on the letterhead of the Human Rights

Law Centre but also with 28 other signatories, including the Federation of Community Legal Centres, the Australian Council of Trade Unions (ACTU) — the ACTU is involved because of course we are dealing with matters of employment and restrictions on people's employment — the Law Institute of Victoria and a whole range of others that have signed on to this letter, pointing out that these exceptions that are still in place under the bill are too broad and that they need to be narrowed.

They also make the point that there are other changes that need to be made to the act, such as the reinstatement of the powers of the commission to undertake own-motion inquiries into systemic discrimination, because with just the complaints test that is left in the act — and this was removed by the previous government five years ago — it relies on the person who has been discriminated against to actually make a complaint. And of course if there is an exception under the act they have no grounds to make a complaint, so the exceptions that exist under the act now mean that people who are discriminated against based on those attributes have no grounds to make a complaint. So there are still holes in the act.

Back in 2010 I moved an amendment to try to include 'homelessness' and 'irrelevant criminal record' as attributes that could not be discriminated against under the act. They have not been included, but I would say that the government needs to include them, particularly with the growing homelessness problem. An irrelevant criminal record could be a minor criminal conviction a person has, but they could be discriminated against in terms of employment, in terms of housing et cetera. I have raised with the government the need to have a spent conviction scheme. It would be good to put those two provisions in place at the same time.

It has been raised by many in the community that the definition of gender identity as it currently stands under the act needs to be updated. There is the belief among many in the community that the government needs to remove from the act any requirement to identify as either male or female in order to be consistent with the definition under the federal Sex Discrimination Act 1984. I am a little bit nonplussed as to why the government has not brought all of these things to the Parliament as well. It is a bit of a lost opportunity there.

The Human Rights Law Centre, the Law Institute of Victoria and other peak bodies have stated that the attribute 'victim of family violence or stalking' should be added to complement existing protections in the commonwealth Fair Work Act 2009 and to assist women and others who are struggling with family violence.

As I mentioned, it is not correct for Mr Rich-Phillips or Dr Carling-Jenkins to say that there is no justification for this legislation. There is justification in the need to preserve the right of all people to employment and to protect them from discrimination in their current or future employment. I have received some case studies sent by the Victorian Gay and Lesbian Rights Lobby. They outlined May's story as follows:

> May, a lesbian woman, was employed by a Christian welfare agency for two years. Before that, she was involved as a volunteer for another two. She attended the church in connection with the welfare group.
>
> 'I was asked to resign due to my relationship with my partner. I was directly told they were concerned with my involvement with primary and secondary school-aged children. I resigned and fell apart after having served that community for four years. The fallout also meant I had to leave my church community. All of this resulted in mental health challenges, isolation, loss of faith, friends, purpose', said May.
>
> 'I can't express the devastating impact being asked to resign due to my sexuality had on my life. I lost everything — my vocation, faith, community — and had to rebuild myself from a very broken place'.

May is not her real name.

The story of Mike, also not his real name, is outlined as follows:

> Mike and his partner are both Catholic schoolteachers. They felt forced to take elaborate steps to hide their relationship from colleagues for fear of the repercussions for their career.
>
> 'We set up our house with two bedrooms so if any colleagues came over we could pretend we were just flatmates', Mike said.
>
> Mike later left the school and now works in an independent school where he is open about his relationship. His partner, who still works in the Catholic system, has to conceal his relationship from those he works with.
>
> 'He's not able to take a day off work if I am sick. He has to be very guarded as to who he reveals his lifestyle to'.

There are more stories like that. I will not read them all out, but several have been provided.

There was an article by Farrah Tomazin in the *Age* where she mentioned some cases as well. There was Ms Beattie, who worked for the Catholic education office. She said that while she enjoyed her job, she knew that being a lesbian did not exactly fit the religious ethos of her workplace. She also knew that the longer she stayed, the harder it would get. The turning point came soon after she became pregnant through

IVF with her partner. That is when she decided to leave. She said:

> I couldn't turn to anyone because I knew there would be questions …
>
> The whole thing really ground me down, actually. It's hard to go to work and not be able to talk about your partner, or what you're doing on the weekends. I'm a very open person, so I was embarrassed … I had to live like that. In the end I left, because I really didn't want to keep facing that every day.

The article has another story:

> Tim Hoffmann studied theology in the hope of becoming a religious instruction teacher but came to the conclusion 'that there's no point trying'.

He is quoted as saying:

> There might be exceptions — there would be individual schools and principals who are supportive — but how do you know which schools?

There are many stories like that. I will also make some comments about that. A lot of people do not come forward with their stories because they are too afraid of losing their employment to do so. I think that is a tragedy for those particular individuals who are out there being discriminated against in that way or feeling that they could be discriminated against in that way. It is also a tragedy for the schools, because they are obviously losing committed, qualified and skilled people who they could have working in their schools or their religious organisations.

I was talking about the bill that was brought into the Parliament in 2007 by the then Labor government. In the Parliament at that time there was another DLP representative, Mr Peter Kavanagh. During that debate in response to some things I said, he commented that he did not believe that many schools actually did this. He did not believe that many schools did discriminate based on the attributes. So I said in response — and it may have been in the committee stage if we were responding to each other — that if that is the case, why have them? Why not remove them if that is the case? That is just another reason for removing these attributes from the act under sections 82 and 83.

The other point I would like to make is that Dr Carling-Jenkins was talking about parents sending their children to particular schools and paying fees to those particular schools, which I would agree is the case. But I would also say that all schools — non-government schools, religious schools and independent schools — receive public funding, some of them quite a lot of public funding; in fact the majority of their funding is public funding. There are also a lot of organisations that do work on behalf of the government that receive public funding. It has been a longstanding Greens policy that organisations that receive public funding, including schools that receive public funding — in, as I say, many cases a large amount and the majority of their funding — should be held to the same standards of non-discrimination, of transparency in their affairs and of accountability in their affairs as government schools are required to be held to.

Government schools are not permitted to discriminate on the basis of these attributes, and I have not seen or heard any evidence that other schools, including religious schools, should be able to either, because there is no way that any of those attributes — a person's sex, a person's sexuality, their gender identity, their parental status, their marital status — has anything to do with the inherent requirements of a position. I am conceding that in terms of a religious school, religious belief or activity may be an inherent requirement for some — very limited — positions.

So much has happened over the last six years in the community's understanding of the devastation that this type of discrimination has. The fact that this type of discrimination is allowed under the law sends not only a direct message but also an indirect message that this type of discrimination not only in religious schools and religious organisations but elsewhere in the community is somehow okay. It is not okay. It is not okay to discriminate against people based on those attributes in any way, and I think the vast majority of the community believes that and is committed to that, but unfortunately our Equal Opportunity Act is not keeping up with that.

Since 2010 it has become more and more outdated, particularly since the unfortunate amendments that were passed in 2011, five years ago, by the coalition government. We had gone forward, even if a small amount, but then we went backwards again. I do not believe that is what the vast majority of the community would like to see. I think the vast majority of the community would like to see equality, and we do not have equality under the Equal Opportunity Act at the moment. I think the vast majority of the community would like to see the Victorian Equal Opportunity and Human Rights Commission have more ability to look into the issues of harassment, bullying and discrimination.

We know a lot of evidence has been presented and there has been a lot of community discussion over the last five years about the devastating effects that this type of discrimination has on people in terms of their mental health and in terms of their employment, and in

terms of people taking their own lives because of this discrimination. This is not a situation that anybody in the community could want to see continue. The way to remedy it is to remove the discriminations that still exist in some pockets of the law, mainly at the state level but also at the federal level — for example, the Marriage Act 1961, which was altered in 2004 to make that discriminatory as well.

While the Greens will support this bill, we qualify that by saying it is a very modest bill and is not, as has been portrayed by the previous two speakers, a far-reaching bill at all. It does not reach anywhere near as far as I would like to see it reaching, which is why I will move the amendments that I have circulated which will make the government's bill achieve what the government says it wants to achieve. I think it will be the third occasion in this Parliament that I will have moved those amendments.

The Attorney-General in his second-reading speech and the Premier in media releases made what I think were quite disingenuous comments. They were that people like gardeners, cleaners et cetera would be protected under this bill but teachers would not be. I do not agree with that. I think it would apply to everybody, as minimally as it does, but the government says it is talking about the inherent requirements of the position. As I said, the new subsections (4) which are being inserted into sections 82 and 83 of the act are very unfortunate, waffly subsections which undermine the purpose of the bill. The Greens will support the bill, but we would like to move our own amendments to strengthen the bill and to remove discrimination from the Equal Opportunity Act.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! I advise members that they may speak to the amendments and to the bill itself.

Mr FINN (Western Metropolitan) — In rising this evening to speak to the Equal Opportunity Amendment (Religious Exceptions) Bill 2016 I commend the previous speakers. Mr Rich-Phillips and Dr Carling-Jenkins spoke extraordinarily well, I thought, and both made amazing contributions to this bill. I thank them for that. Ms Pennicuik — perhaps not so much. Nonetheless, I wish to make it clear, as we were discussing a little bit earlier, that I do not feel the need for any Collingwood supporters in the Richmond cheer squad at all, irrespective of what parts of the bill that may enter into.

One of my favourite duties as a member of Parliament is to speak at citizenship ceremonies. At citizenship ceremonies out my way there are usually large groups of people who have come from the four corners of the earth, and many of them have come to Australia under some very difficult circumstances. They have come from places where they have not enjoyed what we enjoy here — the rights and the privileges that we take for granted.

I say to them, 'As Australians you will enjoy the same freedom that we all do. You will have the freedom to live where you want. You will have the freedom to watch what you want, to hear what you want. You will have the freedom to live with whom you want. You will have the freedom to actually worship the God that you want'. That is a part of Australia. Take that out of Australia, and it is not Australia anymore. That is what this bill is seeking to do.

I am a Christian. I do not say I am a very good Christian. It is a challenge to be a Christian, but I try. I sometimes say that I am a practising Christian, and I hope one day if I practise long enough, I will get it right. That may well be a long way off. But I do respect others. I respect those who do not share my Christian beliefs. I have friends who are Jewish, I have friends who are Muslim, I have friends who are Hindu and I have friends who are Buddhists. I have friends who have no religion at all in fact, and they have their right. In Australia they have those freedoms to enjoy that and to have those views respected.

I think it is a great pity that this government and the extreme left of the political spectrum, as exhibited by the Greens, cannot respect the rights of others in this particular area. The problem is that, as Mr Rich-Phillips pointed out, the government that we have in Victoria right now — the Daniel Andrews government — is an extreme left-wing government. This government is very, very much opposed not just to freedom of religion but to religion full stop and has been conducting a war against Christianity in particular, but against Christianity and Judaism, since the moment it took office. That is something I find unacceptable.

In Australia in 2016 for any government to be attacking religious freedom in the way that the Andrews government has is not something that can be tolerated. Using that word almost makes me laugh, because I hear our Premier talking about tolerance. I hear them talking about diversity.

Mr Ondarchie — He's been very tolerant of Mr Herbert.

Mr FINN — He has been very tolerant of Mr Herbert. There are no two ways about that. With or without his dogs, he is very tolerant towards him.

But if you disagree with our Premier, you are a bigot. We have seen that from those who have expressed a position; somebody who has expressed a contrary view to our Premier is automatically a bigot, and that is from his own mouth. That is how tolerant our Premier is.

He says that he does not believe in bullying. Well, I have to beg to differ, because the way he treats people of faith in this state is bullying in the extreme. That is what he does. That is what he does on a daily basis, and it is a disgrace and it has to stop. It is a matter of conscience for many of us, and this bloke who is our Premier — the leader of our government, the man they call Dictator Dan — is the one who is fighting a war against people of faith and against people of conscience. We have in this state a hardline Socialist Left government that is trashing those things that stand between it and its ideological goals.

Let us go back some years. I served with a particular individual in the other place: a former Premier called Joan Kirner. She was known around the place as Mother Russia because she was regarded as hardline left wing. She was — —

Ms Crozier interjected.

Mr FINN — Ms Crozier, let me tell you, compared to Daniel Andrews, Joan Kirner was a moderate. She was somebody who was indeed meek and mild, as Ms Crozier points out. She was somebody who was prepared to listen. I am talking about in comparison with the current bloke. Believe me, she was not, but in comparison with the current bloke that is exactly what she was. She was meek and mild and moderate. It is just tragic, in my view, that we have a government that has taken the axe to people of faith in this state, whether they be in schools or in hospitals. Wherever they may be, this government is diametrically opposed to people of faith and indeed to religion.

I remember the day that this Parliament opened in this chamber. I remember the Premier standing over there at the end of the table and Mr Jennings sitting in what was then his usual place in the state Senate. I saw the two of them, Mr Jennings and Dodgy Dan, looking over at each other constantly and smirking, and I thought to myself, 'What are they smirking about? What are they cooking up between themselves?'. I have to say that it did send a little bit of a chill down my spine. I think that chill has been well and truly justified, because clearly the Socialist Left of the Labor Party has led its own more moderate grouping to a place where a lot of them do not want to be.

I am talking about a government that wants to destroy everything that is between it and its ideological goals. Just have a look at what it is doing to our kids and our families; have a look at the Safe Schools program. That is a premeditated deliberate attack on our children. That is an attack on our children in a way that I have never seen and, I have to say, never thought I would ever see anywhere in this country. Any child that is subject to that attack can feel the full wrath of the ideological push of this government. The fact that this Premier has said that that program is compulsory makes it even worse, because if you are a parent and you are worried about what perversion is poisoning your child's mind, you have no right to remove your child from the school. You have no right to remove your child from the classroom.

There we have once again a government attacking a pillar that it needs to bring down in order to implement its ideological position.

Mr Ondarchie interjected.

Mr FINN — It is disrespectful to parents, as Mr Ondarchie says, but even worse is that it is destroying kids' minds. It is hard enough to be a teenager without the sort of nonsense, the sort of lunacy, that they are being subject to in the Safe Schools program. But that is a part of the extreme left's agenda to bring down those things which stand between it and what it regards as victory — bring down religion, bring down the family. There is nothing much left, is there? They can go for it. They can do what they like.

We have seen not just in Victoria but throughout Australia quite an extensive war on religion now for quite some years. As Dr Carling-Jenkins mentioned, down in Tasmania we had a Catholic archbishop charged under Tasmania's Anti-Discrimination Act 1998. Can you believe this? I was stunned when I found this out. He was a Catholic archbishop teaching Catholicism to Catholics in a Catholic school. I thought to myself, 'I didn't think that happened anymore'. He was doing that down in Tasmania, and he got all manner of trouble for doing it. These are the sorts of things that people of faith are having to put up with every day, and it has to stop.

In the few minutes that I have left I would say to the archbishops, the bishops, the priests, the nuns, the pastors, the vicars, the rabbis, the imams, the monks — to all people of faith: now is the time to stand up in a way that you never have before. You have got to stand up now because if you do not stand up today, tomorrow might be too late because these people are on the march. Our enemies are taking all before them, and we

must stand up. We must show leadership. Those people who have leadership positions within the church must show leadership, and God knows that is rare enough these days.

Just as much, those people of goodwill in the Australian Labor Party, those people who care about freedom, those people who care about the freedom of religion and those members of the Labor Party who care about those things — there might not be many of them left — have an obligation to stand up to what is happening and say no to what is being done by their own party and their own leader. I hope they do; I sincerely hope they do.

Mr Ondarchie — We will find out.

Mr FINN — Yes, we will find out when the vote on this is taken. Indeed we will. We have 745 days left before we have an opportunity to get rid of this government; not that I am counting — much. In that time an enormous amount of damage can be done. We must all do everything we can, and from my point of view I certainly will do everything that I can, to stand up for those freedoms that we cherish. We must stand up for those freedoms that we love. We must stand up for those freedoms that people in generations before have died for. If you go overseas, you see the war graves. They are the graves of people who died so that we could be free. We owe it to them to stand up and defend those freedoms that are under attack today.

This bill is a shocker. It is appalling. The only thing worse that I can think of at the moment are the Greens' amendments. They are something that would make the legislation even worse. Clearly this side of the house will be opposing both, and I urge members on both sides of the house to please stand up for freedom.

Interjections from gallery.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! I believe the Acting President before me warned members of the gallery that they are not allowed to clap.

Mr MELHEM (Western Metropolitan) — I also rise to speak on the Equal Opportunity Amendment (Religious Exceptions) Bill 2016. This bill, as previous speakers have said, we can sort of look at in this way: on the one hand as a state we want to talk about eliminating discrimination; also I do respect freedom of religion. This bill is not about attacking freedom of religion. I for one can call myself a practising Christian. Actually I am not a left-winger; I am a right-winger, and I do not believe this bill prohibits people from freely practising their religion.

My kids go to a Catholic school. The reason I send them to a Catholic school is because I want them to learn the values that I learnt in a Catholic school, but when the school is hiring someone to teach my kids English or maths and the best candidate to teach English or maths cannot be picked because that teacher is not Catholic, I cannot subscribe to that. I have spoken to a lot of teachers in the last couple of weeks — and by the way, I am not picking on the Catholic Church; that is my own church and I will not pick on it — and I have asked the question: how many non-Catholic teachers are there in the Catholic school system? The answer was many. So we do employ non-Catholics in the Catholic school system, and that is the way it should be. I think there would be a similar thing going on in other faith-based schools.

I also respect that if a Catholic school is employing a principal, a deputy principal or a teacher to teach religion and part of the requirement is they need to be Catholic — or if the school is Jewish, they need to be Jewish et cetera — they have the right. That right is still protected under this bill, and rightly so. I also respect that a Catholic school, like the one my kids go to, has got a mission statement and a set of values and principles which it expects all its employees — whether they are teachers or support staff — to uphold and live by. That is not undermined by this bill. If it was, I would be speaking against it.

What we are basically saying is that in the 21st century we cannot continue to discriminate against someone because that person is not of the same religion as another person. If we want to talk about the values that Jesus believed in, I do not think he would support us discriminating against people. By the way, I do respect the views put by members from both sides of the debate. I think it is a very important issue and we ought to be respectful of the different points of view, and I respect that. I will not be supporting the Greens amendments.

I was just sitting in my chair and going through some quotes. Matthew 7:12 states:

> So whatever you wish that others would do to you, do also to them, for this is the law and the prophets.

That is very simple. I think it is very important. There is another quote from Galatians 3:28 which states:

> There is neither Jew nor Greek, there is neither slave nor free, there is no male and female, for you are all one in Christ Jesus.

The point I am making is this: I think it is important and I will actually defend the right of freedom of religion. I think every human being — —

Mr Ondarchie interjected.

Mr MELHEM — No. Let me tell you, Mr Ondarchie: I will fight for that right because every human being has that right and it should be defended at any cost. In my previous life in the country I was born in I actually fought in a war to protect my right to remain a Christian, so do not lecture me about that. Every person has the right to retain that freedom of religion. That should be protected at any cost, and that is not playing politics. This bill does not undermine, in my view, freedom of religion.

We are talking about any employer in the state. As an employer, if you wish to employ someone, you cannot reject the employment of an individual because that person is black, white, yellow, gay, straight, male or female. You cannot discriminate against these people. So why do we need to go and discriminate against people who teach a particular course at a school? That already happens, by the way. It is not like we are reintroducing that. The school system still has the right to discriminate against a person if it is part of the job that the person needs to be of a particular religion. That is respected, and rightly so.

The Greens party is arguing that taxpayers are funding religious schools and therefore we need to abolish them. I do not agree that we need to go that far. I think it is important that the state continues to support these religious schools because I think they do a great job and people like to send their Catholic kids to a Catholic school or an Anglican to an Anglican school or a Muslim to a Muslim school et cetera. But the schools still need to deliver the best possible outcome for these kids, and I am talking about academically. If the best maths teacher happens to be a person who does not believe in any religion or is an Anglican or is Jewish, you should not discriminate against that person when they apply for that job. Or if someone is a cleaner or if someone is going to come and do the garden, well religion, in my view, has nothing to do with it.

By all means go and convert that person to a Christian or a Muslim or a Jew et cetera. That is not an issue, and I think that is fine. I support that. Freedom of religion is very important, but what we need to do is not turn that into a political football and try to say it is an attack on religion. In my view it is not, because if it was, I would be standing here before you arguing against it. That is why we need to be very careful about saying, 'This is not China'. Of course it is not. If it was China, we would not be debating this. People would not be able to have an opinion, so let me tell you it is not China. People can speak out and say what they think without fear of prosecution et cetera. I can assure the house and other members this is not China, and Daniel Andrews is not a dictator and is not the leader of the Communist Party, as some are trying to portray.

Honourable members interjecting.

Mr MELHEM — It is not driven by ideology. The Labor Party is one of the biggest supporters of religious schools in this state. We have proved that in the various budgets over the last two years. It is not about attacking religious schools; in fact we support religious schools, and I think with the work they do they do a terrific job. It is about looking at the issue. That is why this bill is only a few pages long. It is not 50 pages or 100 pages long. It specifically addresses one particular point in relation to employment to eliminate some discrimination from the existing legislation. It does not talk about other areas. All the other protections in relation to jobs, as I said earlier, where a religious belief is required or is an inherent part of the job, remain.

Some people call it discrimination; I do not call it discrimination. I think it is an inherent part of the job. It is fair enough, and I think it has been accepted by various legislators over the years. I think it ought to be maintained, and it will be maintained as part of this bill. We are only removing that element where any religious institution cannot demonstrate that that person has been discriminated against because they do not like that person for various reasons, whether it is the colour of their hair or their sex or their religion et cetera. The law says you cannot discriminate against that person.

As I said earlier, if we look at most of the religious schools we have in Victoria, there are a significant number of teachers who are not of the same religion as the school they teach in, whether it is a Catholic school or an Anglican school or a Jewish school or even a Muslim school. To this hype about it being the end of religious freedom in Victoria, I say come on, let us be real. Let us deal with the facts. That is not the case. Let us not go out and scare everyone by saying Victoria is going to become a dictatorship — that we are going to become like North Korea, freedom of religion is going to be lost and people are going to be locked up because they practise Christianity or Buddhism or any other religion. That is not the case. I think we should be proud of this state, we should be proud of who we are — —

Business interrupted pursuant to standing orders.

ADJOURNMENT

Ms PULFORD (Minister for Agriculture) — I move:

That the house do now adjourn.

Goulburn Valley Health radiotherapy services

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Health, and it is regarding the provision of radiotherapy services at Goulburn Valley Health's Shepparton hospital. My request of the minister is that the government recognise the importance of a locally based radiotherapy service being provided from the Shepparton hospital by committing additional funding to enable radiotherapy services to be included as part of the hospital redevelopment.

I have advocated for a Goulburn Valley Health radiotherapy service for a long time and I will continue to do so until a permanent localised radiotherapy service is provided for our region, because unfortunately the need for this service continues to increase. According to a recent report from the Garvan Research Foundation, one in two males and one in three females in Australia will develop cancer.

My own family has personally experienced the difficulty people from our area face when trying to access radiotherapy services. During my late father's battle with secondary bone cancer, the travel required for him to access the closest services in Bendigo or Melbourne was very hard on him and on our family. The travel was particularly difficult for him as he was in horrendous pain, and it also took an enormous toll on him. It would take many days for him to recover from one of these horrendous trips. It was hard enough for our family, who are fortunate enough to be in a situation where travel and flexibility in work hours made it relatively easy to make arrangements to assist Dad to get to appointments. But I understand not many of my constituents have that flexibility. They do not all have access to transport — and our public transport services in Shepparton are extremely poor. All of these considerations, but particularly patient welfare, add to the case for radiotherapy services to be provided locally in Shepparton.

A new research report has revealed that regional people are disadvantaged in getting cancer treatment, particularly radiotherapy. The Garvan Research Foundation report *A Rural Perspective — Cancer and Medical Research 2016* had a number of findings of frightening concern for regional Victorians. The first was that regional Australians are more likely to die within five years of a cancer diagnosis than people in the city, and the more remote the patient is the lower the survival rate. The second was that there are a staggering 94 per cent fewer oncologists working in regional towns compared to major cities. The third was that there is a 50 per cent chemotherapy dropout rate in rural public hospitals and a decreased likelihood that patients will undergo radiotherapy in remote and very remote areas. On a more localised level, the Shepparton district was found to be in an area with the highest rates of prostate cancer, female breast cancer, colorectal cancer, non-Hodgkin's lymphoma and kidney cancer.

At a recent Pink Ribbon brunch in Shepparton the guest speaker, Dr Kerryn Phelps, spoke of the desperate need for radiotherapy services to be provided locally. She addressed the crowd and asked if there were any members of Parliament in the room who would take up the fight. I was the only MP in the room, but I was proud to be able to stand up and reassure Dr Phelps that I had already been advocating for radiotherapy services and that I would continue to do so until Goulburn Valley Health has these services.

Northern Metropolitan Region small business

Mr ELASMAR (Northern Metropolitan) — My adjournment matter tonight is addressed to the Minister for Small Business, Innovation and Trade. In Northern Metropolitan Region new businesses are taking advantage of the favourable business conditions that exist in Victoria — an increased threshold in payroll tax, more assistance for small businesses than ever before and the best small business festival in the country. We know this government backs small businesses because they are the backbone of the Victorian economy. On this side of the chamber we understand that supporting growing industries is what will keep this state so successful. That is why we went to the election in 2014 with a commitment to fund innovation in this state, and that is exactly what we are doing: $60 million has been allocated to fund incubators, accelerators and co-working and co-location spaces to strengthen and diversify the innovation ecosystem in Victoria. I look forward to seeing the impact this will have across the state.

The Andrews Labor government understands that creating an environment where companies come from interstate and overseas to set up in Victoria creates confidence, a greater working innovative ecosystem and, most importantly, jobs. Almost 2000 jobs have been created in the technical and innovation fields in Victoria since the Labor government came into power, and we show no signs of stopping. My request for the minister tonight is that he write to me informing me of

opportunities that innovative businesses in Northern Metropolitan Region have to access government grants for innovative ideas.

Ballarat railway station precinct

Mr MORRIS (Western Victoria) — My adjournment matter this evening is for the attention of the Minister for Regional Development. I begin by being very clear in saying that I am not against an appropriate development at the Ballarat railway precinct, with proper consultation with the community. Indeed I have been a strong supporter of such a development, which increases the dismay that I and many other Ballarat residents are feeling with this government presently and the shambolic process that it is undertaking with regard to this development.

The government's so-called consultation process has been an absolute sham. The community has a right to have a say in what is going to happen at this incredibly important historic site in our CBD. The land is currently underutilised, I agree; however, riding roughshod over the community and hiding the plans for the site is simply unacceptable. A case in point is the announcement by the minister on 7 October that the historic goods shed would be sold. Why is it that the community was left in the dark for so long with regard to this incredibly important decision about the site? This government has seen fit to reject FOI requests from the community about its plans, which in itself raises the question: what is the government trying to hide?

On 8 January 2015 Minister Pulford tweeted:

> Received the keys to the dusty old #Ballarat rail shed. We are going to put a rocket under this project! #springst

It appears that someone has failed to light the fuse for the rocket, because it has failed to launch. Minister Pulford was also quoted in the *Courier* on 9 January 2015:

> 'I can understand the residents frustration with the lack of progress on this project over four years', she said.
>
> We are really hopeful in starting construction before the end of the year but we need to walk before we can run.

The minister is now more than 11 months behind her own deadline for beginning this project, and it is now apparent that this government is neither walking nor running with this project. But it would be good if it could start, at least, to crawl. This government needs to come clean about its plans for the railway precinct and stop keeping the good people of Ballarat in the dark. The action that I seek from the minister is that she fully reveal to the community the government's plans for Ballarat's incredibly historic railway precinct, including but not limited to plans for parking on the site and whether or not the government plans to charge for parking at the redeveloped precinct.

Hazelwood power station

Ms SHING (Eastern Victoria) — The matter which I have this evening is for the attention of the Minister for Small Business, Innovation and Trade, and it relates to the recent news by Engie to close the Hazelwood mine and factory operation from the end of March next year, which will then also correspond with a sale of one of the Loy Yang facilities.

This has been a very long time coming for the communities of the Latrobe Valley. It has been initially pleasing to receive commentary that indicated that the commonwealth was prepared to play a collaborative role in providing assistance for affected workers in and around the Latrobe Valley, and yet the position appears to have reversed itself in recent times, with ugly politics getting in the way, perhaps at the expense of assisting workers who are directly affected and making sure that the Latrobe Valley does not just remain a priority in terms of investment and infrastructure but also continues to be a focus for government at all levels.

I note in this regard that the Andrews Labor government has announced a total package of support, investment, infrastructure and assistance of $266 million for the Latrobe Valley area, not just in response to the announcement around the Hazelwood operation but also in relation to a series of challenges which our part of the world has faced for a long period of time. This includes the need to proactively face the challenges around attracting investment to the area, to emphasise the benefits and opportunities that present for people who wish to make an investment in terms of business or trade in the area and also to contribute to a community which is in the process of growing, one which I hope will continue to grow strongly while we look to encourage and improve opportunities for employment, skills training and education.

To that end, the action that I seek from the minister is that he come to the Latrobe Valley to meet with small business to provide assistance in relation to the way in which small business can grow and withstand the challenges that may be associated with a lesser return as incomes in and around the area may be affected following the closure of the Hazelwood plant.

I also look forward to a response from the minister in relation to the way in which small business initiatives

can be provided for, encouraged and implemented on the ground in the Latrobe Valley. We know that small business is the backbone of many parts of Gippsland and that small business contributes an awful lot in terms of the overall economic prosperity of the area. I look forward to the minister's response in relation to coming to visit, as well as the assistance that can be provided on top of what the government has already offered of $266 million, as compared to the paltry amount of $40 million from the commonwealth government.

Endeavour Hills police station

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the attention of the Minister for Police. Last weekend the opening hours at the Endeavour Hills police station were cut, closing down at 5.00 p.m. rather than at 11.00 p.m. When a similar thing was proposed at the Waurn Ponds police station the Minister for Police intervened and organised a community consultation session, but unfortunately the cuts to the hours at Waurn Ponds went ahead. But it appears that on the other side of Melbourne, a long way away from the minister's electorate, she does not have the same concern. There was no media release issued and no community forum organised — that I am aware of — and this is despite the assurances from the minister that the community would be consulted before the Daniel Andrews Labor government allowed more police station hours to be cut.

Well, the Endeavour Hills police station has had its opening hours cut, and the action I seek from the minister is for her to detail to me who was consulted — which organisations and which people — and what feedback the community provided to the minister, if indeed any consultation took place, about the reduction in the hours of access to the Endeavour Hills police station, which was promised to be a 24-hour police station when it was originally proposed by the Bracks government.

Korean War commemoration

Mr MELHEM (Western Metropolitan) — My adjournment matter tonight is for the attention of the Acting Minister for Veterans and relates to commemorating our veterans of the Korean War. Whilst we are in the midst of commemorating the centenary of Anzac, it is also important to remember those who have served and paid the ultimate sacrifice as part of other conflicts. In this regard I commend the work the Victorian government has been undertaking to commemorate the 50th anniversary of the Battle of Long Tan during 2016, which has received widespread community support and also bipartisan support in this place.

However, along with Vietnam there are also other conflicts that we should ensure are not forgotten, and 27 July 2016 marked the 63rd anniversary of the signing of the Korean War armistice. There remains the truce still to this day that technically prevents war resuming, as no peace treaty has ever been signed. This October also marks the 65th anniversaries of the battles of Maryang San and Kapyong. I note and welcome that the federal Minister for Veterans' Affairs has said that it is a veteran's mission to travel to Korea to commemorate these important anniversaries.

The Korean War, which lasted between 1950 and 1953, saw some 18 000 Australians serve, including in the post-armistice period, when more than 1500 were wounded and 350 lost their lives. There are discussions taking place currently between the Korean consulate and the City of Maribyrnong, which I had the pleasure of facilitating, about a potential site to commemorate that particular conflict. The action I seek is for the Acting Minister for Veterans to inform me of how the Victorian government can look to work with the Korean government, Korean veterans groups and the wider community to help commemorate this important conflict and how my electorate of Western Metropolitan Region can help support any potential commemorative and education opportunities.

Yellow Ladybugs

Mr FINN (Western Metropolitan) — I wish to raise a matter on the adjournment for the Minister for Housing, Disability and Ageing. I recently had a meeting with some representatives from an organisation called Yellow Ladybugs, which is an organisation for girls with autism. It is a bit unusual, because autism is generally regarded as a boys condition, but certainly there are numbers of girls with autism. Yellow Ladybugs, if I can quote from its website:

> … is dedicated to the happiness, success and celebration of autistic girls and women. Our mission is to improve the lives of autistic girls and women, when needed. We aim to do this by raising acceptance and awareness about the female presentation of autism in the education, employment, medical and general community. We also strive to create positive inclusive experiences for autistic girls and women and often advocate for the rights of autistic girls and women. We support identity first language, and uphold the values of 'nothing about us, without us'.
>
> Yellow Ladybugs is a volunteer community group who proudly create social events, similar to birthday parties, where girls can come together and have the opportunity to meet and bond over their similar journey. Our vision is to foster a

strong bond, which will ultimately create a network of friends outside of school.

Girls with autism present a particular problem because quite often they manage to hide the outward signs of their autism and are not diagnosed until quite late. This is quite an issue in itself and does lead to a number of problems for girls on the spectrum as they grow up. The representatives of Yellow Ladybugs were telling me that they have been working on a voluntary basis now for some years, but they feel they want to take it to the next level. They believe that they have a great deal to offer girls with autism right across Victoria, and I have to say that there are not too many who specialise in this particular area. I very strongly support their attempts to get up and running at a much higher level.

I ask the minister to take into consideration the need in the community and to take into consideration the very good deeds that Yellow Ladybugs are either doing or indeed are capable of and to grant them some money. Basically they need some money to go to the next level. I think the sum of $100 000 was mentioned, which, given the amounts of millions of dollars that are thrown around this place, does not seem to be all that much by comparison. I ask the minister to provide funding for Yellow Ladybugs so that they can continue to serve the people of Victoria.

Quad bike safety

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is for the minister responsible for WorkSafe, Robin Scott, the Minister for Finance in the other place. In June a farmer died in my electorate of Western Victoria Region as a result of a quad bike accident. The farmer, in his 60s, died as a result of being crushed by his quad bike when it rolled over. As often happens, this farmer was working alone and was not found for quite some time.

South-west farmers are eight times more likely to die on the job than workers in any other industry. Three south-west farmers died in vehicle-related accidents and 49 more were injured in the past five years, according to a national report released by Safe Work Australia. These vehicles were primarily quad bikes and tractors. Quad bikes are the biggest cause of death on Australian farms, and over half of those are due to bikes rolling over. The rider is invariably pinned and dies as a result of asphyxiation or because of crush injuries. Last year 22 people died in quad bike accidents. In Victoria two farmers have died this year while working with quad bikes, but there are also many more serious injuries as a result of quad bike accidents. My constituent was older, but WorkSafe statistics show that quad bike accidents impact on all ages, including the very young.

WorkSafe Victoria has launched a new, extremely confronting safety campaign highlighting the dangers of quad bikes to increase workplace safety on farms and reduce fatalities and serious injuries from these accidents. There are around 33 000 farms in Victoria, and many farmers use these bikes in highly varied conditions. Quad bikes are what are called ATVs — all-terrain vehicles — and this title is in many ways a misnomer, because quad bike accidents are often caused by problems with terrain, in many cases in apparently innocuous circumstances, often at lower speeds.

The government has taken strong action to tackle this issue, with the launch of a $6 million quad bike safety rebate scheme from 1 September. Rebates are available for safer vehicles such as side-by-side vehicles or small utilities. The action I am seeking from the minister is that he provide me with an update on the range of strategies that are being employed to reduce farm accidents, in particular those associated with quad bikes, and also on the rate of take-up of the rebate scheme in farming communities. I also seek that any materials in relation to the scheme be provided to my electorate office so that my constituents can be further informed about whether they are eligible for the rebate.

Ouyen lake

Mr O'SULLIVAN (Northern Victoria) — I wish to raise a matter tonight with the Minister for Regional Development, and the action I am seeking is for the minister to recommit to the allocated funds for the building of the Ouyen lake. The coalition committed and allocated $500 000 from the Regional Growth Fund back in 2014. Just last Tuesday I was in Ouyen with my colleague the member for Mildura in the Legislative Assembly, Peter Crisp, and we met up with the Ouyen Lake Committee. On this occasion we met with Deane Munro, Colin Mole, Ray Morrish and Stephen O'Callaghan. There are many other people involved, but they just were not there on this occasion. These people are all volunteers from the local community trying to make their community a better place.

This is a project that I have been working on with Peter Crisp and also Peter Walsh, the Leader of The Nationals in the Assembly, since about 2012. When we were talking to the committee they were somewhat concerned about the prospect of the government withdrawing the $500 000 to build that facility. On their

behalf I made a commitment to see if we can get some reassurances in relation to that money.

At the last election the federal government committed $674 000 for the project as well, and there are good contributions from local council in terms of managing the project. Also the Grampians Wimmera Mallee Water Corporation have made a commitment and in fact have already undertaken the work in terms of supplying the pipeline, which would run from the Wimmera–Mallee pipeline to the lake, so that the water can actually fill up the lake when it is finished.

This sort of project would really transform a township like Ouyen. Ouyen is probably the hottest place in the state. In the summer temperatures get well beyond 40 degrees, and that can be on successive days. Also, a town like Ouyen does not have any recreational water that is close by. You really have to go to Hopetoun or up to the Murray River, which is probably an hour's drive in the car, so they are looking for something a bit closer. This project is well on the way, but there are still a few hurdles that we need to get on top of.

What we are looking to do is get the lake built. It will be about 700 metres long and 200 metres wide, which would be great for waterskiing and also fishing, and it would create some relief from the heat during the summer. This project would also attract tourism, which would add to the local economy. It would be a little oasis up there in north-west Victoria. We have seen what Hopetoun lake has done in terms of transforming that town to a really positive and thriving community. I am looking to see if we can get some reassurance that that money is still there so the project can be finished.

Victorian Emergency Management Training Centre

Mr RAMSAY (Western Victoria) — My adjournment matter is to the Minister for Emergency Services, the Honourable James Merlino. The action I seek is for him to immediately suspend firefighter training at Craigieburn until the chemical contamination that has been found on site is investigated to ensure safety for all firefighters and staff at the Metropolitan Fire Brigade (MFB) training facility. MFB CEO Jim Higgins was reported in the *Herald Sun* as having notified staff at Craigieburn that perfluorooctane sulfonate (PFOS), which is used to treat firefighting foam, was found in water samples taken at the site three weeks ago but was kept quiet and secret until the contamination increased from 40 parts per trillion to 540 parts per trillion.

Curiously, the United Firefighters Union (UFU) has been silent on this exposé, and after saying it would issue a statement on Friday, the silence is still deafening. This is the militant union that did everything possible to close the Country Fire Authority (CFA) firefighting training facilities at Fiskville because of PFOS contamination at certain fire practical area drill (PAD) sites and was successful in having the board close the training site. What hypocrites the UFU and the Andrews government are in the name of firefighter safety. It is all right and safe for a UFU-MFB training facility at Craigieburn with PFOS contamination in its water samples on the fire PAD site, but not for a CFA-managed firefighting training facility at Fiskville.

The irony is that we have just learned that the joint parliamentary committee report on Fiskville was flawed, given a PFOS manufacturer who gave evidence was misquoted and is now seeking to correct the record, stating that the presence of typical concentrations of PFOS in the environment or human blood is not associated with adverse health effects. In fact the Environment Health Standing Committee of the Australian Health Protection Principal Committee released a document in March 2016 stating that research has not conclusively demonstrated that perfluorocarbons are related to specific illnesses, even under conditions of occupational exposure. So why was Fiskville closed permanently, and why could the site not be remediated? Is this new evidence of PFOS not endangering health the reason why the UFU and the Andrews government are silent on these new developments at Craigieburn?

Responses

Ms PULFORD (Minister for Agriculture) — I have adjournment matters this evening from Ms Lovell for the Minister for Health; Mr Elasmar for the Minister for Small Business, Innovation and Trade; Ms Shing for the Minister for Small Business, Innovation and Trade; Mr O'Donohue for the Minister for Police; Mr Melhem for the Acting Minister for Veterans — and I do believe we are looking forward to his return, which will of course be a wonderful thing — or his acting minister, as it may be today; Mr Finn for the Minister for Housing, Disability and Ageing; Ms Tierney for the Minister for Finance in his capacity as the minister responsible for WorkSafe; and Mr Ramsay for the Minister for Emergency Services. I will seek a response for all members to those matters to provide that information or action requested by members.

There were two matters that were raised this evening for me in my capacity as the Minister for Regional Development. Mr O'Sullivan sought from me some

reassurance about the former government's funding commitment to the Ouyen lake project, and I am certainly very pleased to be able to confirm for Mr O'Sullivan and members of the Ouyen community who have an interest in the successful delivery of this project that the government absolutely stands by the commitment made by our predecessor. We look forward to the successful delivery of this project and absolutely concur with Mr O'Sullivan's views about the importance of recreational water in lots of places, but particularly in places as warm as Ouyen can get.

So I look forward to the project proponents pulling together the other parts of the funding that have been the cause of this project having not progressed to the next stage, and I certainly look forward to that happening sooner rather than later. The community can rest assured that we are absolutely good for the proportion of funding that was the commitment of the former government, and I look forward to, as I am sure Mr O'Sullivan does, the successful delivery of that project.

Mr Morris raised a matter for me in relation to the Ballarat railway station precinct project, which is an incredibly exciting project, about which we will be in a position to make a further significant announcement before the end of the year. But I would just say that Mr Morris, when he was the mayor of Ballarat, was unable to see this project delivered and that Mr Morris presided over the delivery of a master plan only. It is a fine master plan, and it is a master plan that we are delivering, but — —

Mr Morris interjected.

Ms PULFORD — Mr Morris knows full well that the government has been working to deliver this project.

Mr Ramsay interjected.

Ms PULFORD — The only thing that the Napthine government did in Ballarat in four years was this master plan. We will be delivering this project, and we will have some very exciting developments to share with the community on this in a very short period of time.

Mr Ramsay interjected.

Ms PULFORD — No, Mr Ramsay, that is absolutely untrue. But as Mr Ramsay and Mr Morris both know, unless they are pretending otherwise, this is the subject of commercial negotiations. The project is going to be an absolutely sensational project. It is going to be transformative for the railway station precinct, which is very exciting indeed. I look forward to a successful delivery, unlike Mr Morris's tawdry efforts when he was the mayor and when not much more was delivered than bits of paper. Admittedly they were good bits of paper that will be a solid foundation, but the bricks and mortar work on this project will be delivered by the Andrews Labor government, whether Mr Morris likes it or not.

I have 16 written responses to adjournment matters for members.

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

House adjourned 9.00 p.m.