PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-EIGHTH PARLIAMENT

FIRST SESSION

Tuesday, 9 February 2016

(Extract from book 1)

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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.

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The Honourable LINDA DESSAU, AM

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC, QC

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Minister for Industry, and Minister for Energy and Resources	The Hon. L. D'Ambrosio, MP
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Minister for Local Government, Minister for Aboriginal Affairs and Minister for Industrial Relations	The Hon. N. M. Hutchins, MP
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Minister for Families and Children, and Minister for Youth Affairs	The Hon. J. Mikakos, MLC
Minister for Environment, Climate Change and Water	The Hon. L. M. Neville, MP
Minister for Police and Minister for Corrections	The Hon. W. M. Noonan, MP
Attorney-General and Minister for Racing	The Hon. M. P. Pakula, MP
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Minister for Planning	The Hon. R. W. Wynne, MP
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Legislative Council committees

Privileges Committee — Mr Drum, Ms Hartland, Mr Herbert, Ms Mikakos, 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 Eideh, Mr Elasmar, Mr Finn, Ms Hartland, Mr Morris, Mr Ondarchie and Ms Tierney.

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

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

participating members

Legislative Council select committees

Port of Melbourne Select Committee — Mr Barber, Mr Drum, 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, Ms McLeish and Ms Sheed.

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*): Dr Carling-Jenkins, 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

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FIFTY-EIGHTH PARLIAMENT — FIRST SESSION

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Leader of the Opposition:
The Hon. M. WOOLDRIDGE

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Barber, Mr Gregory John	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
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Bourman, Mr Jeffrey	Eastern Victoria	SFP	O'Brien, Mr Daniel David [1]	Eastern Victoria	Nats
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Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
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Eideh, Mr Khalil M.	Western Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
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Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Springle, Ms Nina	South Eastern Metropolitan	Greens
Herbert, Mr Steven Ralph	Northern Victoria	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Wooldridge, Ms Mary Louise Newling	Eastern Metropolitan	LP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Young, Mr Daniel	Northern Victoria	SFP
Melhem, Mr Cesar	Western Metropolitan	ALP			

[1] Resigned 25 February 2015
[2] Appointed 15 April 2015

PARTY ABBREVIATIONS

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

CONTENTS

TUESDAY, 9 FEBRUARY 2016

Tuesday, 9 February 2016

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 2.05 p.m. and read the prayer.

ACKNOWLEDGEMENT OF COUNTRY

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

BLACK SATURDAY

The PRESIDENT — Order! It has been indicated to me that there is a keenness among a number of members to mark with the respect of the house the seventh anniversary of the Black Saturday fires, those devastating fires that took so many lives here in Victoria and which I think just were beyond the comprehension of most Victorians. The anniversary date was Sunday, 7 February, and as I said, it is now seven years past. There has been much consideration of some of the lessons of that day and the days following by this Parliament and its members, and indeed there has been an attempt to address some of the issues that were raised as a result of those fires and identified in various inquiries, including the 2009 Victorian Bushfires Royal Commission. As I said, it has been requested of me that we pay tribute and remember that day in Victoria's history by marking it with a minute's silence, and I would therefore invite members to stand for a minute's silence.

Honourable members stood in their places.

ROYAL ASSENT

Message read advising royal assent on 15 December 2015 to:

Adoption Amendment (Adoption by Same-Sex Couples) Act 2015
Education Legislation Amendment (TAFE and University Governance Reform) Act 2015
Terrorism (Community Protection) Amendment Act 2015.

QUESTIONS WITHOUT NOTICE

Ombudsman jurisdiction

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Leader of the Government. A directions hearing was held this morning relating to the Ombudsman's application to the Supreme Court to determine her jurisdiction to investigate the Labor staffing rorts matter. Why did a government staff member from the Premier's office attend the hearing and speak on behalf of Labor MPs?

Mr JENNINGS (Special Minister of State) — I thank Mr Rich-Phillips for his question and this opportunity for me to make it very clear that the contribution that was made this morning in those proceedings was that it is not the intention of the government — or indeed the Labor Party — to make submissions to the considerations of the Supreme Court unless the Supreme Court requests it. That was the only contribution, as I understand it, that was made.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for his answer. The government staff member asserted that no Labor MP would seek to participate in that matter, as the minister has confirmed. Were all Labor MPs consulted before this position was put to the court?

Mr JENNINGS (Special Minister of State) — I reiterate my substantive answer, which was to indicate that the contribution that was made this morning indicated that it is not the intention of the government to make a submission to the considerations of the Supreme Court. As I was not in court I am not going to speculate about whatever Mr Rich-Phillips asserts. I tend to think that I should take some advice about whether in fact he is describing whatever was said in the Supreme Court's consideration or something else. It would be very unwise for me to speculate on those matters, because it is in the interests of the government, if at all possible, to allow the Supreme Court to make its determination as it sees fit.

Ombudsman jurisdiction

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is again to the Leader of the Government. Prior to the Council's resolution of 25 November 2015 requiring the Ombudsman to investigate the Labor staffing rorts issue the government obtained legal advice as to the Ombudsman's jurisdiction to investigate that matter.

Why did the government seek that legal advice and who from?

Mr JENNINGS (Special Minister of State) — In response to Mr Rich-Phillips's inquiry I certainly did not seek that advice; I became aware of that advice, and I shared it with the Ombudsman, as I believed it was most appropriate to do so, as that legal advice was clear. It is not the normal circumstance that the government of the day shares its legal advice with the Parliament; in fact the well-accepted recognition of legal privilege would mean that that advice is not provided to the house. Indeed I can assure the house that in fact the legal advice was sought by the appropriate statutory legal officers of the state of Victoria, and not any other form of advice was sought.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for his response. Has the current government sought or obtained legal advice about the Ombudsman's jurisdiction in relation to any other matter besides the Labor staffing rorts?

Mr Drum — It's a simple question.

Mr JENNINGS (Special Minister of State) — By interjection Mr Drum has just suggested that that is a very simple question. I think it is almost an impossible question to answer, because in fact over the history of the Victorian government and the advice that may have been sought over generations in relation to the rights and responsibilities of the Ombudsman I think it is inevitable that legal advice has been obtained in relation to the jurisdictional cover of the Ombudsman. Indeed during the administration that Mr Rich-Phillips was party to there was actually quite a confrontation between the Ombudsman and the administration in relation to jurisdictional cover and the scrutiny of the Victorian Inspectorate.

Mr Rich-Phillips — On a point of order, President, the question was quite specific, and it related to the activities of the current government — —

Mr JENNINGS — It was not specific at all. That is what I was reflecting on. It was the broadest question you have almost ever asked.

Mr Rich-Phillips — The question related to the current government and whether it had sought advice as to the Ombudsman's jurisdiction on other matters. I ask you to bring the minister back to the question of the current government's activities.

The PRESIDENT — Order! In respect of the point of order I note that the supplementary question was definitive. It does say, 'Has the current government sought or obtained legal advice about the Ombudsman's jurisdiction in relation to any matter other than the Labor staffing rorts?'. Therefore, that is for a period of some 13 months, and it is quite specific in this question that it is the current government. So I think that is where I would ask the minister to reply.

Mr JENNINGS — Well, President, if you are confident in fact that the question was asked as it was read by you into the public record, then maybe it is a specific question. My sense of it was that it was not a specific question, and that is why I answered accordingly.

To my knowledge there has been no legal advice sought or obtained in relation to jurisdictional cover of the Ombudsman, but that is to my knowledge, and as I have already indicated to the house, this advice did not come at the request of myself.

Ombudsman jurisdiction

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is again to the Leader of the Government. On 14 December the Ombudsman received a letter from the Leader of the Government asserting that she did not have the jurisdiction to carry out the investigation referred to her by the Council in relation to the staffing rorts matter. Given the Ombudsman has tendered that letter in her deposition but the substance of the letter is redacted, will the minister advise the house on what basis the government has made its claim in that letter?

Mr JENNINGS (Special Minister of State) — In fact the Ombudsman makes decisions herself about what information she discloses. She actually recognises the privileged nature of legal advice that the government may obtain on any matter, and I relied entirely on legal advice that I foreshadowed in the resolution that was debated in the Parliament. I said that the government had legal advice to say that the Ombudsman did not have jurisdictional cover. I said during the course of that debate that in fact if this resolution was passed, it would inevitably lead to the situation where the Ombudsman would be obliged to seek the guidance of the Supreme Court in relation to whether she had jurisdiction or not, if someone asserted that she did. That was the advice that I shared with the Ombudsman and that is the exclusive nature of the matters that were referred to in the redacted part of the letter, my correspondence, and it is the Ombudsman's

choice about the way in which that information is transmitted in affidavits.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I thank the minister for his response, and I ask: how is the public interest served by the government seeking to discourage the Ombudsman from investigating this matter?

The PRESIDENT — Order! I have some concerns about the supplementary question because I believe it goes to a different matter to the substantive question. I will look at the question.

I will allow the supplementary question.

Mr JENNINGS (Special Minister of State) — Just for the sake of what has been shared with me and to reiterate the question as I believe it was read, it was: how is the public interest served by the government seeking to discourage the Ombudsman from investigating this matter? My clear and unequivocal answer is that my only interest in the public interest is to make sure that the Ombudsman acts within the scope of the law and within her jurisdictional cover. That is my only interest, and that is the only interest that I shared with the Ombudsman.

Level crossings

Mr DAVIS (Southern Metropolitan) — My question is to the Special Minister of State, and I ask: was the business case for the sky rail on the Caulfield to Pakenham line examined and supported in full by Infrastructure Victoria prior to the government's sky rail announcement?

Mr JENNINGS (Special Minister of State) — I thank Mr Davis for his question, his concern and his obvious interest in this matter. I am sure he is dedicating his life to this matter at this point in time. What I have shared with the chamber previously is that in the formative stage of Infrastructure Victoria, whilst its priority is to establish the 30-year strategic overview of the infrastructure priorities of Victoria and to create hopefully bipartisan community recognition of the validity of its independent advice and its authority over the long-term horizon in terms of investments that our community requires, by choice Infrastructure Victoria has actually determined that it has no interest unless specifically asked by the government to examine these matters in terms of developing a business case.

In the future, once it has established its work program and established a recognition within the community that it operates in a bipartisan, tripartisan or multipartisan fashion and the community accepts the validity of its independent advice, then Infrastructure Victoria, as it develops its capability and the confidence of the Victorian community, will be able to make assessments in the running. So this project, like a number of other projects I have been asked about previously, did not go through a full business case examination by Infrastructure Victoria, as I would have indicated by my contribution when this issue was raised time and time again during the course of 2015.

Supplementary question

Mr DAVIS (Southern Metropolitan) — I thank the minister for his answer and for indicating to the chamber that the proposal was not examined by Infrastructure Victoria, and I therefore ask, given his point about bipartisanship: will the government release the business case for its ugly sky rail proposal so that the community can see the long-term effectiveness of the options considered by the government?

Mr JENNINGS (Special Minister of State) — Mr Davis has started to editorialise in relation to the value of the project — a project that the government has great confidence in. This is a project that we believe will deliver a far better result for the communities along the corridor. It will see the redevelopment of nine level crossings to actually remove the intersections between rail and road. There will be five new stations along the line, and it will be serviced by 37 new rail sets, which not only have been ordered but will be made in Victoria.

The business case that relates to this project is an outstanding business case, and the Victorian government has great confidence in it. After the appropriate consideration of the release of documentation and the community advice, and as it relates to the procurement arrangements, then the business case will be released, in accordance with expectations that the Victorian government has established.

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

Level crossings

Ms WOOLDRIDGE (Eastern Metropolitan) — My question is also to the Leader of the Government. Acknowledging that the Minister for Public Transport has failed to rule out sky rail on the Frankston line, will the Leader of the Government provide certainty for

residents in the south-east and rule out elevated rail on the Frankston line?

Mr JENNINGS (Special Minister of State) — I thank Ms Wooldridge for her question. One of the things I can say about providing certainty for the community is the need to provide some stability, certainty and confidence within government. What that means is that one arm of government, by design, will not be saying something different to the other arm of government, so indeed I am not going to say anything in my substantive answer that is different to my colleague the Minister for Public Transport.

What I can say at the moment is that a very difficult challenge for the Victorian government is to be able to make sure that the community develops confidence in what the government believes is an excellent project and an excellent outcome for the communities along the Cranbourne-Pakenham railway line. We have great confidence in that project, in its engineering, in the quality of its design and in its intention to be a modern transit system. The construction, design and amenity are far in advance of anything that we have seen on the Victorian landscape previously.

I can understand that the opposition and some members of the community have some concerns about this project. They are well grounded in their concerns of today, without the ability to actually evaluate properly the project's upside over time. Obviously there are some people in the community who fear that they may have some adverse outcomes, and they have the right to exercise their view. But what I would actually say is that in terms of the imagination that is required by the community to visualise this project, the community has become more familiar with its design, with its intent and with the engineering excellence that will be brought to bear in relation to a better public transport system, a great community amenity and a great redevelopment of stations. We are clearing the disconnect between the rail and road systems in the community. Once that has been achieved there will be a greater degree of confidence among local communities along that corridor. The government is absolutely certain of the value of this project.

Ms Wooldridge — On a point of order, President, I go to relevance. My question was very specifically about the Frankston line. It did not raise anything about the Cranbourne-Pakenham line and the project there. It was solely about elevated rail on the Frankston line, and I ask you to draw the Leader of the Government back to answering the question.

Ms Shing — Further to the point of order, President, the way in which the question has been asked would tend to indicate that the minister has 1 minute and 43 seconds remaining in which to address what Ms Wooldridge has raised as a concern in relation to the point of relevance.

The PRESIDENT — Order! Ms Shing is absolutely right that the minister still does have time to address the matter, and I guess it would only take a very few words and therefore a very few seconds to actually answer the question that was put to him, so he has that opportunity in the 1 minute and 43 seconds remaining.

In terms of relevance, it is true that to date the minister's answer at best has provided context, albeit that the geography is not aligned with what the question asked. This may well be one of those cases, though, where if there is not an answer that directly answers the question, then in fact that might be the answer.

Mr JENNINGS — President, you may not remember that I started my contribution by indicating that I am not going to say anything different to my colleague the Minister for Public Transport. At that point I could have sat down. I could have sat down, but I actually outlined the value of this project, the value for people in the Cranbourne-Pakenham corridor and the example this project will give, because in fact I have confidence in it. I believe that community confidence will build in it, and in that context the scaremongering that may be out and about, and is in the opposition's intention in this moment, may be alleviated over time, because with greater knowledge, greater imagination and greater delivery of the project outcomes, this approach — —

Honourable members interjecting.

The PRESIDENT — Order! First day back at school? I can understand the excitement; nevertheless, I ask members to temper it. The minister, without assistance.

Mr JENNINGS — This project — —

Mrs Peulich — You will get run out of town if you do it.

Mr JENNINGS — Well, it is a fantastic contribution from backbench members of the opposition, who may or may not be mindful of any engineering issues that may be brought to bear or that may be required in relation to the design and construction of any level crossing that occurs along the Frankston line, along the sand belt or along parcels of land that are adjacent to the beach or adjacent to rivers.

In fact there may be engineering reasons why you would contemplate this project; those will be considered as that project design for the Frankston line is further developed and considered by the government and then by the community.

Honourable members interjecting.

The PRESIDENT — Order! I indicate that Mr Finn, Mrs Peulich and Mr Davis have all had their quota of interjections.

Supplementary question

Ms WOOLDRIDGE (Eastern Metropolitan) — I thank the Leader of the Government for his answer, and I ask: given that he has failed to rule out elevated rail on the Frankston line, will he at least provide an assurance to the house and to the community that the government will specifically ask Infrastructure Victoria to assess all level crossing separations on the Frankston line as they are considered into the future?

Mr JENNINGS (Special Minister of State) — Whilst I am not in a position to absolutely unequivocally rule that in or out, it will depend upon the design phase and the consideration of Infrastructure Victoria's work in accordance with what I have just outlined in my previous answer to Mr Davis. Ultimately I want to make sure, and Infrastructure Victoria wants to make sure, that it actually has clear air to do its long-term priority task of establishing the 30-year horizon of infrastructure needs. It is a timing question in terms of the value of this work that you are actually seeking. I am not conceptually ruling out the value of that consideration. I will have to take advice about the appropriate sequencing of the engineering design and construction of that rail proposal with the work responsibilities of Infrastructure Victoria.

Renewable energy

Mr BARBER (Northern Metropolitan) — My question is for Ms Pulford, representing the Minister for Energy and Resources in the lower house. Can the minister confirm that the government is conducting modelling and analysis to inform policies for transitioning Victoria's energy sector from fossil fuels to renewables and considering with that modelling the options and costs, and if so, when will that information be released?

Ms PULFORD (Minister for Agriculture) — I thank Mr Barber for his question and his interest in the energy mix in Victoria. Of course the government is committed to ensuring security of energy supply for the Victorian community so that residents can be confident around security of supply and our industries can continue to grow and thrive. As part of that, like any government that takes the challenges associated with climate change seriously, we are of course keen to increase the proportion of our energy that is generated from renewable sources. As the matter is one for which my colleague Ms D'Ambrosio is responsible and is one which goes to quite some detail, I will take that question on notice and seek a response, in accordance with our usual practices, from Ms D'Ambrosio.

Supplementary question

Mr BARBER (Northern Metropolitan) — I thank the minister for that excellent answer. Just in relation to something that the minister mentioned, she may be aware, and I am sure her representative minister is aware, that Victoria and the south-east Australian grid has a large oversupply of generation capacity — in fact, by the Australian Energy Market Operator's estimate, 9000 megawatts. Amongst these options that are being considered, is it not clear that those options must include the closure of coal-fired power stations and not just simply the increase of the proportion of renewable energy as she said in her answer?

Ms PULFORD (Minister for Agriculture) — I thank Mr Barber for his supplementary question for Ms D'Ambrosio, and I will seek a response from Ms D'Ambrosio at the earliest opportunity for Mr Barber.

The PRESIDENT — Order! I might indicate that on that supplementary question — and I think the minister did give me a querulous look, which I can understand — I did consider that it got very close to asking for an opinion as distinct from the factual position. I think it was more or less the way it was put that suggested an opinion, but certainly a response to that question will also be provided.

Mr Barber — President, the way I finished the supplementary was to say, 'Is it one of the options being considered in this exercise?', so it was actually a factual question that I added right at the end. I would like a factual answer to both the question and the supplementary.

The PRESIDENT — Order! I am not sure Mr Barber quite put it that way, but at any rate we do understand the position.

Advanced Lignite Demonstration Program

Mr BARBER (Northern Metropolitan) — My question is to Mr Jennings, representing the Minister for Environment, Climate Change and Water. There has

been a slightly over-pumped press release from the Ignite Advanced Lignite Demonstration Program suggesting it has received $20 million from the government for its polluting coal-to-diesel plant, but the minister in the lower house has said that that is not the case. The minister says further milestones are yet to be achieved. One of the milestones that the company says it has to achieve is in fact Environment Protection Authority Victoria approval before it can go out and emit 10 000 tonnes of CO_2 every year. However, it could be that a bigger assessment of the proposal is required — for example, an environment impact assessment, which would be the responsibility of Mr Dalidakis's minister, Mr Wynne. Since the government has refused in the past to provide information on these milestones to the house when requested by motion, can the minister tell me what milestone it is this company needs to meet in order to receive its funds?

Mr JENNINGS (Special Minister of State) — President, let me start by giving Mr Barber some encouragement by indicating to you that I think a press release is not in itself one of those milestones. So let us start from there. Beyond that, in terms of the due diligence and responsibility that my colleague the Minister for Energy and Resources may be bringing to this and my other colleagues who may be making assessments about the validity of these projects and the environmental consequences of them, I am going to have to take advice on that. But this is a variant of an attempt to obtain this information, and now there is an expectation of me to follow this up with my colleagues and get a response.

Supplementary question

Mr BARBER (Northern Metropolitan) — As I mentioned in my substantive question, and as the minister referred to, this house has previously sought documents that detail the actual milestones that are required before this money will flow, yet the house has been kept in the dark about that. The company is out there announcing via press release what its milestones are and what it needs to do in order to achieve further funding. So in addition to finding out what environmental assessment these various ministers may between them decide is necessary, will the minister also provide to the house some information about the actual milestones contained in the funding agreements — although he was not prepared to table those funding agreements in the house?

Mr JENNINGS (Special Minister of State) — In fact I had not actually tried to split hairs in relation to what information I was going to seek from my colleagues. I did not intend to, and I will not. I will see what is in the scope of what they can provide us.

Duck season

Mr YOUNG (Northern Victoria) — My question today is to the Minister for Agriculture. The 2016 duck season has recently had its parameters modified in the form of a reduced bag limit, much to the disappointment of many Victorians. The initial report from the GMA — the Game Management Authority — is dated as current on 7 December 2015, and as I understand recommendations were made before Christmas last year. This presents a significant time gap between the season's commencement and the dates on which the relevant data was collected. Can the minister inform the house of the Game Management Authority's process for monitoring conditions during that time, which are used to determine duck harvest recommendations?

Ms PULFORD (Minister for Agriculture) — I thank Mr Young for his question and his interest in this matter. For the benefit of the house I might just step through the process and the time lines. The surveys of duck numbers are undertaken throughout October and November. On 7 December the Game Management Authority commenced an engagement and formal consultation with interested organisations with diverse views on the question of duck hunting — organisations including but not limited to the RSPCA and Field & Game. Data was made available and these organisations were invited to make a submission, which many of them did.

On 22 December the Game Management Authority board met and finalised its recommendations to the government. On that day my office received a verbal report. I made the announcement about the restrictions that will apply to the 2016 season on 22 January, having taken an opportunity to consider this advice and also consult with the Minister for Environment, Climate Change and Water, with whom some of these arrangements are made jointly, as well as considering advice from both of our departments. The arrangements are also, for the record, for a full-length season but with a restriction on taking blue-winged shovelers and a bag limit on opening day of eight ducks and on other days four ducks.

That is the process that led to the announcement of the season. This has been widely reported, and as was the case last year and pretty much every year, I think we have people at both ends of this debate disappointed with the outcome. There are hunters who would prefer a full season; there are others in the community who

would prefer no season at all. But the advice that we have taken from the Game Management Authority and considered is to have, in recognition of the conditions and those bird counts, a limited season for 2016.

In the lead-up to the opening weekend the minister for the environment and I will consider whether or not it is necessary to close some wetlands. We will take account of conditions much closer to the opening weekend, and I expect that we will be in a position to make any announcements that are required at that time, in good time for people to make their arrangements for the opening weekend.

Supplementary question

Mr YOUNG (Northern Victoria) — I thank the minister for her answer. What I am trying to get to is any changes in recommendations that the GMA might make due to a change in conditions, and I would assume that there is a monitoring process that the GMA has for that time period. So my supplementary question to the minister is: if a change to the duck season parameters is recommended by the GMA between now and the end of the season, based on changes in conditions, will the minister recognise those changes and apply them to this year's season?

Ms PULFORD (Minister for Agriculture) — I thank Mr Young for his further question. The initial decision that government needs to take is whether or not the season arrangements as they exist in the regulations need to be modified. If we were to make no announcement, the consequence of that would be that there would be a season in accordance with the regulations, which would be a full season, and I know Mr Young knows this very well, but I say this for the benefit of the house and the record. Then there is a further mechanism to make further decisions around wetlands much closer to the season. So the arrangements are now in place for the 2016 season, and I think Mr Young's question is somewhat hypothetical because there is nothing at the moment to suggest there will be such a dramatic change in circumstances that would warrant reopening that first question.

Medicinal cannabis

Ms PATTEN (Northern Metropolitan) — My question is for Minister Jennings, representing the Treasurer. Last year I asked if Treasury had done modelling to see what economic benefits there were to a cannabis economy in Victoria, and I got a firm 'No' back. Since then the federal government's Parliamentary Budget Office has tackled the issue by modelling the legislation and the taxation of cannabis. It found that GST alone would be $300 million a year and would only grow from there. Given even the federal government is now looking at this issue, my question is: will Treasury now undertake the necessary work to look at the economic impacts of a cannabis economy in Victoria?

Mr JENNINGS (Special Minister of State) — I thank Ms Patten for her question. Ms Patten relies on evidence that has actually been provided by the federal jurisdiction, and I would be interested to know whether in fact her assertion is that Prime Minister Turnbull and Treasurer Morrison are actually contemplating broadening the scope of the GST to apply to cannabis. Is that what Ms Patten is putting to the chamber? Does she have any documentary evidence to suggest that that is the policy intention of the federal government, because in recent times it seems to be very unclear what the federal government's intentions are in relation to the GST? In fact maybe this was the chink. Maybe this was the analysis that actually took the boat out too far, and we have actually seen Minister Morrison, if not his Prime Minister, coming back to shore in relation to their enthusiasm for the GST.

If that story were actually raised in the public mind, then probably we would get that ruled out by the federal government, I would imagine, but let us just see how Ms Patten goes.

In relation to the flat 'No' that Ms Patten may have received in response from the state Treasury, I imagine that it erred on the side of being cautious about what the value of cannabis may be to the Victorian community, because the government has started a journey to increase the availability of medical cannabis for medical purposes, for clinical trials, to evaluate the benefits that may derive from that, I think, wise and compassionate framework that we have put in place to limit the scope of opportunity for not only medical use but some commercial activity and certainly growing and cultivation that actually may be required to make sure that we have medical grade cannabis for those purposes. So there are commercial and other flow-ons to the economy — we do recognise that — but the Victorian government, being very cautious and considered in relation to its scoping, does not want that momentum to be sidetracked by debates such as the one I have just responded to. You can raise issues with any government, and they can start running away from you, and that is not my interest today.

Supplementary question

Ms PATTEN (Northern Metropolitan) — I thank the minister. I too look forward to medicinal cannabis

becoming a reality here, but currently there is no parliamentary budget office to which I or my fellow crossbenchers could have access. Such a resource would allow crossbenchers to undertake such economic modelling as I mentioned. In the current climate of the public wanting more open and transparent government, and given that this crossbench has to look at a huge amount of issues that sometimes require economic modelling, will the government create a Victorian parliamentary budget office to give us the same access as the federal crossbenchers have to quality economic advice?

The PRESIDENT — Order! It is a tenuous supplementary, I would have to say.

Mr JENNINGS (Special Minister of State) — Without reflecting on the scope of the activities and the policy scope that actually may be considered by the parliamentary budget office — I leave it to develop its own independent relationship with members of Parliament and the policies that it considers — the simple answer to Ms Patten's question is yes, the government's intention is to introduce a parliamentary budget office within this term. It is a commitment that we have made, and it is a commitment I am confident we will fulfil.

QUESTIONS ON NOTICE

Answers

Mr JENNINGS (Special Minister of State) — I have answers to the following questions on notice: 34, 40, 41, 47, 443–6, 456, 471, 525, 739, 1244–57, 1265–73, 1309, 1359, 1552, 1555–6, 1559, 1696–1706, 1711–42, 1980–8, 2013–6, 2022–3, 2055–6, 2062–76, 2113, 2413–8, 2439–40, 2448, 2452, 2476, 2487, 2503, 2509, 2517, 2522–9, 2539, 2605, 2608, 3128–30, 3155–90, 3207–26, 3239–50, 3487–98, 3507–14, 3771–8, 3780, 3782–3, 3893, 3912–3, 3920–4006, 4009–24, 4045–6, 4048–58, 4264–6, 4297–8, 4301–8, 4311, 4316–34, 4344, 4347–9, 4353–8, 4361–92, 4395–7, 4399–499, 4588–9, 4646–89, 4695, 4697–8, 4702–29.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Order! I indicate on today's questions there are two matters that I will refer for a written response. The first one is in regard to Mr Barber's substantive and supplementary questions in respect of energy matters and the possibilities of closing a coal power station because of current excess generation capacity. That was to Ms Pulford but for Minister D'Ambrosio in another place, therefore that is two days.

Also there was a question from Mr Barber to Mr Jennings with regard to the milestones involved in the performance of the company that he mentioned, which was Ignite, and the funding formulas that are associated with those milestones. Minister Jennings indicated in his response that he would be prepared to look at both the substantive and the supplementary questions as part of that response.

Mr Rich-Phillips — On a point of order, President, on the issue of written responses to questions, can I ask that you consider whether it would be appropriate for the minister to provide a written response to my second substantive question and third substantive question from today's question time? I can provide you with copies of those questions for your consideration.

The PRESIDENT — Order! On question two, was Mr Rich-Phillips looking at both the substantive and the supplementary?

Mr Rich-Phillips — The substantive on two and three.

The PRESIDENT — Order! I will look at *Hansard* in relation to these answers and make a determination later this day. I must say that I did listen to the questions and the responses, and whilst the responses might not have directly satisfied the opposition in pursuing those matters, I did think that the minister was responsive to the questions as I heard them at the time. But nonetheless with the request that has been made by Mr Rich-Phillips I will have a look at *Hansard* and, as I said, make a determination later this day.

CONSTITUENCY QUESTIONS

Northern Victoria Region

Ms LOVELL (Northern Victoria) — My question is for the Minister for Tourism and Major Events, and it is regarding the Kyabram Fauna Park's application for funding under the tourism demand driver infrastructure (TDDI) program and the delay by the Victorian government in advising the park on whether or not its application has been successful. The fauna park applied for $80 000 in matched funding under this program to expand the enclosure of its saltwater crocodile, Getcha. Applications for funding closed last September and successful applicants were to be notified in December, but the government has not yet announced the successful applicants. The fauna park is a major tourist

attraction in Kyabram, and Getcha is one its most popular exhibits. Without this funding Getcha will have to be removed from the park and, if sold, he may be culled for meat and skin products. The loss of Getcha would also result in a decline in visitations to the park, a decline in income and employment potential of the park, and a substantial decline in the park's future growth, as well as flow-on effects into the Kyabram township and wider region. My question to the minister is: when will he announce the successful applicants under the TDDI grants and will he provide certainty for the future of the crocodile exhibit by approving the Kyabram Fauna Park's application for $80 000?

Western Metropolitan Region

Mr MELHEM (Western Metropolitan) — My constituency question is to the Minister for Education. The Prime Minister, Malcolm Turnbull, recently decided to end Gonski funding for years 5 and 6. By not funding the last two years of Gonski the federal coalition government has effectively stripped $1.1 billion of funding directly from Victorian schools. Can the Deputy Premier and Minister for Education, the Honourable James Merlino, update me on the impact the federal government's decision to cut years 5 and 6 of Gonski will have on my constituents in the Western Metropolitan Region?

South Eastern Metropolitan Region

Ms SPRINGLE (South Eastern Metropolitan) — My question is to the Minister for Public Transport. Over the weekend the government provided some limited information about the level crossing removals in Clayton and Noble Park, along the Pakenham and Cranbourne lines. I have met on a few occasions with local resident groups about issues of public open space, which is a perennial issue in the South Eastern Metropolitan Region, and the plans released on Saturday would create the equivalent of 11 MCGs of open space for communities. The possibility that local councils might be forced to pay for the construction and upkeep of these open spaces, especially with rate capping to commence in July, is of concern. My question is: can the minister inform the residents of Clayton and Noble Park as to who is going to pay for the construction and upkeep of the new open spaces that are part of the designs for the five proposed level crossing removals in those suburbs?

Western Metropolitan Region

Mr FINN (Western Metropolitan) — My constituency question is to the Minister for Local Government. I refer to the minister's claim that she broke the ALP's promise to the people of Sunbury that they would control their municipal future. Nobody believes her claim that this promise was broken after an independent audit review's report was delivered. In fact most people believe her betrayal of Sunbury was a result of an extensive campaign from within the Labor Party and trade union movement to undermine the democratic vote of the people of Hume. I ask the minister: what role did the member for Broadmeadows in the Legislative Assembly, the Labor councillor for Sunbury, Cr Ann Potter, and the Australian Services Union play in the decision to leave Sunbury shackled to the City of Hume?

Eastern Victoria Region

Mr MULINO (Eastern Victoria) — My constituency question is to the Minister for Education and it relates to the Yarra Ranges tech school. I have been liaising with the members of the working party, which includes Yarra Ranges Shire Council, the Outer Eastern LLEN, the Box Hill Institute and around 20 schools in the area. I ask the minister to provide an update on the way in which the proposed Yarra Ranges tech school will interact with schools in the area and also with the Lilydale Lakeside campus of the Box Hill Institute.

Eastern Victoria Region

Ms BATH (Eastern Victoria) — My constituency question is for the Minister for Housing, Disability and Ageing, the Honourable Martin Foley, and it is in relation to the national disability insurance scheme (NDIS) community forums being held in regional areas. Constituents in my electorate are very interested in the NDIS and have asked me when a forum will be scheduled in Gippsland. State forums have been held in Geelong, Wangaratta, Ballarat, Whittlesea, Frankston and Warrnambool, and I have previously asked the minister when one will be held in Gippsland. His answer was in 2016. The NDIS is important to my constituents, and the fact there is no scheduled community forum in Gippsland is worrying. I ask the minister to be more specific on the date and location for the NDIS community forum in Gippsland to ensure that my constituents are included in these important information sessions.

Northern Victoria Region

Ms SYMES (Northern Victoria) — My constituency question is for the Minister for Health. The latest round of applications for the community shade grants program closed last December. This fantastic initiative of the Andrews Labor government

dedicated $10 million to assist local groups providing SunSmart infrastructure to their communities. I know a number of wonderful local community groups have applied, such as Numurkah Football and Netball Club, Panton Hill Football Club, Beechworth Montessori School and Towong Shire Council with respect to the Corryong swimming pool and the skate park. These groups play a vital part in providing care and leisure for their communities and would like additional tools such as sun shades, hats and sunscreens to be able to safely go about what they do best. These grants will fund important tools for fighting skin damage and cancers. I know my constituents care deeply about this issue; particularly with skin cancer rates rising in our country. I ask the minister to give due consideration to the great community organisations in my electorate in relation to these funding matters.

Western Victoria Region

Mr MORRIS (Western Victoria) — My constituency question is for the Minister for Education. I have been contacted by many residents of Ballan and they have been asking me about the provision of a secondary school, or a P–12 school, for Ballan. Indeed the member for Buninyong in the Legislative Assembly made grandiose statements about this prospect prior to the election but since then has gone very quiet. He has gone missing in fact, or maybe he is asleep. We all may just need to call out, 'Wake up, Geoff', and he will be up. My question for the minister is this: what are the government's plans for a secondary school in Ballan?

Eastern Metropolitan Region

Ms DUNN (Eastern Metropolitan) — My constituency question is for the Minister for Environment, Climate Change and Water. I have been contacted by several members of the Eastern Metropolitan Region community in relation to the toxic chemical and herbicide waste which spilt into the Yarra River from the Parks Victoria depot in Warrandyte. This is upstream from a very popular swimming, canoeing and fishing spot at Pound Bend. There are also serious concerns in relation to the health and safety of Parks Victoria workers who were exposed to these toxic substances. A report prepared by Parks Victoria states chemical waste has also killed numerous trees on the river.

What action has the minister taken or is the minister taking to ensure that such an incident does not happen again? Will the minister commence an inquiry into how this incident was allowed to happen without any notification to the Environment Protection Authority Victoria? What measures, procedures and appropriate funding have been provided to Parks Victoria to ensure that such an incident does not happen again? And will any shortfalls in funding to the Parks Victoria depot in Warrandyte be addressed as part of the May budget?

Southern Metropolitan Region

Ms FITZHERBERT (Southern Metropolitan) — My question is to the Minister for Public Transport. The government announced last Sunday that it will build a sky rail starting this year on the Caulfield -Dandenong route and that it will also 'consult' on the design. I therefore ask: exactly when this year does the government intend to start building and on exactly which aspects of the design is the government now seeking to consult the community?

PETITIONS

Following petitions presented to house:

HIV clinical trial

To the Legislative Council of Victoria:

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

the Victorian government between 2010–2014 led the nation establishing Australia's first pre-exposure prophylaxis trial;

under the Andrews government Victoria has lost its status of leading the nation in the treatment and prevention of HIV, having been overtaken by other jurisdictions;

while overseas studies have shown that pre-exposure prophylaxis (PrEP) is extremely effective at preventing HIV transmission, the drug is not yet approved for use here in Australia by the Therapeutic Goods Administration (TGA); and

the current EPIC trial in New South Wales aims to increase understanding of the drug's efficacy by making it accessible to 3700 people at high risk of HIV transmission for a period of up to two years.

We therefore call on the Daniel Andrews Labor government to restore Victoria's primacy in HIV prevention and treatment by following NSW's example and providing a large-scale trial of free PrEP.

By Mr DAVIS (Southern Metropolitan) (69 signatures).

Laid on table.

Level crossings

To the Legislative Council of Victoria:

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

the Victorian government is actively advancing plans to construct concrete pylon sky rails on long sections of the Dandenong–Pakenham and Frankston lines as a cheaper alternative to traditional methods of delivering its level crossing removal election commitments;

that affected local communities were not properly consulted in the development of these plans, with many only hearing about it for the first time in a recent article in the *Herald Sun* and subsequent media coverage; and

that affected residents are completely opposed to the construction of sky rails along the Dandenong-Pakenham and Frankston lines, with their inherent greatly increased visual impact and noise pollution and greatly reduced residential amenity and privacy.

We therefore call on the Daniel Andrews Labor government to hold off announcing a preferred tenderer until such time as thorough consultation with affected communities has been undertaken and the depth of the community's opposition to any sky rail proposal is properly taken into account in its transport planning.

By Mr DAVIS (Southern Metropolitan) (2704 signatures).

Laid on table.

Housing

To the Legislative Council of Victoria:

We, the undersigned citizens of Victoria:

call on the Legislative Council of Victoria to note that weaknesses in planning provisions have seen shared housing arrangements instituted as of right without prior local community input or appropriate approvals to ensure the appropriate location of shared housing including the accessibility of public transport;

call on the Minister for Planning to strengthen provisions under the Planning and Environment Act 1987 and associated regulations and codes to ensure that local municipalities and local communities have the opportunity to scrutinise proposals for shared housing and to have a local planning process instituted to ensure that the interests and amenity of local neighbourhoods are properly protected; and

call on the planning minister to immediately act to close this undemocratic loophole in planning provisions in relation to shared housing.

By Mr DAVIS (Southern Metropolitan) (356 signatures).

Laid on table.

Police numbers

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council that Premier Daniel Andrews has failed to commit to providing additional police officers as Victoria grows.

The petitioners therefore respectfully request that the Legislative Council of Victoria calls on Premier Daniel Andrews to commit to providing additional police for our community as a matter of priority.

By Mr O'DONOHUE (Eastern Victoria) (38 signatures).

Laid on table.

Special religious instruction

To the Legislative Council of Victoria:

We petitioners draw to the attention of the Legislative Council that the government has scrapped voluntary special religious instruction (SRI) in Victorian government schools during school hours.

Prior to the last election, Daniel Andrews and Labor said they would not scrap SRI during school hours in Victorian government schools. Daniel Andrews and James Merlino have announced that as of next year they will break this promise.

By Mr O'DONOHUE (Eastern Victoria) (23 signatures).

Laid on table.

Medicinal cannabis

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria requests the Legislative Council to support the forthcoming legislation to legalise the production and distribution of medicinal cannabis in exceptional medical circumstances.

Anecdotal evidence of benefits and extensive work by the Victorian Law Reform Commission is guiding the Andrews government to establish a cultivation trial, to establish an independent medical advisory committee and an Office of Medicinal Cannabis within the Department of Health and Human Services. The priority will be providing access by 2017 to medicinal cannabis for children with severe epilepsy.

The petitioners therefore request the Legislative Council support the legislation to be put forward to provide research, evidence and a safe and legal supply of medicinal cannabis to Victorian patients with exceptional medical circumstances.

By Mr LEANE (Eastern Metropolitan) (43 signatures).

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 1

Mr DALLA-RIVA (Eastern Metropolitan) presented *Alert Digest* No. 1 of 2016, including appendices.

Laid on table.

Ordered to be published.

Mr DALLA-RIVA (Eastern Metropolitan) — I move:

That the Council take note of the report.

Just briefly, in the sense of this being the first of the Scrutiny of Acts and Regulations Committee (SARC) reports for 2016, I put on the record our appreciation for the new human rights adviser that has joined Professor Jeremy Gans, who is the current human rights adviser and has been with SARC for a long time. Now we have Ms Sarala Fitzgerald, who is now assisting Professor Gans in providing advice, and it has actually been good to have both of them working together to present their reports to the committee.

For those who are interested, in terms of the extensive amount of detail that has been provided not only by the executive but also by the now two human rights advisers to SARC, I think this has elevated the capacity of SARC to provide a lot more detail for members of not only this chamber but also the other place in understanding a whole raft of issues around the Charter of Human Rights and Responsibilities Act 2006 and also giving a broader depth of that sort of material. Whether it is during presentations here, in committee stages or in their contributions to debates, I encourage members as we move into this new parliamentary year to take up the opportunity to review what is in the SARC reports and use it as a bit of a reference guide for future bill debates.

Motion agreed to.

ROYAL COMMISSION INTO TRADE UNION GOVERNANCE AND CORRUPTION

Final report

The Clerk, pursuant to section 37 of the Inquiries Act 2014, presented report.

Laid on table.

Ms WOOLDRIDGE (Eastern Metropolitan) — I desire to move, by leave:

That so much of the standing orders be suspended as to allow Mr Melhem to make a personal explanation forthwith in relation to his conduct as outlined in the royal commission report.

Leave refused.

PAPERS

Laid on table by Clerk:

Border Groundwaters Agreement Review Committee — Report, 2014–15.

Cancer Council Victoria — Report for the year ended 30 September 2015.

Crown Land (Reserves) Act 1978 — Minister's Order of 27 October 2015 giving approval to the granting of a licence at Knox Community Gardens and Vineyard.

Duties Act 2000 — Treasurer's report of foreign purchaser additional duty exemptions for 1 July 2015 to 30 November 2015.

Education and Care Services National Law Act 2010 — Education and Care Services National Amendment Regulations 2015 pursuant to section 303 of the Act.

Health Practitioner Regulation National Law (Victoria) Act 2009 — National Health Practitioner Ombudsman and Privacy Commissioner's Report, 2014–15.

Interpretation of Legislation Act 1984 —

Notice pursuant to section 32(3) in relation to Statutory Rule Nos. 136/2015 and 167/2015.

Notice pursuant to section 32(4) in relation to the Dangerous Goods (Explosives) Regulations 2011, Dangerous Goods (Storage and Handling) Regulations 2012, Dangerous Goods (Transport by Road or Rail) Regulations 2008 and Occupational Health and Safety Regulations 2007.

Land Acquisition and Compensation Act 1986 —

Minister's certificate of 9 December 2015 pursuant to section 7(1) of the Act

Minister's certificate of 4 February 2016 pursuant to section 7(1) of the Act.

Land Tax Act 2005 — Treasurer's report of land tax absentee owner surcharge exemptions for 29 June 2015 to 30 November 2015.

Melbourne City Link Act 1995 —

Melbourne City Link Thirty-fifth Amending Deed pursuant to section 15(2) of the Act.

CityLink — Tullamarine Corridor Redevelopment Deed Second Amending Deed pursuant to section 15(2) of the Act.

Parliamentary Committees Act 2003 — Government response to the Environment, Natural Resources and Regional Development Committee's Interim Report on the Inquiry into the CFA Training College at Fiskville.

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

Ballarat Planning Scheme — Amendment C185.

Bayside Planning Scheme — Amendment C146.

Boroondara Planning Schemes — Amendments C200 and C209.

Brimbank Planning Scheme — Amendment C105.

Cardinia Planning Scheme — Amendment C161.

Casey Planning Schemes — Amendments C197 and C199.

Frankston Planning Schemes — Amendments C99 and C110 (Part 1).

Glen Eira Planning Scheme — Amendment C123.

Greater Dandenong Planning Scheme — Amendment C183.

Greater Geelong Planning Scheme — Amendment C315.

Greater Shepparton Planning Schemes — Amendments C92 and C170.

Kingston Planning Scheme — Amendment C175.

Knox Planning Schemes — Amendments C74 and C144.

Latrobe Planning Scheme — Amendment C86.

Macedon Ranges Planning Scheme — Amendment C96.

Maroondah Planning Schemes — Amendments C95 and C125.

Melbourne Planning Scheme — Amendment C269.

Moreland Planning Scheme — Amendment C157.

Mornington Planning Scheme — Amendment C184 (Part 3).

Mount Alexander Planning Scheme — Amendment C74.

Moyne Planning Scheme — Amendment C48 (Part 1).

Port Phillip Planning Schemes — Amendments C155, C124 and C131.

Stonnington Planning Scheme — Amendment C183 (Part 1).

Victoria Planning Provisions — Amendments VC121, VC126 and VC127.

Warrnambool Planning Scheme — Amendment C78 (Part 1).

Wellington Planning Scheme — Amendment C94.

Whittlesea Planning Schemes — Amendments C195, C179 and C73.

Whitehorse Planning Schemes — Amendments C167 and C210.

West Wimmera Planning Scheme — Amendment C32.

Wyndham Planning Schemes — Amendments C194 and C210.

Yarra Planning Schemes — Amendments C195 and C207.

Yarra Ranges Planning Scheme — Amendment C150.

Project Development and Construction Management Act 1994 —

Nomination order and application order, 22 December 2015 and statement of reasons for making a nomination order, 15 December 2015, in relation to the Palais Theatre Project.

Nomination order and application order, 22 December 2015 and statement of reasons for making a nomination order, 15 December 2015, in relation to the State Library Redevelopment Project.

Statutory Rules under the following Acts of Parliament —

Agricultural and Veterinary Chemicals (Control of Use) Act 1992 — No. 146/2015.

Building Act 1993 — Nos. 152/2015 and 157/2015.

Child Wellbeing and Safety Act 2005 — No. 168/2015.

Country Fire Authority Act 1958 — No. 148/2015.

County Court Act 1958 — No. 162/2015.

Dangerous Goods Act 1985 — No. 156/2015.

Domestic Animals Act 1994 — No. 165/2015.

Human Tissue Act 1982 — No. 171/2015.

Infringements Act 2006 — No. 166/2015.

Land Tax Act 2005 — No. 161/2015.

Liquor Control Reform Act 1998 — No. 155/2015.

Magistrates' Court Act 1989 — Nos. 154/2015, 163/2015 and 164/2015.

Marine Safety Act 2010 — Nos. 153/2015 and 158/2015.

Mineral Resource (Sustainable Development) Act 1990 — Nos. 149/2015 and 150/2015.

Non-Emergency Patient Transport Act 2003 — No. 151/2015.

Public Administration Act 2004 — No. 160/2015.

Public Health and Wellbeing Act 2008 — No. 170/2015.

Retirement Villages Act 1986 — No. 147/2015.

Road Safety Act 1986 — No. 159/2015.

Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 — No. 169/2015.

Victorian Energy Efficiency Target Act 2007 — No. 167/2015.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rules Nos. 133/2015 and 146 to 171/2015.

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

Cemeteries and Crematoria Act 2003 — Southern Metropolitan Cemeteries Trust's Scale of Fees and Charges effective as of 7 January 2016.

City of Geelong Act 1993 — Greater Geelong City Council — Mayoral and Deputy Mayoral Allowances — Alteration, dated 18 November 2015.

City of Melbourne Act 2001 — Melbourne City Council — Lord Mayoral, Deputy Lord Mayoral and Councillor Allowances — Alteration, dated 18 November 2015.

Education and Training Reform Act 2006 — Ministerial Order No. 858 — Further Provisions in relation to the School Policy and Funding Advisory Council, dated 20 January 2016.

Livestock Disease Control Act 1994 — Notice of the Fixing of Fees, dated 1 December 2015.

Local Government Act 1989 —

General Order setting the Average Rate Cap, dated 14 December 2015.

Mayoral and Councillor Allowances Adjustment, dated 18 November 2015.

Senior Officer Remuneration Threshold Increase, dated 17 December 2015.

Victorian Energy Efficiency Act 2007 — Declaration of a discount factor, dated 23 December 2015.

Water Act 1989 — Abolition of the Diamond Creek Water Supply Protection Area, 30 January 2016.

Proclamations of the Governor in Council fixing operative dates in respect of the following acts:

Child Wellbeing and Safety Amendment (Child Safe Standards) Act 2015 — 1 January 2016 *(Gazette No. S426, 22 December 2015).*

Children, Youth and Families Amendment (Aboriginal Principal Officers) Act 2015 — remaining provisions — 4 January 2016 *(Gazette No. S426, 22 December 2015).*

Corrections Legislation Amendment Act 2015 — Divisions 6, 7 and 9 of Part 2 — 9 December 2015 *(Gazette No. S389, 8 December 2015).*

Education and Training Reform Amendment (Child Safe Schools) Act 2015 — sections 4(2) and 5(1), (2) and (4) — 9 December 2015 *(Gazette No. S389, 8 December 2015).*

Education Legislation Amendment (TAFE and University Governance Reform) Act 2015 — 1 January 2015 *(Gazette No. S403, 15 December 2015).*

Energy Legislation Amendment (Consumer Protection) Act 2015 — 1 January 2016 *(Gazette No. S403, 15 December 2015).*

Fisheries Amendment Act 2015 — 16 December 2015 *(Gazette No. S403, 15 December 2015).*

Mineral Resources (Sustainable Development) Amendment Act 2014 — Sections 4(3), 16 and 27 — 8 December 2015 *(Gazette No. S389, 8 December 2015).*

Prevention of Cruelty to Animals Amendment Act 2015 — Whole Act (except sections 31, 32, 34, 35, 37, 38, 40 and 42 and Part 7) — 23 December 2015 *(Gazette No. S426, 22 December 2015).*

Public Health and Wellbeing Amendment (No Jab, No Play) Act 2015 — 1 January 2016 *(Gazette No. S403, 15 December 2015).*

Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 — 23 December 2015 *(Gazette No. S426, 22 December 2015).*

Victims of Crime Commissioner Act 2015 — 3 February 2016 *(Gazette No. S10, 2 February 2016).*

PRODUCTION OF DOCUMENTS

The Clerk — I have received the following letter from the Attorney-General dated 18 January and headed 'Production of documents — documents relating to traffic flows, projections and plans concerning Punt Road':

I refer to the Legislative Council's resolution of 9 December 2015 seeking the production of all documents relating to traffic flows, projections and plans concerning Punt Road.

The Council's deadline of 20 January 2016 does not allow sufficient time for the government to respond to the Council's resolution. The government will endeavour to respond as soon as possible.

Mr Davis — On a point of order, President, these documents were sought, and the Attorney-General has responded, but the important point here is that the hearings for which these documents were essential commenced yesterday. I seek some explanation as to the specifics as to why these cannot be provided when

it was very clear in the debate that the documents had an important time line attached that involved community activity.

The PRESIDENT — Order! In respect of the point of order, there is no way in which the Clerk or I can provide the sort of advice that Mr Davis is seeking. This is a matter for the minister, if Mr Davis requires further explanation, and therefore he should use one of the procedures of the house to extract that further explanation.

Mr Davis — I wonder if the minister might in good faith provide that explanation.

The PRESIDENT — Order! The minister is the Attorney-General; he is not in this house.

Mr Davis — The motion was directed to the Leader of the Government.

The PRESIDENT — Order! Again, this is not a procedure that would normally allow that to happen.

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

The Clerk — I have received a letter dated 8 February from the Attorney-General headed 'Production of documents — City of Port Phillip draft planning scheme amendment C107' together with related documents. The letter reads:

> I refer to the Legislative Council's resolution of 7 October 2015 seeking the production of:
>
> > a copy of all documents created on or after 4 December 2014, or used to inform departmental decisions or ministerial briefings on or after 4 December 2014, in relation to the City of Port Phillip draft planning scheme amendment C107, including but not limited to —
> >
> > (1) all correspondence to/from the Department of Economy, Jobs, Transport and Resources and Department of Environment, Land, Water and Planning;
> >
> > (2) all correspondence to/from the Minister for Planning, the Hon. Richard Wynne, MP, dealing with amendment C107; and
> >
> > (3) an extract copy of the Minister for Planning's diary identifying meetings held or attended in relation to amendment C107.
>
> The government has conducted a thorough and diligent search to identify the documents that may be relevant to the specific categories identified in paragraphs (1), (2) and (3) of the Council's resolution. To provide the Council with a prompt response, departments have collated and assessed documents identified in paragraphs (1) to (2) of the resolution. I enclose with this letter the identified documents, some of which have had the personal information of individuals excluded in the interest of personal privacy. The government is continuing to consider the Council's request for production of documents identified in paragraph (3) of the resolution, and will provide a response in respect of that category in due course.
>
> Finally, the government notes that the use of the phrase 'all documents' means the resolution has an especially wide scope. It is apparent from initial searches that producing all such documents would likely require assessing over 10 000 pages of documents. This would significantly divert the resources of Departments. I trust that the Council will not insist on the government responding further on this issue.

Mr Davis — On a point of order, President, the government has begun this practice of responding to a documents motion through letters from the Attorney-General. This is a practice that was adopted by a previous government, but strictly — —

Honourable members interjecting.

Mr Davis — No, actually the minister has responded directly, but my point here is that the documents motions are generally directed at a minister in this chamber, generally the Leader of the Government but often a minister in this chamber, and it is the minister who has the responsibility to respond. I seek not necessarily your response immediately but your consideration of this practice of having another government minister not in this chamber responding to those matters.

The PRESIDENT — Order! It is an interesting point of order, and perhaps it is a matter that might well be pursued in discussions with the Leader of the Government. I am reminded by the Clerk that in fact the process whereby we seek orders for the production of documents requires the Clerk of this house to actually advise the Secretary of the Department of Premier and Cabinet of that requirement. Therefore we are actually directing a matter to that secretary, quite apart from the minister, in recognition that there is more than one person involved in this procedure.

There is nothing in the standing orders, to my knowledge, that would preclude the Attorney-General from providing a response on behalf of the government, but perhaps that is a matter that might well be taken up in some discussions as to whether that is considered to be the most satisfactory and efficient method of response.

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Reference

The PRESIDENT — Order! A matter has been brought to my attention on which I seek to advise the

house because it does have some implications for our notice paper and current deliberations that are likely as a result of a matter on the notice paper. I have received a letter, as President, and it says:

> I am writing to advise the Legislative Council that pursuant to sessional order 6, at its meeting on 9 February 2016, the economy and infrastructure standing committee adopted the following terms of reference as a self-referenced inquiry:
>
> > That the economy and infrastructure standing committee inquire into and report on the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015 and, in particular — to inquire into, consider and make recommendations in relation to an evaluation of a minimum passing distance rule for motorists when overtaking cyclists, in terms of:
> >
> > 1. the outcomes and experience of implementing similar laws in other Australian states and territories, such as Queensland, the ACT and Tasmania;
> >
> > 2. the educational campaign that would be required to effectively implement the bill in Victoria;
> >
> > 3. the enforcement policies and strategies that would be required to implement the bill in Victoria.
>
> In conducting the inquiry, the committee is requested to seek information from government and non-government agencies, interstate jurisdictions, cycling and motorists groups and the community.

That letter is signed by Joshua Morris, chair of the Standing Committee on the Economy and Infrastructure. It is a matter that is pertinent to Ms Dunn's private members bill on the notice paper.

BUSINESS OF THE HOUSE

General business

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

> That precedence be given to the following general business on Wednesday, 10 February 2016:
>
> (1) notice of motion given this day by Mr Barber in relation to the Supreme Court and the Ombudsman;
>
> (2) notice of motion given this day by Mr Morris calling on the Minister for Public Transport to appear before the economy and infrastructure committee;
>
> (3) notice of motion given this day by Mr Ondarchie regarding matters relating to the member for Western Metropolitan Region, Mr Melhem, and the Royal Commission into Trade Union Governance and Corruption;
>
> (4) notice of motion given this day by Mr Barber in relation to the failure of the government to provide for documents regarding the Advanced Lignite Demonstration Program; and
>
> (5) order of the day 24, resumption of debate relating to the Andrews Labor government's first year in office.

Motion agreed to.

OMBUDSMAN JURISDICTION

The PRESIDENT — Order! I might just indicate to the house at this point, as I leave the Chair and one of the acting presidents takes over as normal, I am actually going to a meeting with the Ombudsman. I sought that meeting with the Ombudsman in respect of the proceedings that were started this morning in the Supreme Court. It was initially my intention to advise the Ombudsman that a motion was in the offing but to indicate to her very clearly on behalf of the house that I was not in any position to anticipate the outcome of that motion or indeed to draw any conclusions on what the respective positions of parties might be, simply so that she would be informed in the context of her going to the Supreme Court this morning.

Now I understand that a number of parties were represented, and the matter was referred to in question time, and clearly I think most of the interested parties actually do have an understanding of the processes that are involved going forward and that the matter is likely to go to a substantive hearing early in March, according to a timetable that I understand was agreed this morning. But I only have that as third-hand advice, so I am expecting to understand that process as a result of that meeting today.

The house can be assured that I am not taking any position in that meeting. But I think it is a courtesy to the house, and particularly to the government, that it understands that I am having that meeting, with the Clerk, simply to convey to the Ombudsman what the current state is as far as the house is concerned and for me to understand what is happening with those proceedings, and that is as far as it goes. But as I said, I think it is an important courtesy to the house.

MINISTERS STATEMENTS

Wye River and Separation Creek bushfires

Ms PULFORD (Minister for Agriculture) — I rise to update the house on how the Andrews government is supporting recovery efforts for communities affected by the Wye River bushfires. I am pleased to take this opportunity to announce $50 000 in grants from the Great Ocean Road economic and community recovery package to help drive immediate local events. This

support is being made available through the $1.4 million Great Ocean Road economic and community recovery package that was announced by the Premier last month. It will encourage visitors to the region in the lead-up to the peak Easter holiday season and the Labour Day long weekend.

The Colac Otway Shire Council, the Surf Coast Shire Council and the Great Ocean Road Regional Tourism board have worked hard with locals to identify suitable events that will drive economic activity in this impacted region. These grants will stimulate immediate economic recovery by injecting funds into existing events with a view to boosting visitor numbers to these communities. The government is providing grants to support the Lorne Sculpture Biennale, the Apollo Bay Seafood Festival and two fundraising events to be held by the Wye River Surf Lifesaving Club. As the surf club missed its main fundraising opportunities over the Christmas period, these two events will provide a much-needed opportunity to raise funds and bring the community together.

The Andrews Labor government is committed to rebuilding our vital surf coast, and with Easter fast approaching, there has never been a better time to plan a getaway to the Great Ocean Road. In addition to this $50 000 in grants to support attraction to events, the government's $1 million Economic and Community Recovery Fund will assist medium to long-term recovery priorities identified by the Regional Economic Recovery Subcommittee. Its work is ongoing, and I am sure all members will join with me in wishing it well in its endeavours.

Maternal and child health services

Ms MIKAKOS (Minister for Families and Children) — I rise to update the house on how the Andrews Labor government is supporting our maternal and child health (MCH) services. On 22 January I attended the Kyneton Maternal and Child Health Centre with the member for Macedon in the Legislative Assembly, Mary-Anne Thomas. It was a pleasure to announce the successful grant recipients under the $950 000 MCH Service Innovation Fund. Thirteen local governments, including the Macedon Ranges Shire Council, are receiving grants of between $30 000 and $99 000.

Through these grants local MCH services will put in place innovative practices to promote better engagement and services to support vulnerable families at the early stages of a child's life. They include projects focusing on parents experiencing family violence, as well as socially isolated and single parents. The projects will make our MCH services friendlier and more inclusive for families that are culturally and linguistically diverse, refugee and asylum seeker families, Aboriginal families and parents with mental health issues.

The Andrews Labor government is committed to making Victoria the education state, which is about providing an education system that produces excellence right from birth. This is why the role of our maternal child health services is so critically important. Through health promotion, early detection and intervention and early learning, our MCH nurses support parents and children's health and development.

While Victoria's MCH services are world class and the envy of many other jurisdictions, we are proud to be investing in making them even better. We want to make sure our services work for families, are convenient, high quality and give extra support to those who need it in times of vulnerability.

MEMBERS STATEMENTS

Government performance

Ms WOOLDRIDGE (Eastern Metropolitan) — If the government benches thought that the dysfunction in the Andrews government would take a break during the summer months, they must be extremely disappointed. Fresh from singing 'O Holiday Tree' after Minister Merlino's ban on Christmas carols, Labor MPs returned to Parliament with caucus members at war with each other.

It was a summer in which the Andrews government dumped the $40 million coalition government's plan to put wi-fi on V/Line services, saying it was not needed. Clearly it was not needed because there are no V/Line services running. It was delivered by Minister Allan, who also brought us such Andrews Labor government disasters as Homesafe budget blowouts, taxi, train and tram strikes — the first in a generation — and the division of communities via sky rail in the south-east, which no-one voted for. Even Labor's own MPs have lost confidence in the minister, but the Premier has done nothing.

The Premier has also done nothing about Mr Melhem. A damning royal commission report exposed allegations of corruption by Mr Melhem for issuing false invoices while he was a union boss.

Speaking of invoices, how about the $441 000 for the Somyurek investigation and the $81 000 for Minister Foley's overseas junket? Daniel Andrews

cannot hide anymore, although he could in the vacant 13th floor of the Victorian Comprehensive Cancer Centre. Or he could have tried to *Shake It Off*, if only Minister Eren had given the Premier his Tay Tay tickets.

The $20 million Big V logo was also wiped off the Australian Open tennis courts, on which it was launched. Now we see Labor trying to silence the Ombudsman. But to try to ensure all these summer Andrews Labor disasters are covered up, those on the government benches only need to turn to the 1100 paid spin doctors controlling Labor's message to voters. This is Labor — spin, dysfunction and deceit.

California visit

Ms PATTEN (Northern Metropolitan) — I am very pleased to see all my colleagues again and am looking forward to spending some real quality time with them all this year. Like many students in my region I must say I was almost standing at the door waiting for the bells to ring so that I could come in.

Last month I travelled to California, where I spoke at a conference on new technologies and the regulation of them with regard to adult material. It was fascinating. As many of us know, the adult industry leads the way in developing new technologies for a consumer market, but governments and regulators often lag behind. This does not need to be the case. I hope we in this house can be progressive about emerging technologies in the coming years.

While I was there I visited the Californian Parliament in Sacramento. It was a wonderful experience. I am sorry to report that they are much friendlier than we are here. They do not even have a gate. When I was welcomed onto the floor, I was literally welcomed onto the floor. They even had an Australian flag in the Senate for my visit.

I had the opportunity to meet many MPs while I was there and to discuss some of their innovative approaches to prescription drug regulation, medicinal cannabis and the reduction of sentences for non-violent drug-related crime. I was also very fortunate to talk in detail to members about California's approach to end-of-life options, advance care planning, the right of the terminally ill to try experimental treatments and much more. I look forward to sharing more of my visit with members through my report, which has the working title, 'Sex, drugs and death California style'.

Julia Gillard Library

Mr EIDEH (Western Metropolitan) — On Wednesday, 3 February, I was delighted to attend the official opening of the Julia Gillard Library in Tarneit. The library was opened by the former Prime Minister of Australia and former federal member for Lalor, the Right Honourable Julia Gillard. Also in attendance were my parliamentary colleagues the Speaker of the Legislative Assembly, the Honourable Telmo Languiller, and the Minister for Local Government, the Honourable Natalie Hutchins; my colleagues in this chamber Cesar Melhem and Colleen Hartland; as well as the mayor of Wyndham City Council, Cr Adele Hegedich.

The new library is an important learning facility for residents living in and around Tarneit, which has grown rapidly in the past decade. There is now a community hub, where local residents have access to children's and youth spaces, areas for community activities, study rooms, a social reading area and 23 public access computers with free wi-fi internet. I was also pleased to hear that in addition to the $750 000 investment towards the new library, the Andrews Labor government will be providing funding for 19 new and existing libraries across the state through the Living Libraries Infrastructure Program.

High-quality education and learning is vital for our young families and children. This is something that the former Prime Minister was dedicated to, and I am pleased to say that the Victorian government is also committed to this. I congratulate the residents of Tarneit on their new library.

V/Line services

Mr MORRIS (Western Victoria) — I thought I might provide the house with a bit of an update about the crisis that is currently gripping V/Line regional train services across the breadth of Victoria. Ballarat, Geelong, Seymour, Traralgon — every line is in crisis. I will just give a bit of a time line of what has happened so far. The launch of the Minister for Public Transport's new timetable occurred on 21 June, with immediate disastrous results. Punctuality dropped through the floor, and commuters were rightly up in arms.

On 14 July last year the Premier came to Ballarat to apologise for his incompetent Minister for Public Transport and to put everyone from himself down on notice. He also said he would put a rocket up V/Line and Public Transport Victoria about it. However, it appears that the Premier forgot to light the fuse on said rocket because V/Line's performance has continued at

an unacceptably low level, with commuters becoming increasingly despondent with the utterly unacceptable performance of the Ballarat train service.

On 14 September last year Minister Allan came to Ballarat and promised a new timetable to fix the mess she had created in June — but not until 31 January 2016. Commuters were again deeply disappointed by this lack of action, but at least there was light at the end of the tunnel: an improved timetable — even if it was to be in nearly five months time. This light at the end of the tunnel, however, turned out to be not daylight but rather a train with worn wheels coming in the opposite direction, because with the new year came an all-time low. The Ballarat V/Line service was already in disastrous condition, but it was okay because Ballarat commuters had the white knight, the Deputy Premier — —

The ACTING PRESIDENT (**Mr Elasmar**) — Time!

Asylum seekers

Ms HARTLAND (Western Metropolitan) — I would like to take the unusual step today of congratulating Premier Daniel Andrews and the stand he took on refugees over the weekend when he stepped up to the plate by writing a letter to the Prime Minister to say, 'This is a way of actually stopping this deadlock and stopping these babies being returned to Nauru'. Since then this stance has been supported by other premiers. I do not understand the position of Mr Shorten and the Prime Minister in saying they are not going to allow these children, many of them babies who were born here, to be allowed to stay here in the community.

A number of people have to be congratulated on their stand around this, including those doctors who have defied the law and who could go to prison for two years for speaking out against what is happening to these children and the churches which in the past week have said they will give sanctuary. Hopefully there will be a local parish doing this in my area. I will definitely be there to assist that church in its role of giving sanctuary to vulnerable people.

I just hope that in the next week or so both the Prime Minister and Mr Shorten realise that the Australian way is to show some compassion and actually deal with this issue in a reasonable way and not send these small children and babies back to Nauru.

Val Gardner

Mr BOURMAN (Eastern Victoria) — Recently I was given the sad news that Val Gardner had passed away at the age of 95. Val was a member of my pistol club and had been for a very long time — possibly longer than I have been alive, and I am not young anymore. Despite having known Val from a number of years ago, when I was active in club competitions, I did not know he was a World War II veteran and indeed a veteran of the infamous Kokoda Trail.

Valentine George Gardner, VX51106, D Company, 2/14th Battalion, was immortalised by Damien Parer in some footage taken after Val had been wounded in Menari, Papua New Guinea, on 22 September 1942. A frame of this footage hangs in the Australian War Memorial in Canberra.

I remember Val as a gentle man as well as a gentleman. He no doubt left a good impression on many others, given that the Sporting Shooters Association of Australia's military rifle club has a Val Gardner award, which is considered prestigious.

Yet another of the greatest generation passes, as they must, but it is time for us to remember that all gave some and some gave all to defend this country. Rest in peace, Val. Lest we forget.

Australia Day

Mr MULINO (Eastern Victoria) — I rise to acknowledge the winners of the 2016 Australia Day awards handed out by Cardinia Shire Council at the wonderful ceremony that I attended recently. The winner of Citizen of the Year was Ron Ingram. Ron has been responsible for the resurgence of the Koo Wee Rup RSL, taking it from 2 members in 2002 to 80 members now. His vision has seen the construction of a memorial wall and cenotaph adjacent to the Koo Wee Rup community centre and Avenue of Honour.

The Senior Citizen of the Year was Peter Maloney. Peter has been a Rotarian for around 20 years, and he was winner of the Paul Harris fellowship. He has been heavily involved in the opening of Emerald's Anzac Walk and in radio station 3MDR, the Emerald RSL and the Puffing Billy tourism group.

Young Citizen of the Year was Molly White. She has been a Hills Community Strengthening Initiative volunteer in the mentor and after-school programs for two years. During 2015 she was awarded the Country Fire Authority Best and Fairest award, was captain of the juniors at Emerald Country Fire Authority and was Junior Firefighter of the Year.

The Community Organisation of the Year was Pakenham Football Club. The football club was recently awarded the 2015 FOX FOOTY Club Rewards Gold Tier Award. A very active community group, the club has been involved in the Pakenham RSL Anzac Day ceremony, the White Ribbon Foundation, the motor neurone disease foundation, beyondblue and Zaidee's Rainbow Foundation.

The Community Event of the Year was the 2015 Lang Lang Rodeo, the longest continuously running officially recognised rodeo in Australia.

The Community Service Award was handed out to Bob Walker. Bob began volunteering with Outlook in 2014. All were worthy winners.

Australia Day

Mr FINN (Western Metropolitan) — It was a delight to meet so many great Australians as I travelled around Melbourne's west on and before Australia Day this year. So many locals are doing such wonderful work as volunteers in the western suburbs, and a small number of them were recognised in various Australia Day honours by council and government. Highlighting individuals is fraught with danger, but on this occasion I will run the risk.

I was thrilled to be present at Overnewton Castle in Keilor for the announcement and presentation of the Brimbank Citizen of the Year Award. Despina Havelas is someone I am proud to call a friend. Despina's work over the years supporting families dealing with autism has been recognised for the wonderful effort that it is. She founded the Autism Angels group, an organisation I am involved with, and has worked to the point of exhaustion to improve the lot of parents and children struggling through life with autism. Despina is an extraordinary human being — even more so when you consider that she contributes to the community as well as looking after her own son with autism. Despina Havelas is an amazing woman, and I congratulate her on her much-deserved award. Well done, Despina.

Child sexual abuse

Ms SPRINGLE (South Eastern Metropolitan) — After the Royal Commission into Institutional Responses to Child Sexual Abuse recommended a national scheme last September, the Turnbull government announced 11 days ago that it would lead the development of a nationally consistent approach that would see victims and survivors compensated by up to $200 000 each. While this is a welcome development, it does not preclude the need to allow victims and survivors to sue their abuser institution in court, if that is what they choose to do. At present victims and survivors of abuse in Catholic institutions in particular find it very difficult to get any effective relief through the courts. Plaintiffs can sue their abuser priests, who have no assets. For plaintiffs to get any proper relief they need to be able to access the very substantial assets of the church, which are held in trusts, but they cannot.

This is a problem that requires a legislative solution, and it is incumbent on the Victorian government to provide that solution. The last Parliament's Betrayal of Trust inquiry recommended mandatory incorporation of the church, and I note that the New South Wales Greens have proposed an alternative solution in that state. The Victorian government must show leadership on this issue. Every day that we wait for a legislative solution is a day that victims and survivors must wait for justice.

Gippsland rail services

Ms SHING (Eastern Victoria) — I rise today to acknowledge the difficulty, discomfort, delay, frustration and anger being felt by V/Line travellers across the Gippsland line and in particular to confirm the announcement of a temporary service timetable to enable the Gippsland community to plan travel with greater certainty while work continues in order to restore full services. As part of the temporary timetable from 15 February, being next Monday, there will be two extra metropolitan services between Pakenham and Flinders Street in the morning and evening peak, which will then connect to the V/Line coach services to Gippsland. These will be free for those disembarking from Gippsland's V/Line coach services.

I also want to confirm that we are working very hard to make sure that the safety issues that have plagued the Gippsland line insofar as the double whammy of wheel wear and boom gate non-activation are resolved quickly and safely. V/Line passengers on the Gippsland line understand that safety is paramount, and I am grateful for the feedback, views and suggestions that have been provided on a range of issues, including the way in which information is provided to travellers as well as issues and concerns around compensation. I look forward to seeing the line — —

The ACTING PRESIDENT (Mr Finn) — Ms Shing's time has expired.

Level crossings

Mr DAVIS (Southern Metropolitan) — My matter today concerns the Labor Party's sky rail announcement and the Premier's extraordinary announcement and disastrous announcement for those between Caulfield and Dandenong. It is not what was promised at the election. Everybody understood right across the state that these level crossings would be put underground, but now we find that Daniel Andrews and his government have welshed on their election promises. Nobody voted for sky rail in 2014, and what I have got to say here is that the impact on the community will be extreme. Noise will boom out deafeningly across huge distances, with these massive and ugly sky rails running across the suburban area. At least three sections planned by the government are along the Caulfield to Dandenong line. Not a word has come from Labor members, and some of them are actively complicit in this extraordinary outcome. They have said not a word against it, and I have got to say now we find that the Frankston line is to be targeted for sky rail as well.

I pay tribute to community leaders who have been prepared to fight against sky rail being imposed on their area. I have got to note the 2704 people whose responses to a petition have been tabled in the Parliament today, and I for one hope that Daniel Andrews begins listening before it is too late. He needs to listen. This is a bad proposal. It is not what was promised. Nobody voted for sky rail.

Bushfires

Dr CARLING-JENKINS (Western Metropolitan) — I rise today to acknowledge every Victorian who has been affected in some way by bushfires over our parliamentary break. In particular I call to mind the people of Wye River and Separation Creek who lost their homes and the many who were forced to evacuate over the Christmas period. It is a terrible thing to be displaced at any time of year for any circumstance, but I can only imagine how devastating it must have been for families to be displaced at Christmas time. I can identify in a small way: my parents were fortunate enough to survive the Marysville bushfires, now known as Black Saturday, just over seven years ago. I well remember their devastation at losing most of their material possessions and the trauma of just making it out alive, so my thoughts go out to all those who have been affected by recent fires, including those near Crib Point and on the Mornington Peninsula.

My thanks must go to the hundreds of firefighters who have spent much of their summer fighting to keep Victorians safe, without complaint. I also would like to thank the many Victorians who have been generous with their time, their money and their resources to help those who have been devastated by the bushfires this summer season. While summer is a time when most of us enjoy a break with family and plan for the new year, I wish to acknowledge those who are rebuilding what they have lost. My thoughts, my hopes and my prayers are with you all.

Australia Day

Mr ELASMAR (Northern Metropolitan) — On the morning of 26 January, Australia Day, it was my pleasure and honour to attend Moreland City Council's citizenship ceremony, hosted by the mayor, Cr Samantha Ratnam, and the new CEO, Ms Nerina Di Lorenzo, along with other parliamentary colleagues. I enjoy citizenship ceremonies, but they are more significant on Australia Day, both for the recipients and me. I wish to thank council officers for organising a very special occasion on a very special day.

Northcote-Darebin Greek festival

Mr ELASMAR — On another matter, on Sunday, 31 January, I was very pleased to represent the Honourable Robin Scott, the Victorian Minister for Multicultural Affairs, at the 37th annual Greek community of Northcote, Darebin and district festival, located in Thornbury. There was a good turnout, and as usual we were treated to beautiful and tasty Greek cuisine. It was great to see the kids enjoying themselves too. I congratulate all the organisers, in particular Mr Andrew Mylonas, who ensured that everyone was looked after and had a good time.

Epping animal welfare facility

Mr ELASMAR — On another matter, on 2 February I was invited by the City of Whittlesea to witness the turning of the sod at a new animal welfare facility to be located in Epping. This facility will be conjointly managed by the cities of Darebin, Moreland and Whittlesea. This is a great new venture that will benefit all residents and pet owners in the northern suburbs.

Mooroopna Primary School

Ms LOVELL (Northern Victoria) — Last Friday I was pleased to join Mooroopna Primary School principal Steve Rogers to present this year's school leadership badges to the 2016 student leaders. This special assembly, which was attended by the school's staff, students and parents, was an inspirational way to

begin the school year. I wish the Mooroopna Primary School leaders and students, and all our Victorian students, a happy and successful school year for 2016.

Shepparton youth foyer

Ms LOVELL — While I was Minister for Housing in the former coalition government I was proud to establish the Education First Youth Foyer initiative to give disadvantaged young people a stable environment in which to allow personal development. I have been following the development of the Shepparton foyer particularly closely, and it would be an understatement to say that I have been upset at the delay the project has experienced under this Labor government. I was extremely glad — relieved, even — to see that Berry Street and the Rural Housing Network Limited were appointed as service providers last week. It is fantastic to see the project is finally moving forward and that the coalition's vision of a brighter future for our disadvantaged young people is coming to fruition.

Australia Day

Ms LOVELL — I feel so lucky to be able to call this wonderful country home, so I always enjoy taking part in my community's Australia Day celebrations. This year I managed to get to four local services — at Tatura, Mooroopna, Shepparton and Nathalia — and even presented a couple of awards to some of our wonderful community members. I want to congratulate the award nominees and recipients in the Goulburn Valley and Northern Victoria Region, particularly the Order of Australia Medal recipients: you make our community a great place to live.

cohortIQ

Mr PURCELL (Western Victoria) — I am pleased to rise today to congratulate an innovative Port Fairy company, cohortIQ, which is a high-tech start-up. It won the $200 000 top prize from the Prime Minister's office to develop a program that could change Australia's healthcare industry. CohortIQ was started by a friend of mine, software developer Ben Druitt, together with colleagues Ian Tebbutt and John Bickerstaff.

Last month cohortIQ was chosen ahead of 200 applicants for its program which aims to address the nation's 235 000 avoidable hospital admissions by combining government and hospital data to streamline the healthcare system. cohortIQ can save about $1.3 million per large hospital with its technology; its goal is to have its software in every Australian hospital in three years before going global. This is a marvellous objective of this company. I congratulation Ben, Ian and John, and I wish this local business every success in the future.

DRUGS, POISONS AND CONTROLLED SUBSTANCES AMENDMENT BILL 2015

Second reading

Debate resumed from 26 November 2015; motion of Mr HERBERT (Minister for Training and Skills).

Mr O'DONOHUE (Eastern Victoria) — The opposition will not be opposing this bill, but before I get into the nuts and bolts of the bill, let me just create a bit of context. I thought I would start by quoting an opinion piece written by Ron Iddles, the secretary of the Police Association Victoria. The substance of this bill is about ice and drug dealers and trying to send a strong message to those who peddle drugs about the harm and the consequences of their dealing in the community.

Expressed better than I can, and with more experience than I have, let me just put on the record some of the opinion piece Mr Iddles had published in the *Herald Sun* of 30 July and in the *Police Association Victoria Journal* of August last year. It says:

> For most, it's probably hard to comprehend what it would be like to wake up each day, head to work and expect to be assaulted or injured.
>
> But this is exactly what police and PSOs must do every day. Officers have had to shift their thinking from considering the risk of being assaulted as something that might happen on a bad day, to something that is likely to happen unless prevented.
>
> Times have changed. For those of us who have served long careers in policing, the differences in terms of the risks of today compared to yesteryear are stark and almost incomparable.

It goes on to say:

> While there have always been those who would intentionally harm police, there has never been a time when police have been faced with more risk, confronted regularly with violence and often assaulted than today.

It goes on:

> Contrast this with today. Police patrol in numbers, they wear ballistic armour constantly and carry all manner of weapons in order to protect themselves and others.

Further:

> Such a disturbing phenomenon hasn't happened overnight. Over the past three decades, police have had to confront the social impacts of successive waves of drug and alcohol abuse. They have had to deal with a mental health system in

> disarray, but today they face some of their biggest challenges yet.
>
> Almost every corner of the community has been impacted to some degree by the ice epidemic, but its scourge has now reached a stage where it is a factor in most police interactions. Like so many drugs before, it's often remarked to be either the cause or effect of much crime. Yet unlike any of its predecessors, its physical effect on ordinary people has often left our most experienced officers wondering what, if anything, can stop it.
>
> Users are invariably aggressive and unpredictable towards police, who are often unwittingly called to assist them. Many become so affected that psychotic episodes lead to violent confrontations where police are met by people determined, uninhibited and who have unexplainable physical strength. Officers are often confronted without warning by ice-affected individuals — when they pull over a car, open a door at a family violence incident or speak to someone acting strangely down the street. The probability that these people are armed is high, and when they are, so too is their capacity to assault an officer with deadly consequences. This is not a rare scenario — it's every day.

He continued to paint the picture that police are confronted with, as he described it, every day as a result of the ice epidemic. Of course this opinion piece, as described by Mr Iddles on behalf of the members of the Police Association and on behalf of members of Victoria Police, I am sure could be echoed by paramedics, Country Fire Authority volunteers, professional firefighters, a range of other first responders, people in emergency departments at our hospitals and the like. It is clear that the ice epidemic has had and continues to have a very significant impact on our community.

As I have travelled around Victoria in the last 14 months visiting police stations, the feedback has been very consistent from members of the force — their work is driven by ice and family violence as the two principal sources of the call-outs they receive and the issues they have to deal with, and often there is a high degree of interaction and crossover between those two things. There is no doubt that we have as a community a very serious issue to deal with and a very serious issue ahead of us. I think that, perhaps like some of the other drug epidemics that have preceded this one, the treatment regime is relatively young, it is relatively new, and the experience of medical practitioners and medical research has not matured in the way it has with some other drugs that have been a scourge on our community.

The former government did a lot of work in this space. Mr Ramsay, a member for Western Victoria Region in this place, led a parliamentary inquiry into ice, undertook a range of public consultations throughout Victoria and tabled in this place a very well respected report that informed much of the reform agenda of the former coalition government, and I hope it continues to inform some of the reforms that the current government is considering.

I will just run through some of the things that the former government did during its term: it increased the number of passive alert detection dogs to bolster Victoria Police's capacity to carry out search warrants; it invested $4.5 million for highway patrol vehicles to catch dangerous motorists who drive after taking illegal substances; it launched the campaign 'What are you doing on ice?'; it invested $2.7 million to raise awareness of the dangers of ice through community forums, which worked with the local communities to drive solutions to local problems; it invested $2 million in the ice prevention grants; and it invested $38 million in new funding to improve access to treatment and support for ice use and other drug addictions, including $4 million to build Victoria's first mother-baby withdrawal unit and to provide additional support for hospital emergency departments. That is the historical context.

The Andrews government was elected talking a big game when it came to issues of ice. It committed to the *Ice Action Plan* within the first 100 days of its election, a time line which it did meet. In its *Ice Action Plan* the government talks about $500 000 for grassroots community action groups to fund local responses to the issues of ice. Whilst in the scheme of the budget of the state of Victoria it is a relatively modest amount, I remain staggered that the government has taken the $2 million that was allocated by the former government in October 2014 and cut it to $500 000. It has cut the amount available for community ice action group grants from a maximum of $100 000 under the coalition to a maximum of $10 000 under the Andrews government.

The concept of the $100 000 grant maximum was informed by Mr Ramsay's committee that looked in great detail at what has happened in Mildura and Geelong. The response to ice needs to be community-led. There needs to be a significant buy-in from the local community to tackle this very serious issue that Mr Iddles articulated so clearly in his opinion piece that I cited earlier. So while the $500 000 will go some of the way, cutting that from $2 million to $500 000 is a disgraceful decision by this government, and to cut the maximum available for any particular project from $100 000 to $10 000 is similarly an extremely disappointing and wrong decision. For a community to respond with a vision or a long-term plan, they need the resource level that was being proposed by the former coalition government.

The other context too is the recent crime statistics that were released on 17 December last year. Again, Mr Andrews in opposition would critique the crime rates under the former government; he would critique the law and order agenda of the coalition government. But what we see from the Crime Statistics Agency and the crime stats for the year ending 30 September last year, released on 17 December last year, is that they showed drug use and possession up 16.9 per cent from 19 282 offences to 22 542 offences, an enormous growth in the crimes of drug use and possession under the Andrews Labor government. While we have crime rates up, we have police numbers in Victoria being cut. So while we have crime rates up —

Mr Dalidakis — That's not true.

Mr O'DONOHUE — and the population growing by 100 000 people per year, the number of sworn police in Victoria has gone from 13 151 in November 2014 to 13 142, according to the most recent statistics available. Taking up the minister's interjection, the number of sworn police in Victoria has been cut by Daniel Andrews — by this government — despite a 16 per cent growth in crime associated with drug use and possession, despite population growth of over 100 000 people per year and despite all the challenges associated with the current security environment, the resource implications of two-up policy and the challenges that confront Victoria Police. Daniel Andrews has cut the number of police in Victoria.

That gives context to this bill and shows some of the challenges that confront the Victorian community as a result of the inaction of Labor, the inaction of Daniel Andrews, the cuts to Victoria Police and the cuts to programs such as the ice community action group grants that I described before.

This bill introduces seven new offences and creates maximum penalties of 25 years for trafficking to a child at or near a school; 20 years for trafficking at or near a school; 20 years or 1600 penalty units, or both, for supplying to a child at or near a school; 5 years for using violence or threats to intentionally compel trafficking; 5 years or 600 penalty units, or both, for possessing instructions for trafficking or cultivating illicit drugs without reasonable excuse; 10 years or 1200 penalty units, or both, for publishing instructions for trafficking or cultivating illicit drugs without reasonable excuse and with intent, knowledge or recklessness, and I will say a bit more about that in due course; and 5 years for intentionally permitting the use of premises for trafficking or cultivation.

The bill also makes a number of consequential amendments to the Drugs, Poisons and Controlled Substances Act 1981, the addition of the offence of possession of instructions to the Confiscation Act 1997, the addition of the offence of trafficking to a child at or near a school and trafficking at or near a school to the list of more serious drug offences in schedule 2 to the principal act and to the Residential Tenancies Act 1997.

I will be moving some amendments during the committee stage — and I am happy for my amendments to be circulated — which will have the effect for those new offences associated with trafficking in or near the vicinity of the school of expanding that geographical remit from 300 metres to 500 metres. In committee I will be asking the minister some questions about the genesis of the 300-metre zone currently in the bill, but picking up the South Australian example I will be moving an amendment to match what currently exists in South Australia to expand that remit to 500 metres, which I think is supported by the Police Association. Again, it highlights the fact that for these laws — —

The ACTING PRESIDENT (**Ms Dunn**) — Order! Before Mr O'Donohue goes on, I indicate to members of the house that his amendments are being circulated now.

Opposition amendments circulated by Mr O'DONOHUE (Eastern Victoria) pursuant to standing orders.

Mr O'DONOHUE — Clearly for these new offences to be effective and to work, there need to be police to enforce them. As I said before, the number of police in Victoria has been cut by this government.

I want to put on the record a concern that was raised by the Law Institute of Victoria (LIV) through the consultation process with regard to the new offence inserted by clause 10, new section 71F, for a person to publish a document containing instructions for trafficking or cultivating a drug of dependence where that person intends, knows or is reckless as to whether the instructions will be used by others for trafficking or cultivating purposes. LIV said to me that it is concerned that the term 'reckless' is too broad, particularly when the evidential onus is on the accused. The opposition is not intending to move an amendment to that, but I would appreciate any response to that concern that the minister or the lead speaker for the government might be able to put on the record during the second-reading debate.

Another issue I put on the record — and again the minister may wish to take up this invitation to respond during his summation — is in relation to the new offence inserted by clause 12, new section 72D(1), relating to landlords intentionally permitting their own premises to be used for drug trafficking activities. The new provision appears reasonable, but the opposition wonders why the bill does not go further and include agents who manage properties on behalf of landlords. Considering that many landlords do not actively manage their properties themselves but prefer to use agents, this on its face would appear to be a potential oversight. Again, I would welcome the minister's response to that.

In summary, the opposition does not oppose this bill. We agree with the intent to send a message to would-be drug traffickers that there need to be serious consequences as a result of the harm that they inflict on the community, particularly those who seek to traffic in and around schools. Regrettably — and Mr Ramsay can speak with more authority than me on this — there are examples that I am aware of where this has been reported to have taken place, particularly in regional Victoria.

So we welcome reforms that strengthen that message, but those reforms need to be supported with sufficient numbers of police to enforce these changes to the legislation. They need to be supported with investment in treatment and services so that people who are afflicted with an addiction to ice or a propensity to use ice and other drugs can receive the support and services that they need so that they can address that addiction or that propensity to use those illicit substances.

There is much more work to be done, and it is very disappointing that here we are, more than 400 days since the election of the government, and this legislation is only being debated in this place today. It is disappointing that it was not debated late last year when it was first introduced, and indeed it is disappointing that it was not passed months ago on the back of the commitments that the then opposition made in 2014 and the reaffirmation of those commitments through the *Ice Action Plan*. With those words, I look forward to further consideration of this bill in the committee stage.

Ms HARTLAND (Western Metropolitan) — The Greens are concerned about this bill and the government's approach to it. The government's so-called tough-on-crime approach either recreates a range of penalties which are already covered by law, so it is duplication and purely for show, or increases already very high maximum penalties to extremely high maximum penalties, something the court is unlikely to take advantage of and thus it adds nothing to the legislative landscape. I imagine the government believes these new laws are a cheap solution for the government to look like it is tackling ice rather than making the required financial investment in treatment and rehabilitation and expanding the Drug Court approach across Victoria. Worse, some of the new laws risk criminalising people for thinking about committing a crime and criminalising young people unnecessarily. They are a waste of the courts' time and limited resources and should be abandoned.

The Greens support laws that maintain criminal penalties for trafficking of drugs; we do not support ramping up penalties without an evidence base, without a clear need identified by the courts and without proper consideration of unintended consequences. The Greens understand that we also need to look at the causes and why people are committing these crimes, and if it is due to a drug addiction or disadvantage, we need to ensure that they get proper rehabilitation and interventions to stop repeat offences, particularly children.

I will go through this bill clause by clause as each deserves proper interrogation. I will start by saying that all offences in this bill relating to a drug of dependence include cannabis as well as harder drugs. Clauses 5 and 6 provide for up to 25 years imprisonment for trafficking or attempting to traffic a drug of dependence to a child at a school or in a public place within 300 metres of a school. Trafficking is possessing for the purposes of selling. Trafficking is selling any quantity, though there are higher penalties for higher quantities. This is a step up from the current laws where a person trafficking to children in any location would go to jail for 20 years — already a very high penalty.

Clause 6 provides for 20 years imprisonment if a person traffics in these areas but not to a child. Currently the penalty for a person trafficking drugs to an adult is 15 years. This law increases that to 20 years if it is done within 300 metres of a school. I note this law does not take into account whether it is in the middle of the night when there are no children actually in the vicinity. These new laws do not distinguish between adult and child offenders doing the trafficking, nor do current trafficking laws, so it is up to the court to actually decide the penalty. So a teenager who takes a few grams of marijuana to school to sell to his or her friends could go to jail for 25 years instead of the current 20-year penalty. Given that we already have very harsh penalties of 20 years imprisonment, drug dealing near or in a school would already be considered an aggravating feature that a judge would have to take into account within the existing maximum penalty. It is

difficult to see what this amendment adds to the legislative landscape.

In fact data from the Crime Statistics Agency shows that over the past five years between 7 and 29 trafficking offences have been recorded each year on school grounds. That is less than 1 per cent of the statewide total of trafficking offences. This is hardly evidence of school grounds being targets of drug dealers and there thus being a need for greater deterrence. In fact these figures show the exact opposite. Of the 2500 schools in Victoria there have been just a few cases of drug dealing each year. So not only is this law not necessary, but the Greens also have concerns with the law's unintended consequences — that the new law could target children dealing drugs or onselling drugs at school.

We know that there are likely to be fewer suspicious or unknown adults hanging around schools due to stranger danger awareness, teacher alertness and parents being on the lookout for adults lurking around schoolgrounds. But the government department has confirmed that the majority of those 7 to 29 people prosecuted per year for trafficking at schools were in fact children themselves. So this new tough-on-crime approach is actually getting tough on child offenders, who will just be onselling a few grams of marijuana that they got from a dealer to their schoolmates. Teenagers going down the wrong path with drugs need education, welfare, social support and diversionary programs — not to be thrown in jail.

The government has argued that the increase in penalty from 20 to 25 years will increase the deterrent. I personally seriously doubt the difference between 20 and 25 years has much effect on a child for whom such periods of time are hard to comprehend. That aside, for such a change to be a deterrent to children dealing at school, children would actually have to be aware of this change in the law, but I have not heard anything about the government rolling out an education program for teenagers in schools. Further, if it was a deterrent it could actually be dangerous. It could mean that more young people seek out drugs in a less safe environment; for example, isolated alleyways behind shops, at dealers' private homes or in other areas where they are actually at greater risk of harm.

Clause 7 inserts new section 71AD, which provides up to five years imprisonment for the use of violence or threats to cause trafficking in a drug of dependence. It is difficult to see how any conduct that could constitute the commission of this offence of violence or threat to cause trafficking would not already have been caught, either by the principles of common law or under the new statutory provisions of section 324 of the Crimes Act 1958. Such provisions would see a person charged with the principal offence and liable for a higher maximum penalty than this offence. It is difficult to see why this offence is needed or that it adds to the existing law.

Clause 9 provides for 20 years maximum imprisonment for supplying — not selling — a drug of dependence to a child at a school or in a public place within 30 metres of a school. This new law does not apply to a child supplying another child with drugs. This is a step up from the current penalty of 15 years, which applies to supplying drugs to a child at all other locations. There is no evidence base for this increase in penalty. The data from the Crime Statistics Agency has found that over the past decade there have been six years where there were zero offences recorded for the supply of drugs around schools and four years where there was one case of supplying drugs at a school — not an epidemic. Given there are 2500 schools in Victoria this is extremely low, making this five-year increase in penalty ridiculous.

Clause 10 inserts a new section 71E, which provides up to five years jail for possessing without reasonable excuse a document containing information about trafficking or cultivating a drug of dependence. This law applies to children and older adults, and to cannabis as well as methamphetamine, heroin and so on. There is uncertainty as to how possession of a document would be interpreted in respect of this clause. There is no definition of 'possession' in the bill, and it is subject to common-law definitions.

The definition of 'document' is fairly broad, including anything whatsoever which is marked with any words, figures, letters or symbols which are capable of carrying a definite meaning to persons conversant with them. If you look online, there are countless books, websites, documents and YouTube videos on how to grow cannabis, make methamphetamine et cetera. I am advised by the government that the possession of a document does not include viewing something online or even bookmarking a favourite site. So it only applies if you download and save a document onto your computer or copy some text or an image on this topic from the internet into an email or document on your computer. The department was unable to clarify whether saving a hyperlink to a web page on your computer constitutes possessing a document or not. So if you read it off the computer, it is not a penalty; if you print it, it is a penalty. That does not make sense to me at all.

A young person may look up out of curiosity how to grow a cannabis plant, due to watching TV shows like

Breaking Bad or *Weeds*. And remember that there are gardening books in most suburban libraries that will actually give you a history on how to cultivate things like cannabis and poppies et cetera. I understand those libraries will not be banned from having these books, but this information is pretty readily available. Copies or downloads of that information into your computer, email or social media account would be subject to up to five years jail. There is no requirement under this law for the child to actually have the intention to grow the cannabis or make ice.

Section 71 of the act has already criminalised possessing a document containing instructions relating to the preparation, cultivation or manufacture of a drug of dependence, but the law specifies that the person must have the intention of using the document for the purpose of cultivating or trafficking in a drug of dependence. This law already carries a penalty of 10 years maximum imprisonment. The difference between section 71A and this new section 71E is that with this new law no intent to use the information to actually cultivate the drug is required, meaning many people who possess this information for no particular reason could be charged under this law.

Clause 13 of this bill does specify that an adjourned bond can be given if the court is satisfied on the balance of probabilities that the offence was not committed by the person for any purpose relating to cultivating or trafficking in a drug of dependence. This is well and good but really just highlights the heavy-handed and problematic approach this law will bring. If the intention to cultivate is proven, then it is covered by existing law. If no intention is proven, then the court determines whether on the balance of probabilities the person did or did not have an intention to do it. If the court determines they are unlikely to have the intention, they can get to an adjourned bond. This is more likely to be the case, given the court did not have the evidence to prove the intention. Even receiving an adjourned bond seems quite heavy-handed for not actually having anything to do with drug cultivation or trafficking but just for possessing the information.

However, if the court decides a person is likely to intend to try growing marijuana, for example, they can be given up to five years jail for that possibility, so then they are being criminalised for the likelihood they were thinking about growing cannabis, for example, or even if there is no evidence to prove that that was their intent. That sounds like a very low burden of proof to me for a five-year prison term. It risks criminalising curiosity. This sounds to me to be an absolute waste of the court's precious time, as many people would have possession of these documents accidentally or incidentally via, as I said, gardening books or otherwise, or simply out of curiosity.

This existing law captures drug manufacturers who have the intention to use the information to cultivate and traffic drugs. I assume there are real targets of such laws. This new offence only serves to capture people who would be curious or experimenting — hardly hardened criminal elements likely to be successful in producing drugs like ice or ecstasy. The biggest problem with this new law is that it does not apply to viewing information online, meaning shrewd drug manufacturers and traffickers can easily find their way around these laws simply by keeping and viewing the instructions online, while hapless young people who are not aware of the laws and have been a bit reckless, as young people sometimes can be — I do have some memory of those years — might be caught up in this.

Clause 10 also creates new section 71F, which provides up to 10 years jail for publishing a document, without reasonable excuse, containing instructions for the trafficking or cultivation of a drug of dependence with the intention that the instructions will be used by another person for the purpose of the trafficking or cultivation of a drug of dependence or knowing or being reckless as to whether the instructions will be used by another person for the purpose of the trafficking or cultivation of a drug of dependence. The bill specifies that it is irrelevant whether the instructions actually work to produce drugs. For the purpose of this section, 'publish' includes sell, offer for sale, let on hire, display, distribute and demonstrate. There is no differentiation in penalty or approach between cannabis and other drugs. Children are subject to this law as well as adults, and there is no adjourned bond option in relation to this clause.

There are countless websites, blogs and YouTube videos on how to cultivate cannabis and make amphetamines online. These sites are unlikely to be captured under this law, making this new law highly ineffective. With the introduction of this law, savvy drug traffickers will ensure that the instructions for cultivating their drugs are online and the website is registered in a place where it is not illegal to publish this information so that they cannot be prosecuted under this law. Meanwhile a child who looks up how to grow cannabis and shares a document or a section of a document they have copied with a friend via email, SMS, a post on Facebook or some other electronic means could face up to 10 years jail. Also some old, turn-of-the-century gardening books — and I have quite a few of these in my library, so I am waiting for them to be confiscated — contain information on

cultivating marijuana, so libraries need to watch out as well.

This law risks criminalising curiosity. It is also likely to target drug addicts and disadvantaged persons who do not know the laws, while the professional, shrewd traffickers and criminals — the real people behind drug trafficking — will escape prosecution, as they know how to get around the gaps in this legislation. The government has elected to have the same penalty for being reckless as to whether the instruction will be used by others for trafficking or cultivation purposes, when in other legislation simply being reckless with the information has a lower penalty rate. This means it is more likely to capture people being stupid rather than organised criminals.

This law completely fails to keep up with the modern world and effectively target the professionals behind the trafficking of commercial quantities of drugs. Issues around censorship should also come into play with this law. There are a number of TV shows and movies that show the cultivation or trafficking of drugs, including *Breaking Bad*, *Weeds* and others. Given this law specifically states that it does not require that the instructions be effective in actually producing the drugs, I think this does raise questions as to whether these shows constitute providing instructions on cultivating a drug of dependence, in which case this would open a can of worms around possessing information and publishing it. While I hope that this would not happen, the potential scope of this new law in terms of censorship seems quite extreme, and the precedent it sets is quite worrying. These laws around possessing and publishing a document should be scrapped, as their potential application is far too wide.

Clause 12 creates new section 72D, which provides for a five-year maximum prison term for permitting the use of premises for the trafficking or cultivation of a drug of dependence. For an offence to be made out under this section the person would have to intentionally permit the use of land or premises for the trafficking or cultivation of a drug of dependence. If such intention were proven, it would be difficult to see how any contact constituting an offence under this section would not be caught by the principal act, in which case a person would be charged with the principal offence, carrying a higher maximum penalty.

Clause 17 of the bill adds new laws in relation to trafficking around schools to the Confiscation Act 1997. The Greens remain concerned about the provisions in the Confiscation Act. We are concerned that there does not need to be a link between the crime and the property to have the property confiscated. The government has not produced evidence to show that our confiscation laws at the time were not working when changes were made under the previous Parliament. We are also concerned about the effect of such provisions on the dependants of someone who is involved in serious drug activity. This is because the onus is on them to seek out legal assistance and go to court to try to have some finances or property put aside for them due to hardship or to seek an order to exclude the property from being forfeited if it is their own property from an inheritance and the offender was only living with them at the time.

This is a long and technical bill. In conclusion I would say that the Greens will clearly not be supporting this bill, as we believe it is completely unnecessary and there is no evidence base for the increases in penalties or new penalties created. Worse, this bill could have the unintended consequences of criminalising young people and disadvantaged people unnecessarily while allowing professional traffickers to easily work around these laws, which fail to keep up with modern technology. The tough-on-crime approach to drugs is an easy sell, but it fails to recognise the international evidence on how to reduce the use and harm of drugs. I am very disappointed that this government has taken this approach. I would have expected a more mature, evidence-based and compassionate approach would have been taken to the issues of addiction and drug taking, because the law and order approach is clearly not working and, as a number of quite senior police officers have said in the past 12 months, we cannot keep arresting our way out of the drug problem. We need to take on a reasonable and rational harm minimisation approach.

Ms SYMES (Northern Victoria) — It is a pleasure to make my first contribution for 2016 to the debate on the Drugs, Poisons and Controlled Substances Amendment Bill 2015. There is no greater tragedy than to watch your child die, and there can be no greater travesty than to watch your child die at the hands of others. With this in mind, I wish to make a very brief contribution to the debate on this bill as I am very conscious that several speakers want to get up and speak today.

The bill's aim is to protect our children and young people from the predatory behaviour of drug dealers and manufacturers. Today we are introducing seven new offences that will make it a little easier to keep our kids safe and a tad tougher for dealers to inflict misery and pain, as they have done too often and to too many families across this state.

In March a Sentencing Advisory Council report found that ice was the most common drug trafficked in commercial quantities in Victoria over the last five years. Some people may not have heard stories at first hand of the loss, transformation and suffering that this drug causes; however, the Sentencing Advisory Council's report gives us a stark reminder that we in this house have the responsibility to act and to support this bill.

Ice is destroying and taking young lives, tearing apart families and breaking hearts. This legislation is yet another stage of this government's comprehensive *Ice Action Plan*, which we took to the last election and enacted within our first 100 days in office. So far the plan has included $18 million to expand drug treatment services, focusing on rehab for users in rural and regional areas; $3.2 million to provide additional support for families affected by drug use; $1.5 million to provide family drug education programs; $1.8 million to enhance the capacity of Victoria's needle and syringe program; $17.7 million for new drug and booze buses and to maintain the current level of 100 000 random roadside tests per year for the next two years; $4.5 million to expand the Victoria Police forensic branch with eight new forensic scientists; $600 000 to strengthen and extend clinical and supervision training; $400 000 to develop standard training modules to better equip frontline workers to deal with people who are affected by ice; and of course there are the grants for community ice action groups to find local solutions to the problem of ice in their communities.

In my electorate alone community ice action groups that have been funded include Northern District Community Health Service based in Kerang, Rochester and Elmore District Health Service, Northern Mallee Community Partnership in Mildura, Macedon Ranges Local Safety Committee, Rumbalara Aboriginal Cooperative, Bendigo Safe Community Forum and the Centre for Continuing Education's community projects department in Wangaratta. The 1800 ICE ADVICE phone line is also available for people to seek support, whether they be users or family members of users.

The new laws before us today are a further part of the government's election promises on drugs. We have sought out and taken on broad advice from experts, including those on our ice action task force, which consisted of eminent and suitably skilled and experienced Victorians. After listening and learning, our initial promise of four ice offences has been expanded to seven.

Labor developed these new offences after being left in no doubt that young people are the target of dealers. It is hard, indeed unbelievable, to learn that from July 2014 to June 2015 there were 22 arrests of or summons issued for people who supply or sell drugs to a child at a school.

Surely outside our own homes we, as parents, believe that our kids should be safe at school. Indeed we have the right to know that they are safe from potential drug addiction by virtue of dealers that may attempt to target vulnerable people. I have spoken to enough of my constituents across Northern Victoria Region who have been touched by drug addiction to know that falling prey to a dealer is not just a slippery slope but a freefall to a position that is very often hard to escape. We simply have to cut off the supply and the method of manufacture and distribution in whatever way we can by sending the message to those who peddle this misery that they will be caught and punished with jail time that appropriately matches the heinous nature of their crimes.

The seven new indictable offences established by the bill are trafficking to a child at or near a school; trafficking at or near a school; supplying to a child at or near a school; using violence or threats to intentionally compel trafficking; possessing instructions for trafficking or cultivating illicit drugs without reasonable excuse; publishing instructions for trafficking or cultivating illicit drugs without reasonable excuse with intent, knowledge or recklessness; and intentionally permitting the use of premises for trafficking or cultivation.

To sum up, the bill adds one more important dimension to a comprehensive and multifaceted approach to the complex issue of drug use. The complexity of drug use, supply and demand is not underestimated by this government, but when it comes to kids we will maintain the greatest vigilance in protecting them. I commend the bill to the house.

Mr RAMSAY (Western Victoria) — I appreciate the opportunity to be able to speak to the Drugs, Poisons and Controlled Substances Amendment Bill 2015, and I confirm, as Mr O'Donohue did, that the opposition will not be opposing the bill and has foreshadowed amendments, which I will deal with shortly.

I want to take the chamber back to the previous Parliament, during which I had the opportunity to chair what was then the Drugs and Crime Prevention Committee, a joint parliamentary committee. It was interesting that the references that we were given during

those four years all interlinked to a point now where we are talking about introducing amendments to legislation responding to illicit drug use in Australia. The first inquiry that committee conducted was into security in emergency wards of hospitals. We looked at potential dangers to staff and to those families who attend emergency wards, particularly late at night on the weekend, and the security arrangements that hospitals needed to incorporate to provide safety to those who enter and exit those hospitals.

Recently we have seen discussion around what sort of security measures emergency departments should put in place to protect those people who go in and out. With the greater use of ice now creating erratic behaviour, hospitals are moving to have ice-affected patients moved to containment areas within the hospital, which was one of our recommendations nearly six years ago.

The committee also looked at environmental design in crime prevention, particularly with new developments where there is scope or provision for environmental design that provides a green environment around high-rise developments, where we are seeing greater use of drugs. Again that was interlinked with drug use in Australia and how we provide our planning and design in relation to crime prevention and creating a better environment for people to live in. There were also the community safety programs like Neighbourhood Watch, where we had communities looking after themselves in respect of different programs that Neighbourhood Watch and others provided.

During that four-year span these sorts of inquiries were all linked to a point where we were asked to provide the Parliament with some recommendations about how to address an emerging drug known as crystal meth — or ice, as it is more popularly known — and provide the Parliament with a number of recommendations for the government to respond to this emerging drug problem.

Having said that, alcohol is still the main problem in our society, a problem we are still trying to address. Alcohol, the behaviours associated with its abuse and the effects it has on our society are probably much more detrimental to our social fabric than the use of ice. Second to alcohol is cannabis, and then methamphetamine use. As the third most dangerous of drugs that have the most impact on communities, methamphetamine abuse is causing the most concern, given its high level of stimulation and obviously the high level of behavioural problems associated with those users.

The committee's report contains 54 recommendations in 1000 pages, and over 220 submissions were received. After 17 regional hearings and 15 metropolitan hearings a substantial report was delivered to the Parliament in 2013. Subsequently the government of the day, the coalition government, started responding to that report with a number of very successful programs introduced by the then Minister for Mental Health, Mary Wooldridge, and the Minister for Police and Emergency Services at the time, Kim Wells, a member in the Legislative Assembly.

It is disappointing that this government has now seen fit to basically can most of those very successful programs like the Good Sports program, which provided departmental support as well as financial support to sporting clubs which were known to have users within their ranks. It provided information, training and guidance to those clubs about the impact that regular illicit drug use was having on their clubs and players.

The community-run ice task force was a pivotal recommendation within that report and was financed by the coalition government. It proved very successful. Using my local area of Geelong as an example, Senior Sergeant Tony Francis headed up the Geelong ice task force. It was extremely successful in getting a whole lot of community stakeholders together, which helped finance many programs right across the Greater Geelong area where we had specific problems associated with a low socio-economic demographic, the loss of jobs in the heavy manufacturing industries and high unemployment in the Corio, Lara and North Geelong areas. Very successful programs were run by Tony and his group in those areas. They were well received by the community and were having a significant impact in terms of the response to this epidemic. Unfortunately we have seen funding to those programs decrease, and consequently the impact of them has also decreased.

So there was a lot of good evidence about at the time for the government to respond to, but what we did see with the incoming government was that it wanted a point of difference so it introduced its ice task force and then an *Ice Action Plan* which was to deliver a 24-point response. I am extremely disappointed, having lived and breathed particularly this drug over a period of years — not smoked it myself, I might add — and having become very close not only to the users but also the victims and families that were impacted by the drug, to see that the new government is not really having any substantial impact on those families that have been affected by the drug.

If I can use the nationalised task force as an example, Ken Lay looked at our reports, and I went up to Canberra and spent nearly a week with the task force itself, going through the work we had done and some of the recommendations that were made to the Parliament about the importance of education and training. This is where I actually agree with Ms Hartland — that is, as far as protecting our children goes, the recommendation we made in the original report was firstly about education and training, which is so critical in our schools, about drug use and drug abuse, and also the protection of children, particularly where manufacturing is taking place. We know it is taking place in garages and ground-floor tenancies right across Victoria, and certainly we know children have been exposed to those clandestine laboratories, yet in the government's response we have seen no recommendations or actions to protect either those children who live in tenancies or accommodation areas where there have been previous laboratories that have left their stain on those particular domiciles or children who are coming into contact with current laboratories and the manufacturing of the precursors and the ice. So I am disappointed that the government has seen fit not to address that particular issue.

As for the penalties, and that is basically what this bill is about, strangely enough we had this discussion with Victoria Police in 2013, and it was very clear to us that Victoria Police felt that the penalties in place at the time were sufficient to deal with those who were trafficking, in this case, methamphetamine. In fact they encouraged the committee not to recommend any increases in penalties. In fact they raised a number of concerns, as Mr O'Donohue said, about police resources. As Mr O'Donohue has clearly identified, we now have frontline police, per capita, reducing at an alarming rate. Even when the coalition government was addressing the issue of frontline police resourcing with the inclusion of 1900 new sworn, frontline police officers, they would not have had the police resources to oversee the trading of drugs, whether through possession or trafficking.

The issue I see in this bill is that there is a very fine line between those who use the drug for personal use and those who are actually trafficking. So you are going to tie up a lot of police in oversighting ingredients of this bill where they have to make a distinction as to whether someone has a drug on them for personal use as against someone who is actively trafficking the drug.

Unfortunately in the Andrews government's ice task force and its recommendations there is little action in relation to rehabilitation. It was interesting to see that the Turnbull federal government actually focused its response to the nationalised task force in $300 million for rehabilitation and treatment, particularly in regional areas. Again if I can refer back to the original parliamentary inquiry report, it was very clear that regional areas do not have capacity to provide long-term rehabilitation for those who are addicted to illicit drugs, in this case methamphetamine. I am very disappointed the state government has not seen fit to provide substantial funding for long-term rehabilitation beds in country areas. It has basically left it up to the commonwealth to invest a significant amount of funds into rehabilitation right across Australia.

My hope is that Victoria is able to get its share of those moneys, given the state government's reluctance to provide any real, meaningful funding for long-term rehabilitation. So the areas of prevention, harm minimisation and rehabilitation have not really been addressed in any of the work that the current government's ice action team has provided. Yet they are spending a lot of time around the edges, fiddling and farting around the penalties. I am not sure whether that is a parliamentary term, Acting President — —

The ACTING PRESIDENT (**Ms Dunn**) — Order! I suspect it may not be parliamentary, Mr Ramsay.

Mr RAMSAY — While no doubt popular and easy to implement, the actual productive effect in terms of protecting our children, particularly around schools in relation to these penalties, I believe will be fairly minimal. That is not to say that we are opposing the bill, but I am just pointing out that these new bits and pieces that the government is adding on to the penalties are not going to have a significant impact on those traffickers. In fact the bill will draw significantly on police resources.

During consultation a concern has been raised by stakeholders as to the adequacy of the proposed 300-metre nominated definitional distance in the context of the new trafficking offences and an area being near a school. During the opposition's briefing the Department of Justice and Regulation advised that the decision to nominate 300 metres was somewhat arbitrary. However, Victoria Police has agreed to this distance as being reasonable and the situation will be monitored. But certainly we believe that 500 metres will have a more substantial impact on moving out and away from school areas those who are using drugs and those who are trafficking in drugs and might well come in contact with schoolchildren.

As I have said, the bill is really just fiddling around the edges. It is not having a significant impact on prevention, on education and training, and it is not

having a significant impact on harm minimisation or any sort of impact on rehabilitation. It is merely providing a sort of populist piece of legislation that presumably will use the big stick in relation to where traffickers might congregate to ply their trade in relation to illicit drug trading.

I am hopeful in my contribution that the government will take note of the disappointment about its response so far both to the parliamentary inquiry recommendations and the recommendations of the national ice task force. The government has been reluctant to invest significantly in rehabilitation and also to make the most of the recommendations in relation to the use of law courts outside Dandenong, where in fact there is a better process to deal with those offenders that does not immediately put them in jail but provides opportunities for rehabilitation through regional law courts.

Ms PATTEN (Northern Metropolitan) — I rise today to also contribute to the debate on the Drugs, Poisons and Controlled Substances Amendment Bill 2015. As previous speakers have mentioned, this bill creates a number of — well, I would say — so-called new offences. I think most of these offences already exist in the bill. It creates seven new offences: trafficking to a child at or near a school; trafficking at or near a school; supplying to a child at or near a school; possessing instructions for trafficking or cultivating illicit drugs without a reasonable excuse; publishing instructions for trafficking or cultivating illicit drugs without a reasonable excuse and with intent, knowledge or recklessness; using violence or threats to intentionally compel trafficking; and intentionally permitting the use of premises for trafficking or cultivation. That is what the bill says it does.

I am yet to understand why we have this bill. Ostensibly it was to address issues that came out of the ice inquiry, and I note your comments, Acting President Ramsay, on the great work and the intense work that that inquiry did. I did not find, looking through the recommendations, any recommendations for these amendments. But ostensibly the bill came out of that ice inquiry and then the government's response to the ice inquiry. To some degree I was optimistic that it was going to go down the path of looking at harm minimisation, looking at other ways to deal with the terrible and devastating effects that drugs can have on individuals and on our community.

In fact the government said in its response to the inquiry it would:

> Focus on prevention and early intervention, through support for programs, initiatives and resources that promote resilience and reduce risk for young people, innovative peer and community-based programs targeting young people outside the formal school system and other groups most at risk, and targeted education and information about ice for … families and communities.

This bill does not do this. As every expert we have heard — governments, even our own police minister here — has said, 'We can't keep arresting our way out of an ice problem'. So why has the government introduced this bill, which seems to be attempting to do just that? I find this legislation pretty disingenuous. The government says that this is all about ice, and then in a single line in the bill summary it says it has broadened the offences to include all drugs to 'maintain consistency' with other illicit drugs offences in the drugs act. That is not true, and it is just poor legislation.

Extending this legislation beyond ice offences was not necessary. We have done it with cannabis. We have been able to carve out certain drugs within our legislation. We could have done that with ice, but we did not. If we look at section 75 of the principal act, headed 'Use of drug of dependence', we carved out cannabis. If the government were really saying that this was an effective way — which I dispute — of tackling the problem of ice, it could have set this with ice specifically, but instead I believe this is a lazy way. The government has expanded the offences to include all drugs, and I have a number of concerns about this.

It is great; it is kind of like the *Herald Sun* law: it is a simplistic thing, we are going to stop trafficking around schools — whoo hoo, it is now an offence. It sounds great, it sounds very protective, but what we know is this is not going to protect young people; this is going to negatively affect young people. All the research suggests — and I have read a lot in this area because it is an area that interests me substantially — that the people supplying drugs to teenagers at schools are teenagers. This bill misleads people; it is actually just rhetoric. We already have provisions specifically dealing with the crime of trafficking and supplying to children, and we also have offences dealing with the possession of material around trafficking. Everything in this bill already exists in the principal act.

But we continue to ignore the large amount of research, and again I point to the work that you did, Acting President Ramsay, that looked at different approaches and that indicated that punitive approaches and heavy-handed sentence increases actually negatively impact on our society. They impact on our most vulnerable, they are ineffective against substance abuse and subsequent reoffending and they only serve to increase stigma and ignorance. This bill is not about ice. Suggesting it is so is a gross misrepresentation, and it is

disappointing to see it noted with such gusto in the explanatory memorandum and in the second-reading speech that this is about tackling ice. It is not.

As a result of this bill being all about drugs it is going to capture a number of individuals who were in no way involved with ice. In fact I would hazard a guess that the majority of people who will be affected by the amendments in the bill will not have had anything to do with ice; they will have been involved in the far more popular substances being used out there by young people, including cannabis, ecstasy and possibly prescription drugs.

Harsher sentencing and punitive approaches to drugs are not in line with harm reduction approaches; they are not even in line with the big, broad statements that this government has made and said it will implement to target the effect that ice has on our community. We know harsher penalties do not work. How many times do we have to say this? We cannot arrest our way out of this problem. We now have ex-Premiers saying this; we now have ex-judges saying this; ex-police officers and any number of experts are all saying this.

I would now like to go to some of the specific offences outlined in this bill. The first is trafficking at or near a school. The first and most important part of this clause is that it will increase penalties for trafficking within 300 metres of a school. This is not going to catch the high-level drug traffickers; this is not going to catch the importers of ice. You do not see the heads of organised crime hanging out behind the bike shed selling ice or boiled lollies. Rather this is who it will catch — the addicts who are unaware that they are within 300 metres of a school.

In my region around Richmond there are a number of addicts who have a trafficable supply of drugs on their body that they are probably using personally. This provision will catch the 18-year-old school kid who is buying pills for their mates for schoolies. It may catch the parent providing another parent with a cannabis tincture to aid a child's epilepsy. Trafficking to a child at or near a school or supplying to a child at or near a school I am sorry to say are offences that already exist. Section 71AB of the principal act already prohibits trafficking in a drug of dependence to a child and section 71B prohibits the supply of a drug of dependence to a child. They already exist. So why are we introducing additional laws when they already exist?

If we are so concerned about children needing extra protection around a school — we already have legislation saying you cannot supply; now we are adding greater penalties to doing it around a school — why stop at schools? Why not hospitals? Why not youth hostels? Why not places where under-age individuals might be sleeping rough? Why not homes? Why not detention centres? Why are we carving out one location where we feel children might be vulnerable and not others? Since the people most likely to be supplying each other in these zones are young people who are possibly attending school, the increase in these penalties is not going to impact on actual supply chains; it is going to target and impact young people with friends and siblings at that school.

Every time I looked at this online I found that every single expert was saying, 'Yes, we can worry about ice and we can worry about illicit drugs, but do you know the main drug we need to be worrying about with young people? It is alcohol'. Our kids are dying and having accidents and becoming impaired for the rest of their lives because of alcohol. Are we banning alcohol within 300 metres of a school? Are we banning the supply of alcohol within 300 metres of a school? No, we are not. Yet we know — the experts know, the government knows — that alcohol is a far greater problem than ice is to young people.

I do not support the presence of drugs in schools; these are learning environments at which there are a lot of vulnerable minds, and I do want to look after young people's safety. But the most basic of harm minimisation analysis indicates what this may do. As Ms Hartland mentioned in her contribution, even if children and young people are actually aware that we are talking about this issue and changing the law, what will happen? We will send them off campus. We will send them off school grounds, where they will be away from supervision, away from their education and away from some of the safety measures we can provide for them.

Let us consider just what trafficking is. People imagine it to be some big haul of white powder that customs people happily photograph themselves with. I had a look at the Victoria Police booklet *Young People — Alcohol, Drugs & the Law*. It warns that trafficking includes giving away drugs or holding drugs for someone. You can be found guilty of trafficking if your friend gives you money to buy drugs for them from a dealer even if they do not use the drugs or make any money. That is trafficking.

I also note that these two new sections are now attached to the Confiscation Act 1997. Last year when we passed the Wrongs Amendment Act 2015 we changed who could apply for compensation if they were harmed within a prison system. I will talk about that a little bit

later, but we are now attaching amendments to this act that will affect very young people. Let me just explore that for a minute. Should a person who has been charged with this offence later have a partner or a child in prison and that person is injured due to neglect, they will lose almost all compensation to help them care for their injured relative. We passed that legislation last year.

Let us think about a 20-year-old young fellow who has a 17-year-old brother. He is not a kingpin or a drug dealer; he is a 20-year-old kid. He is not out there trying to push drugs on other kids, but he does not want his 17-year-old brother to get in contact with somebody else — a stranger — going around and buying some pills or some cannabis to take on schoolies. So he helps his brother out and does this and he is caught; under this legislation he supplied a child and he is caught. He does his time; he survives prison — just. He moves back into the community. The prison time has probably set him on a criminal path, as so often happens, and this path proves to be intergenerational.

Later he finds that his own child is severely injured in prison due to the neglect of the prison system. This individual will now have no access to compensation to help them care for that injured child. These are the consequences; these decisions to randomly add amendments to this bill that I again assert are not necessary could send these people down a path. This will affect young people. We know that one of the greatest risks to heading down a criminal path is to meet with crime, to meet with the prison system or to meet the justice system at a young age and we are simply further enabling that.

Just to be clear about ice and the use of it amongst young people, the National Drug Strategy Household Survey found that — surprise, surprise — the usual source of drugs for young people is a friend. The average age of drug initiation across Australia is 18.3 years old — not when they are at school. The percentage of people aged 14 to 19 who have used speed or ice is 2.1 per cent. We largely accept — and the ice inquiry also accepted — that when we talk about methamphetamines about 50 per cent of those users are using ice, or the crystal form, and the other 50 per cent are using the powdered form. So we are talking about a survey figure of 1 per cent of 14 to 19-year-olds who have used ice in the last year. I wonder how many of that 1 per cent of 14 to 19-year-olds bought their ice within 300 metres of a school? I am just asking because I was not able to find any figures on this.

I would now like to turn to new section 71A, which is about possessing instructions for trafficking or cultivating illicit drugs without reasonable excuse. Firstly, ostensibly this already exists. We have section 71A, which prohibits ‘possession of substance, material, documents or equipment for trafficking in a drug of dependence’. The main difference between that and new section 71E is that lack of a mental element, where such possession is only committed when there is a reasonable excuse. Section 71A provides that you need to have had intent. There needs to be proof of intent that you were going to use that document to cultivate or traffic. The new section now says you do not need to have intended to use it for that; you just need to not have had a good reason for having it.

I refer to Ms Hartland’s question about what possession means. I have been involved in a couple of pornography possession cases, and I can tell you your cache history, your browser history, can be deemed possession, and it has been deemed possession in a number of child pornography cases and in a number of terrorism cases in recent times. This is no longer about having a copy of *High Times* next to the toilet, where it used to sit in a group house I lived in. I am afraid to say that I am probably guilty of this. If this becomes law, I am guilty. I subscribe to a number of cannabis business and research newsletters. They discuss the sale and manufacture of cannabis. Often there is explicit information regarding growing methods or advertising and sales tips. It is all very interesting stuff, and I think it is very interesting in my work as a legislator to know about it. I suspect that my work as a legislator may give me a reasonable excuse for subscribing to them — maybe — but what about a young entrepreneur, a young fellow studying marketing at college? Is this a reasonable excuse for him to have information on the best ways to advertise cannabis and the best practices and tips for cultivating cannabis? He does not have to show that he has an intent to use it; he just has to not have a good reason for having it.

The same goes for publishing instructions for trafficking or cultivating illicit drugs without reasonable excuse or with intent, knowledge or recklessness. This clause concerns me a great deal, and I will be proposing an amendment to this provision. We are talking about publishing instructions. You do not have to intend to use them. What is a reasonable excuse for putting something up on your Facebook page? That it was funny? Is that a reasonable excuse? I know a lot of this information goes up there because people think it is silly. Under this bill the meaning of ‘publish’ includes ‘to sell, offer for sale, let on hire, exhibit, display, distribute and demonstrate’. Is posting to a Facebook page for parents whose children have severe medical issues for which cannabis oils may be helpful a

reasonable excuse? Is responding to a question on Reddit a reasonable excuse?

What about providing information on forums that relate to cultivation? When I was at school, there was a thing going around about how to grow magic mushrooms in your gym locker. It was not true; it was a joke. But it was information about cultivating an illicit drug, and I am not sure that 'Because it's funny' is a reasonable excuse. I too could have got caught up passing that message around the gym lockers.

If I have a previous drug-related charge, am I able to ever establish a reasonable excuse, such as academic pursuit? The inclusion of the mental element 'reckless' is enlivening. This essentially means that anything I post online is a publication. The objectives of this offence seem to be focused on capturing those who disseminate information regarding trafficking and cultivation, and that could have been done by simply amending section 71A to capture dissemination with intent for the material to be used to traffic.

New section 72D relates to intentionally permitting the use of premises for trafficking or cultivation. We already have offences of conspiracy, aiding and abetting, so this is another superfluous offence that does nothing more than contribute to this image of 'We're fixing things; we're fixing the ice problem' without actually doing anything that will address the ice issue.

As I said, I think this legislation is unnecessary. It is poorly constructed, it is against best practice, it is against evidence-based research, it is superfluous in the face of current offences and I think it is disingenuous. I would like to flag now that I will be introducing some amendments to this bill for the house to consider in the committee stage. These amendments will propose the removal of section 71E in clause 10 of the bill as being superfluous and an inappropriate strict liability offence. They will also propose deleting the mental element of 'knowing' or 'reckless' from section 71F.

Australian Sex Party amendments circulated by Ms PATTEN (Northern Metropolitan) pursuant to standing orders.

Ms PATTEN — I hope that my colleagues will consider these amendments and support them. They do not impact the overall intention of the bill, which I still believe has got a number of critical issues, but they do remove some of the unnecessary and clunky additions to what I consider a very problematic bill. I think this bill should go to an inquiry. We have just established a drugs inquiry; the government has just supported a drugs inquiry. It could have very easily asked that inquiry to consider this bill, to further the recommendations from the ice inquiry and to further consider some of those issues. I do not believe this bill does that.

The offences that this bill introduces are not in line with harm reduction or evidence-informed practice. They push a punitive approach, long proven to be ineffective, over — as Mr Ramsay mentioned in his contribution — rehabilitation, over therapeutic jurisprudence, over drug courts. It is disappointing. I think this is probably one of the most disappointing bills I have seen since I have come into this house. It just provides that same old law and order rhetoric. It has not worked; we know it has not worked. Then it uses what I think are poor legislative mechanisms to try to rehash this notion that harsher penalties are going to stop people using and taking drugs, when we know that harsher penalties and these sorts of mechanisms only affect the most vulnerable in our community.

This is not committing funding to rehabilitation processes, needle exchange programs, expanding the Drug Court or expanding those principles of the Drug Court into other courts more broadly — which is another topic Mr Ramsay also mentioned — nor is it about pill testing to ensure safety. This fits nowhere within the framework of harm minimisation or reduction.

All this does is continue the narrative of the evil drug user, the evil drug addict and the false reality that this is somehow going to save our children while simultaneously ensuring that those exact same children are vulnerable and victimised by this bill. It adds pointless rhetoric that has for so long dominated this discussion on drugs when this issue should be moved entirely out of the criminal justice sphere and into the realm of health. I would hope one day to see drugs treated as a health issue, not a criminal one, and this bill does not do that.

Ms TIERNEY (Western Victoria) — I wish to begin by agreeing with the last part of Ms Patten's contribution — that is, I believe that this issue is primarily a health issue. But what we have before us tonight is a series of amendments that actually deal with crime. If we only focus on law and order, then we are not dealing with the issue, and I think Acting President Ramsay, as chair of the joint parliamentary committee that he ably led, found that there is a necessary balance between the rights of the individual, the health issue, the issue as it affects families and the issue as it affects communities, while also making sure that there is criminality around the supply of addictive drugs. Getting that balance right and having a plan that joins

those elements is absolutely critical if we are going to get on top of this issue.

Whilst I have a very personal interest in this issue and whilst I am particularly interested in how the health issues of drug addicts can be fully appreciated and dealt with and how families who have drug addicts among their members can be supported, I am also pragmatic enough to know that we need to deal with the criminal element that comes into this issue. That is what we have got here tonight, and it is about the offences and the criminality associated with the activity around drugs. Specifically what is before us tonight is the delivery of part of our election commitment to tackle the growing problem of crystal methamphetamine, commonly referred to as ice. In particular the bill seeks to keep our kids safe from this insidious drug by creating new offences around supplying and trafficking in and near premises.

Whilst I do take on some of the points that Ms Patten talked about in terms of some of the statistics, the reality is that children around schools do not necessarily buy drugs. But people who want to get children hooked do hang around schools, and they do groom them, and they provide tasters. This is an attempt to stamp that out. The offences in themselves will not stamp it out; they need to be backed up with really good community programs, and local policing needs to be worked in with the community aspects around schools.

We know that there has been a dramatic increase in the prevalence of ice usage in our community, and this of course has also meant that there has been an increase in property crime and an increase in violence. It has left many Victorians fearful and made life incredibly difficult for our hardworking emergency services and health professionals. And I know in the last couple of months in Western Victoria Region alone there have been some really frightening incidents that have occurred. There are shortages in available treatment beds and rehabilitation facilities. Families are being torn apart, and families are spending their savings trying to help their sons and daughters who are in the throes of ice use.

In his introduction to the Australian Crime Commission's (ACC) 2015 report on the national methamphetamine market, the CEO Chris Dawson stated:

> The availability and addictive nature of methamphetamine has created a new demand in urban, rural and disadvantaged communities where its destructive impact is growing at a significant rate.
>
> Serious and organised crime groups are thriving on the profits generated through methamphetamine.

There have been significant changes in the nature of the methamphetamine market since 2010. There has been a shift from the powdered form, commonly referred to as speed, to the crystalline form, now called ice. Another issue noted in the ACC report is that efforts to decrease ice production are complicated by the fact that a number of precursor chemicals and common medications, such as cold and flu treatments, have a range of legitimate uses, with crime groups instead diverting them to the illicit market.

This bill makes the possession and publication of instructions for manufacturing illicit drugs, which often incorporate these precursor chemicals, an offence. Given that we know that in some cases these crime groups have used violence to compel individuals, such as users with drug debts, to traffic drugs for them, it also creates a new offence of using threats to intentionally compel someone to traffic. Separately it also targets the production of drugs by making it an offence for someone to knowingly allow their property to be used to produce drugs.

This bill delivers on the government's election commitment, we believe, to assist in keeping our children safer from drugs. We also recognise that legislation alone is just part of the picture when it comes to tackling the impact of drugs in Victoria — that is why we established the $45.5 million *Ice Action Plan*. Labor has committed money to deliver training, available both face to face and online, to front-line workers, including those working in health and human services, education and law enforcement, and other industries that have the potential to come into contact with ice-affected individuals. This training will better equip them with the skills to identify and assist individuals under the influence of ice to better protect the safety of themselves and others.

This government is also investing in clinical supervision for mental health workers by providing additional training for supervisors and by helping service providers ensure that they have frameworks in place for managing drug-affected patients. Both of these measures will serve to complement this government's $20 million Health Service Violence Prevention Fund, aimed at preventing violence in our hospitals. I know that the joint parliamentary inquiry that looked at that did go into the hospitals and certainly found that this was an issue being faced by health professionals.

There is also $4.7 million to assist families in identifying and managing ice issues and helping them deal with the strain and stress that can come with a family member tragically becoming addicted to ice. In

addition we know treatment services and facilities are already stretched, so we have invested $18 million in expanding drug treatment and rehabilitation services and facilities and in creating an ice helpline. We are also spending $4.5 million to crack down on people who manufacture ice in clandestine laboratories and sell it to our sons and our daughters.

We are also investing $15 million in new drug and booze buses, because we know illicit drugs have now overtaken alcohol as the most commonly detected substance in the bloodstreams of those involved in fatal accidents. As we work 'Towards Zero' and to eliminating the road toll, it is simply unacceptable that as many as 32 per cent of those involved in fatal accidents on our roads are drug affected and that amphetamine users are six times more likely to experience a crash because of aggression and poor judgement.

We are also providing money to community groups to help educate and inform young Victorians about the use of ice, and of course we are investing $1 billion into the Back to Work initiative and other initiatives to assist in tackling youth unemployment. We know that young Victorians do have hope, desire and dignity, and that they want that which is often brought about as a result of being able to go to work, which breaks that cycle of boredom and hopelessness. Of course all these measures can only work if we keep ice off our streets and away from our children.

The bill essentially is attempting to do that, and this is just one example of what we are attempting to do in this space. What we have before us tonight is a bill that amends the act and creates seven new offences. A number of speakers have spoken at length in relation to that. The first three pertain to the supply of drugs in and around schools, specifically trafficking at or around a school, trafficking to a child at or around a school and supplying a child at or near a school. It makes it an offence to use violence or threats to intentionally compel trafficking. It also makes possessing instructions for manufacturing or cultivating illicit drugs without reasonable excuse an offence, as well as publishing instructions for trafficking or cultivating illicit drugs without reasonable excuse and with intent, knowledge or recklessness.

Finally it creates an offence for intentionally permitting the use of premises for trafficking or cultivation. The bill also, as a consequence, amends the Confiscation Act 1997 to include these offences, which may trigger the seizure of proceeds of crime, and the Residential Tenancies Act 1997 to codify offences for compelling trafficking via threats or violence and permitting premises to be used for trafficking or cultivation offences, for which public housing tenants can be given notice. We know the negative impact that drugs such as ice have. We know that all around Victoria, whether it is in the city or in the smallest of rural communities, few areas are spared their ill effects. We know from the report released by the Sentencing Advisory Council that ice was the most commonly trafficked drug in Victoria in the past five years. We know that in the last year 90 000 Victorians used some form of methamphetamines — and we must do everything possible to curb this.

In my own electorate, in the communities of Geelong, Colac and others, we have seen support services stretched to their limits by the increase in people seeking support and services in relation to their addiction. We have seen more violence on our streets, more emergency room doctors who have to deal with patients who are both unwell and drug affected, and more police dealing with offenders who are irrational and sometimes uncontrollable. We cannot stand by. We cannot allow this situation to continue. Communities right across the state and in fact right across this country are being torn apart, and this bill is an important part — just a part, but an important part — of our attempt to combat this drug called ice. I commend this bill to the house.

Mr FINN (Western Metropolitan) — I have listened with a great deal of interest to a number of speakers in this debate, particularly to Ms Patten, and I have to say that I actually agree with some of Ms Patten's comments — particularly the one where she said this bill is not going to solve anything. That is the truth: this bill will not solve anything. I have to disagree with her when she says that giving kids drugs is helping them, because it is not. I do not care whether it is from their mother, father, brother, uncle or whoever it might be; anybody who gives a child drugs deserves everything that is coming their way.

We also heard today that the war on drugs, as it is often referred to — the heavy-handed approach, as it has been referred to today — does not work. I ask the question: how would we know? How would we know it does not work, because we have not tried it? We have at best been half-hearted in our attempts to crack down on the drug industry. I pose the question here tonight, and it is getting on towards the night: when are we going to start seriously fighting drugs? This bill is a small step. It will add a little bit of gravitas here and there, and that is all for the better. But the bottom line is it is not going to solve the drug problem. Let us face it, the drug problem in Australia is probably the biggest problem we have. It is a problem that permeates every

level of society — it permeates families, it is an insidious, vile disease which just goes everywhere. As a father of teenagers — and I know I can speak for a lot of friends of mine too who are in the same situation — the worst thing I can imagine happening to our children is for them to become involved in the drug scene.

Unfortunately there are people out there who are making a great deal of money out of drugs. They are making squillions out of drugs. I may have made it known in years gone by what I would like to see done to these people — and I am not talking about the drug dealers on the streets or the junkies who might be selling a few grams to fund their own habit. I am talking about the blokes in the Rolls-Royces; I am talking about the people in the penthouses; I am talking about the people who are making hundreds of millions of dollars out of selling drugs — the people up the top of the tree. They are the ones who more than anybody else we should be targeting, and when we get them they should be subject to the death penalty.

I am not a strong supporter of the death penalty for much else, only for terrorism and for drug kingpins, because if we are serious about the war on drugs, if we are serious about protecting our children from these criminals, from these vile, evil, horrid subhuman individuals, then we will go after them with a passion. We will catch them and we will say to them, through the court process, that they have forfeited their right to walk on the earth with us. Now I have to say to you that I do not think it would take too many before the other kingpins realised that this just is not worth it. If some of these kingpins see a few of their mates going to the gallows or to the gas chamber or wherever it might be, I think they would wake up very quickly and realise that they just might be next.

Let us face it, these people at the top of the tree are the ultimate in selfish individuals — anybody who has a mansion, who has cars, who has women and who has everything else that they may have gained by selling drugs to kids, by selling misery and death on the streets. It does not get much more selfish than that, does it? I do not think it gets much more selfish than that. They are the ones that we really have to go after.

It was great to see the other day El Chapo, the drug dealer in South America, get his. I sincerely hope that he does get his, and I know what I would do with him if I had my way. I have to say to you that I would be more than happy to pull the lever to dispatch that individual. The fewer of those we have on this earth the better this world will be. The sooner we get rid of them the better.

Having got that off my chest, I move to some of the comments that we have heard here today about marijuana. We heard from Ms Hartland and we heard from Ms Patten that marijuana is nothing much really, is it? How wrong were they. Marijuana is an exceedingly dangerous drug. I have known people over the years who have been long-term users of marijuana, and I have to say that their minds no longer exist. Marijuana has destroyed their capacity for reason and their capacity for rational thought. It has destroyed them as human beings. People say, 'Oh, it's not addictive'. I tell you what: try to find somebody who smokes cannabis on a regular basis and try to get them off it and you will find out very quickly how addictive it is.

Mr Ondarchie interjected.

Mr FINN — We might do that too, Mr Ondarchie. We have here a drug that is extremely addictive, that is extremely dangerous and that indeed does ultimately cause mind-destroying injuries to those who use it.

But we move on now to what you would almost call the drug of the moment, and that drug is ice. I have spoken about ice to a good mate of mine, a bloke called 'Sir' Les Twentyman, who I have referred to in this house on a number of occasions. Les has been warning about the dangers of ice for some years, and he is at the coalface. He is seeing what ice does to those who take it. He is seeing that on a daily basis, and it is something that horrifies him, and particularly horrifies him on the basis of where it is taking even some suburbs. We are not just talking about families; in some instances we are talking about actual suburbs and country towns where it has taken over to an extent where it is just destroying that entire region. My very strong view — and I agree with Les on this — is that we need more youth workers to deal with those who are potentially drug users or potentially ice users. We need youth workers on the streets working with these young people and providing them with support, providing them with an alternative — providing them with another life, if you will. I have seen some of the people that Les has helped, and he has actually saved their lives.

We heard from Ms Patten and Ms Hartland about how the criminal justice system does not work with regard to stopping drugs. Well, I think that we can have a two-pronged approach. I think if we have youth workers on the ground, we will have a lot of young people who will not go near drugs, so it will not be a problem for them, and that has to be a plus. I ask the government to take that into consideration. I know Les Twentyman is forever asking for more youth workers because the problems are getting bigger — they are getting more difficult to handle — and he needs them. I

sincerely hope that the government will provide the support that he needs, particularly in the western suburbs.

Of course we have seen in our hospitals the impact of ice. A Saturday night in an emergency department has never been a great deal of fun. It is even less fun now because we have people on ice going in there who have to be physically restrained, who are threatening the physical wellbeing, and indeed the lives sometimes, of the doctors and the nurses in the hospitals. That is something that none of us should feel that we can tolerate.

The Chief Commissioner of Police has said that police now — Mr O'Donohue mentioned this earlier — go out on the streets almost expecting to be assaulted by somebody on ice. It is something that is so regular, it is something that is so much a part of their existence these days, that if it does not happen, they are almost surprised. This is a development that is not good for any of us. It is not good for the emergency services workers, it is not good for the police, it is not good for those who are causing the violence and of course it is not good for society. There are some people for whom you cannot do anything else but get them off the streets. You have to get them off the streets for their own good as well as the good of the community.

I would like to say to those nurses and doctors in emergency departments who are facing this challenge every day, to those police, to those ambos and even to those firemen who are out there facing the dangers on our streets every day — the dangers that ice users present — that we should, as a Parliament, stand with them. We in the Parliament like to think of ourselves as being leaders of the community, and you would hope that we are. We like to apologise, and we like to make statements in support of this, that and the other thing. How about making a statement in support of our emergency services workers and the nurses and the doctors who are facing this scourge on our streets and in our hospitals? How about we stand up as a Parliament and make a clear statement that we stand with them and we will provide the support necessary to protect them? They are protecting us; who is protecting them? If we do not, as parliamentarians, we are failing. In fact if we do not provide the sort of support I am talking about, we as parliamentarians are abject failures, and that is something that I am hoping the government just might take into consideration.

There is a drug culture in this country, and it is destroying this generation, largely. It has destroyed perhaps the best part of a couple of generations now, and it is on its way to doing it again. We have to take this problem on head on. We should not pussyfoot around. We should go after this problem with an absolute and total commitment to getting the result that we need, and that is getting the drugs off our streets. It is a war, as Mr Ondarchie says. It is a war, and it is about time that we started fighting that war. We have not done it to date; perhaps now, today, might be a good time to start.

Dr CARLING-JENKINS (Western Metropolitan) — I rise today to speak briefly to the Drugs, Poisons and Controlled Substances Amendment Bill 2015. This bill amends the Drugs, Poisons and Controlled Substances Amendment Act 1981 to strengthen the laws against trafficking, including the manufacture and distribution of illicit drugs, such as ice, here in Victoria.

As the explanatory memorandum states, and as people have already covered in the chamber, the Victorian government's election commitment around ice, which was entitled Ice Intervention, promised to tackle the ice epidemic and find a solution to make communities safer. I note that it was almost 12 months ago now that the government released its action plan on ice, including a $45.5 million effort to reduce the supply of, the demand for and the harm of ice in our communities. At the same time the government stated that it would establish tough new offences against drug manufacturers and dealers, and this is what this bill represents.

I applaud this commitment, and I will be supporting this bill. However, I just wish to offer an opinion on some of its content. I will note that I hope this bill is, as I would describe, step 1 in the war on drugs. Step 1 is about getting tough on drugs. I thank the Deputy President for her contribution just before and her explanation of the targeting of the criminal element of the drug industry, which this bill addresses. Step 2 in this war is about getting smart in how we approach this issue.

Ice has a devastating effect on our communities. In Western Metropolitan Region alone the crisis caused by this drug is reaching epidemic proportions. Parents are in despair, grandparents are looking after their grandchildren when their drug-affected children can no longer do so, and the number of drug-fuelled attacks and drug-related crimes is increasing. It is certainly time for something to be done. Drastic situations call for drastic measures. I perhaps do not advocate quite so drastic a measure as Mr Finn proposed just before in his contribution. However, I do agree that the issue of drugs should not at all be taken lightly, and I agree with his contribution around the impact on families and

communities, how devastating this is and that there is a need for the criminal justice system to deter this industry.

The offences in this bill target conduct that contributes to the domestic manufacture and trafficking of illicit drugs such as ice. However, obviously it is not limited to ice but covers all drugs of dependence. I note that this bill increases the penalties for these issues of manufacturing and trafficking and that one of the key elements of this is the increase in penalties from 15 years to 20 and 20 years to 25. There is, I will note, little differentiation in the bill between adult and child offenders, and it does fail to differentiate between whether sales within 300 metres of a school are done during daylight hours or at night-time, when schools are obviously closed. Therefore the courts could penalise a teenager to a maximum 25 years for trafficking — unlikely as this may be.

Clause 10 of this bill creates a penalty of five years for anyone possessing literature on how to manufacture or cultivate drugs of dependence. There is a bit of a flaw here. It simply says 'without a reasonable excuse'. Previously the act required a person to intend to use the literature for that purpose. Imprisonment for possession of undesirable literature is quite extreme, and I wish for further clarity from the government on this point regarding the intention here.

To complement this bill I do hope to see the government making more efforts in the area of rehabilitation. The DLP for a long time has had a policy of compulsory rehabilitation for drug users and drug-dependent traffickers, which would make serious inroads into long-term drug use and the associated criminal activity of this industry. I would urge consideration of this approach as part of an effort to be smart about, not just tough on, drugs. Families and communities are being destroyed by drugs, whether it be ice or something else. Locking up people for longer and longer periods has simply not always worked and is not the only solution. Genuine leadership in this area is not just about doling out punishment or locking people up. It is about finding a solution that will benefit everyone. We should remember that drug addicts and drug traffickers, who may also be drug dependent, are our fellow Victorians. They are our children and our grandchildren. They are our parents and our siblings. They are our friends and our neighbours. So I will support this bill, and I will also support the government's efforts in the area of drug rehabilitation, which I urge the government to actively review this year.

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the Drugs, Poisons and Controlled Substances Amendment Bill 2015, currently before the house. Crystal methylamphetamine, or ice, as it is commonly known, is the scourge of the world today. It eats into and corrodes every part of society. People from all walks of life are becoming hooked, and the problem is out of control. It is hard to believe that this epidemic is so widespread. Ice is a mind-altering drug that eventually destroys the user. It turns beautiful people into indescribably ugly caricatures. It is said: one shot of ice and the person is hooked. It defies understanding. But one thing we know is that we need to stop this plague by using everything at our disposal.

The Labor Party during the last election campaign made a commitment that an Andrews Labor government would tackle the ice problem within its first 100 days of government. It established the *Ice Action Plan* committee. The committee investigated, amongst other ice-related issues, causes and treatments. The associated difficulties and problems are manifold. It is not just a law and order issue; it reaches into the homes of ordinary Victorians and rips the heart out of families and the community.

The ice epidemic is being attacked on many fronts by the Andrews Labor government. Firstly there is a proposed tougher crackdown on the proliferation of home labs — squalid houses, some of which are purported to be public housing, which produce many thousands of kilograms of this incredibly dangerous substance for a ridiculously cheap outlay. The bill targets easy access to children that has seen the likes of small schoolchildren being targeted by ruthless profiteers. This bill puts in place justifiably harsher penalties for trafficking or dealing ice near or around schools and manufacturing the drug in crude home labs.

The Andrews government, in March 2015, released Victoria's *Ice Action Plan*. A total of $45.5 million was allocated to develop, in consultation with the federal government, a national strategy that would see a reduction in the supply of ice across Australia. The Australian Crime Commission tells us the market for ice in Australia has become embedded into the Australian psyche and, worse, that the expansion of ice is accelerating. Authorities recognise that of all the illicit drugs available on the market, ice poses the highest risk to the Australian community. It has become part of the world's economy and is an evil trade, and it must stop. Drug enforcement agencies, the judiciary and health service providers are united in tackling this insidious attack on Australian families, and I do support the bill and commend it to the house.

Mr EIDEH (Western Metropolitan) — I rise to make a brief contribution on the Drugs, Poisons and Controlled Substances Amendment Bill 2015, a very important bill for Victoria and one that our government is very proud of. The Andrews Labor government made a commitment to Victorians at the last election to get tough on ice, which resulted in the *Ice Action Plan*, and this legislation is just another important step in our plan. The government is keeping its promise to help protect our children and tighten the net on drug dealers and manufacturers by introducing seven new drug offences. This bill builds on Victoria's current tough drug laws; it makes it even harder for ice dealers to peddle their misery. Far too often we continue to hear stories of ice ruining the lives of so many young Victorians and their families. This bill is about making it tough on dealers and manufacturers.

Ice is an extremely complex problem for communities across Victoria. We cannot arrest our way out of this problem, because we need to address the demand of the drug also, which is why we created a $45.5 million package of those things that could not wait. This bill comes as a result of a Sentencing Advisory Council report which found ice was the most common drug trafficked in commercial quantities in Victoria over the last five years. We promised four ice offences and have expanded our promise to seven specific offences that include all drugs. Our government is determined to send the strongest possible message to those adults who supply drugs to kids near schools. Drug dealing is even more atrocious when it happens in or near schools, where the risk of children being targets or seeing deals is greater. We will give those dealers jail time to reinforce our message.

The proposed offences are as follows: trafficking to a child at or near a school, 25 years; trafficking at or near a school, 20 years; supplying to a child at or near a school, 20 years or 1600 penalty units or both; using violence or threats to intentionally compel trafficking, 5 years; possessing instructions for trafficking or cultivating illicit drugs without reasonable excuse, 5 years or 600 penalty units or both; publishing instructions for trafficking or cultivating illicit drugs without reasonable excuse and with intent, knowledge or recklessness, 10 years or 1200 penalty units or both; and intentionally permitting the use of premises for trafficking or cultivation, 5 years.

During the last election we promised four ice offences and have expanded our promise to seven specific offences that include all drugs. Labor developed these new offences after listening to community concerns that children could be the targets of dealers near schools. Between July 2014 and June 2015 there were 22 arrests of or summons issued for people supplying or selling drugs to a child at a school, and between July 2013 and June 2014 there were 35 arrests of or summons issued for people supplying or selling drugs to a child at a school. Children need to be safe at school. That is a collective responsibility, and this bill is an important step in the right direction. I wish this bill a speedy passage.

Mr HERBERT (Minister for Training and Skills) — I thank all participants in the debate. It is an important piece of legislation, and importantly it is a clear-cut, unadulterated, specific election commitment which we are implementing here. We know that over recent years our community has had to come to grips with quite an insidious new drug — the drug ice — and we know that the scourge needs multiple approaches to fix it. These laws form part of the government's response, and only part of it, in terms of the challenges that ice presents.

Members are of course aware that in the lead-up to the 2014 election, as I said earlier, the Premier committed to establishing an ice task force to tackle the challenge in the first 100 days. Of course the task force has reported. It was established with health experts, law and employee groups, and people who are at the forefront of the fight against ice. They have reported, and the government has responded with a $45.5 million commitment to reduce the supply of and demand for this insidious drug. There is $18 million to expand drug treatment and rehabilitation so that users get the support they need. I think it was Mr O'Donohue who made the point that health and support are key in this, and we acknowledge that health and support for users are in fact the key to opening the door to reduce ice addiction. There is no doubt about that.

We are putting nearly $5 million towards helping families identify and manage ice users; $1 million towards frontline workers, who are often the victims of attacks by ice users in their aggressive states; $4.5 million towards extra forensic scientists to help police crack down on drug labs; and of course $15 million for new drug and booze buses to pick up people on drugs and people on ice who are using cars and are a real danger to everyone else. These are just some of the measures. As I say, they are measures that go to enforcement, that go to support and that go to assistance — a combined approach to how we stop the scourge of ice in our community.

These laws are also part of the response. They are laws that we are making to protect our kids, basically, by introducing seven new drug offences relating to trafficking and other laws to protect children and young

people in schools exposed to drugs, including increased penalties for using violence or threats to compel trafficking, for possession of instructions for trafficking or cultivating illicit drugs without reasonable excuse and for publishing instructions for trafficking or cultivating illicit drugs.

I should comment on the comments of the Greens on that. These penalties, it needs to be noted, are maximum penalties, and of course on some of the more minor elements — what most people would consider more minor elements — of publishing et cetera there is huge discretion in there. There were examples of there maybe being some books in various people's cupboards that may talk about hydroponics and different things. Of course there is discretion there, and no-one is talking about burning books or anything like that, but there is a major issue here in terms of some of the harder drugs and about distribution and deliberately and recklessly having methods to increase drug supply. I will talk undoubtedly in the committee stage when we go through Ms Patten's amendments about the issue of recklessness and its definition in the legislation.

Obviously the government absolutely is behind these laws. We think they will go a long way to being an element of legislative reform that will make it harder for traffickers and those who are pushing drugs on our children and those who are pushing drugs in our community, particularly ice and harder drugs, to operate and will give police greater power to crack down on what is a really insidious scourge upon our society.

Obviously we will go into committee, but in his contribution Mr O'Donohue talked about his amendment to take the distance in terms of what is a reasonable distance for trafficking to children in schools from within 300 metres of a school to 500 metres. The government will be supporting that amendment. In terms of the issue and how 300 metres was chosen, quite frankly we could say 400 metres or another distance, but after talking with police about the sorts of areas in which kids move when going to school, such as bus stops and train stations, 300 metres was considered a reasonable distance. Equally 500 metres is considered to be a reasonable distance. I do not think we want to say 5 kilometres, because most kids are not going to travel in that area and drug pushers are not going to be 5 kilometres away from a school. The government accepts that 500 metres is consistent with the South Australian legislation. I believe they are both reasonable distances, and the government accepts Mr O'Donohue's amendment; it will provide for more consistency with South Australia.

Mr O'Donohue raised an issue about the new offence inserted by clause 12, under new section 72D1, relating to landlords intentionally permitting their premises to be used for drug trafficking activities. Mr O'Donohue asked why the offence only applies to owners and not their agents. I am advised that even if agents are used by owners, owners still control the choice of tenants and owners are responsible for arrangements concerning the management of their properties, whether directly or through an agent. I understand the point that is being made, but I think that clearly if an agent is acting against the interests of owners or not informing the owners et cetera, then that would be a separate issue. However, owners generally have responsibility at law even though they may have an agent, just as ministers are responsible even though we have staff. I am advised that that is the basis of that component of the law.

Apart from that, I look forward to the committee stage of the debate. It is an important bill, and I understand that there are differing views. There are always differing views on these issues, such as balancing views about civil liberties and about the intent of the law and how it will be interpreted, but on balance government members believe that these are good measures that will fully acquit our election commitments. I commend the bill to the house.

House divided on motion:

Ayes, 33

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

Noes, 6

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

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Ms HARTLAND (Western Metropolitan) — I have a few general questions that I think would be appropriate. Considering the penalty for dealing drugs is already very high — 20 years — and it is obviously extremely serious, why was it felt that this increase in penalty was necessary and what evidence was there to support the need for the increase? Also, can the minister point to a need that the courts have identified in terms that there is insufficient scope in relation to the current penalties and say how many people are now being prosecuted at the maximum penalty rates? I probably got more than one question in there.

Mr HERBERT (Minister for Training and Skills) — Firstly, can I say that the context in which this is being implemented and the election commitment Labor had for the majority of these changes of course came from major community concern, and concern from a broad section, about the rise in ice use, the violence in our community and the rapidly escalating impact it was having on communities right across Victoria. That impact needed a strong response, and we believe this is part of that response, as is the task force being set up and the other means of reducing the impact of ice on people's lives. It is a holistic point, but this is only one part of it.

In regard to the question of penalty rates, the courts basically enforce the legislation we have here, and it is up to the Parliament and the people of Victoria to provide that guidance to the courts. We would always want to have that. It is a central part of our democracy — not the other way around, that judges in senior positions dictate to the public about what is appropriate and what is not in the law and in a democracy. Basically I cannot give you the specifics in terms of numbers, but we do know through the National Ice Taskforce that the manufacture of ice continues, importation is growing and clandestine laboratories have increased, and the task force and the Australian Crime Commission have shown that domestic production of ice continues to play a large part in that supply role. Hence there is legislation here that goes to the publication of ways of producing drugs.

It also became apparent that methamphetamines are now the second most commonly used illicit drug in Australia after cannabis. I know a lot of the concerns that were raised have to do with cannabis, but methamphetamines have the second most common usage. The application of the law goes to all drugs of dependence because it should not just be restricted to ice. It is appropriate that in terms of a legislative framework it covers a whole range of drug offences, particularly given that some people shift from one drug to another. We believe it was not appropriate to simply limit the offences to ice and that they are appropriate right across the board, and in terms of the penalties, these are maximum penalties. For relatively minor offences — for instance, if you had a book or a picture that said how you grow marijuana at home — it might be a bit different to if you are supplying information about how you have a massive distribution of it in warehouses and so on. So these are maximum penalties and we think they are appropriate. It is pretty simple.

Ms HARTLAND (Western Metropolitan) — Actually the issue of publishing is one of the areas that is quite unclear in that if someone prints an item, that is considered to be published, but if they are reading it off their computer screen it is not. So for the young person who is not aware of that and just prints it off, then that becomes publishing. The other issue that was not able to be clarified in our briefing was if someone saves a hyperlink to a page, is that considered to be publishing?

Mr HERBERT (Minister for Training and Skills) — I was going to go into that more in terms of when we debated the amendments of Ms Patten, but in terms of the issue of what is on someone's hard drive, I am happy to refer to some of that now and also to the definitions of whether a person possesses it or not. Basically what we are talking about is a person having physical custody of, carrying or watching over documents containing drug recipes or keeping them in a place where they can put their hands on them when they wish, so that is as best I can answer it. In an online environment that would mean downloading the drug recipe to a hard drive or a memory stick. It would not simply be searching a website, for instance. So you actually have to have a conscious act of storing it, keeping it et cetera.

We would also expect that the prosecution, in prosecuting such a case, would have to satisfy the court that the defendant intended to possess the drug recipe as opposed to having it caught up in a whole heap of stuff and just keeping it. The exception, being a reasonable excuse, is another safeguard to ameliorate the problem. I understand the point Ms Hartland is getting at — that some kid downloads something and they are just an idiot — but really, given the offence, there has to be some strictness in the offence to enable the defendant to present evidence of a reasonable excuse. So presumably in the cases that Ms Hartland is really concerned with they would have a reasonable excuse and the prosecutor would have to prove that that reasonable excuse was not relevant.

As I understand it, the defendant only has to point to the facts of an excuse rather than having to prove the excuse, so in Ms Hartland's case they would give the excuse and that would be the reason why in terms of 'reasonable excuse' in terms of the law, if that helps. I can go into it in more detail later if you like.

Sitting suspended 6.30 p.m. until 8.03 p.m.

The DEPUTY PRESIDENT — Order! We are dealing with clause 1, and Ms Hartland was in the process of asking the minister a number of questions. Does Ms Hartland wish to continue?

Ms HARTLAND (Western Metropolitan) — If I go back to the issue about evidence for this bill, the figures that I have are there have been between 7 and 29 offences per year over the past five years, and that is for 2500 schools. They are not very high figures, so I am wondering again what the evidence is that the government has that it has seen the need to target schools for increased penalties.

Mr HERBERT (Minister for Training and Skills) — I guess what I would say is one is too many as far as I am concerned, to be perfectly honest. Whether it is 7, 25 or 300, none of those figures is acceptable to the government. We understand how legislation can be used as a deterrent, as part of a suite of measures we have to try to curb the incidence of ice use, which is growing in our community in particular.

Ms HARTLAND (Western Metropolitan) — Considering these changes, and as I said in my contribution to the second-reading debate, I am really concerned about young people being criminalised. What will the government do to actually inform young people about the changes in penalties? The real trap I see is young people in high schools selling a bit to their friends. So how is that going to be done, to tell young people that the penalties have changed?

Mr HERBERT (Minister for Training and Skills) — I do not know that any of that — the way Ms Hartland described it — would attract a maximum penalty, quite frankly, under this bill. Ms Hartland's substantive question is: what type of community advertising about the impact of this will be undertaken? Obviously there was a lot of media commentary and coverage when we made the commitment. The bill will obviously get some. I guess Ms Hartland is really talking about social media and the forms of communication that young people respond to. Would that be satisfactory?

Ms HARTLAND (Western Metropolitan) — I do not recall seeing very much in the media about this at all — that there would be these increased penalties — and I do read quite a bit of media, so I am not sure that that is going to be satisfactory. So I would like to know what kind of campaign the government is going to roll out in schools to make sure that young people are not caught up in this.

Mr HERBERT (Minister for Training and Skills) — I will just seek some advice on that, but maybe it is to do with the last election and being in the upper house, as opposed to many of those in the lower house who certainly would have seen that policy announcement made by the now government. It is fairly clear.

Ms HARTLAND (Western Metropolitan) — I did watch all policy announcements but I saw very little media about this, and I do not know that 12-year-olds read policy announcements.

Mr HERBERT (Minister for Training and Skills) — We will take that as a point of debate, but let me just get to the substantive issue. Let us deal with the issue. Ms Hartland was talking about young children. I am advised that any child charged with the new offences will be dealt with appropriately through the youth justice system, as occurs with existing drug offences. Under Victoria's sentencing regime for young people the Children's Court hears most matters relating to child offenders, as Ms Hartland would be well aware. In the Children's Court the most severe sanction that can be given to an offender aged between 15 and 20 at the time of sentencing is a youth justice centre order, which can provide for up to two years detention in a youth justice centre for a single offence.

For children aged under 15 — I think Ms Hartland might have given an explanation about this — at the time of sentencing, the sentence of last resort is a period of detention in a youth residential centre for up to one year for a single offence. Other sentencing options for children include youth attendance orders, youth supervision orders, probation orders, good behaviour bonds, fines and undertakings. I understand the member's concerns, but clearly the intent of this bill is not to target junior people doing minor things.

In terms of the question with regard to advising children, schools are of course responsible for implementing drug education and drug prevention programs for their students. I guess we could have a debate about how effective or good they are, but the Department of Education and Training has developed comprehensive drug education and drug prevention policies, which provide advice and tools to schools in planning and reviewing their own drug education and

prevention programs. I should say it is an area of government that we really do need to concentrate on a bit more; particularly in a crowded curriculum we want to make sure that the academic side does not take precedence over these types of matters. Clearly in terms of those drug education policies, harm minimisation is a key focus. It involves the roles of principals and lead teachers in drug education and drug planning and in working with parents and the broader community.

In regard to that question I do not have a specific answer for the member. To my knowledge we do not have a mega-million-dollar rollout, but clearly this will be part of the schools education program. I am not sure how it will be handled in Catholic or independent schools, which I guess is part of the member's issue, but it is clearly something that needs to be included in terms of discussions with schools about their drug education policies and in determining the department's role in making sure that that gets effectively rolled out across schools.

Ms PATTEN (Northern Metropolitan) — I am wondering what research the government used to determine that the harsher sentences for crimes that already exist in the act will lower the incidence of ice usage?

Mr HERBERT (Minister for Training and Skills) — I thank Ms Patten for her question. As I said earlier, this was an election commitment. It comes at a time of great community concern about the increase in ice usage, which is the second most prevalent drug in our community and one that is doing untold damage right across Victoria.

You can go to some country towns, which I will not name because they are very sensitive about this, where ice is pretty endemic. There are large numbers of young people trying ice and getting addicted to it. It is a major issue for our community. Obviously we speak with the police and drug education experts. Is there hard-core statistical evidence for this type of thing? No, but it is part of a long-term strategy. We had the ice task force. It was part of a strategy to try to militate against particularly some of the more ruthless dealers and traffickers in drugs and the impact that has on children, who are very vulnerable. It is a policy position we have. As I said, the sentence is a maximum. If it deters one, two, three or four dealers from selling to kids or even deters kids from getting caught up with ice through inadvertently downloading recipes or being forced or coerced into trafficking, then I think that is a good thing.

Ms PATTEN (Northern Metropolitan) — I thank the minister. The minister mentions that ice is the second most prevalent drug. In all the studies I am seeing, it is actually not.

Mr HERBERT (Minister for Training and Skills) — I think that is right in terms of addiction — illegal addictive drugs.

Ms PATTEN (Northern Metropolitan) — Correct. As we know, a very small percentage.

Mr HERBERT (Minister for Training and Skills) — Good point.

Ms PATTEN (Northern Metropolitan) — I guess that leads me to my other question, which is that I saw some of the government's announcements about this being part of its campaign against ice. Could the minister then explain why the bill was expanded to cover all drugs and not just to carve out ice for these offences?

Mr HERBERT (Minister for Training and Skills) — I say to Ms Patten that I can. It was our view that to just deal separately with individual drugs we absolutely had the task force, but in terms of legislation it is difficult to legislate against each specific drug as new things come on, including new variations of drugs et cetera. We believe that this regime, particularly in protecting children and stopping the production and distribution of drugs through modern ways and means, is appropriate.

I point out once again that these are maximum penalties. I understand that there are different points of view about whether marijuana should be legalised and whether it is as dangerous as alcohol et cetera. I understand all of those arguments; the government understands those arguments. But in light of the member's question about why we would not make the legislation specific to a thing like ice, as we have in terms of rolling out the ice task force, I say it is a bit like drug testing: you would not just test for one drug when there might be others that are more prevalent which impair driving and cause a threat on our roads. You would not just test for one type or strain of drug; you would not legislate just for it. I think the better policy is one that is broad and against all illegal drugs and then to have discretion within the sentencing policy in terms of the severity. I can seek further advice, but maybe if I can get a nod? Yes, that is the correct answer. Thank you.

Ms PATTEN (Northern Metropolitan) — Deputy President, I wanted to seek some further advice on what 'reasonable excuse' would mean. I am unclear as to whether I should ask that during the broad purposes clause or further down the field. I am looking for more information about what 'reasonable excuse' means within the bill as a whole.

Mr HERBERT (Minister for Training and Skills) — I understand. Some of these definitions are legal as opposed to common usage, so I wanted to make sure we have the correct wording in terms of answering that. I am advised that the drafting of the possession of instructions offence in new section 71E did not contain any directions as to what a reasonable excuse should be. The issue of whether or not a reasonable excuse exists is a matter of judgement for the court based on all the facts before it and having regard to all the circumstances of a particular case. In our view, leaving the determination of this issue to the courts is the best approach, because trying to list all reasonable excuses runs the risk of leaving out excuses that could be reasonable in all the particular circumstances of a case and should be considered by the court. If a young kid does something stupid, there is probably a reasonable excuse, so basically that is at the court's discretion in terms of a claimant saying, 'This is my excuse'.

Clause agreed to.

Clause 2

Ms PATTEN (Northern Metropolitan) — I just have one question, and it is following on from Ms Hartland's questions. Will there be a public education campaign around these new offences? I am certainly conscious of Ms Hartland's questions around children. Where we are talking about particularly the possession and publishing of information, this is a considerable change. I am wondering if there is any public education campaign planned around that prior to the commencement date.

Mr HERBERT (Minister for Training and Skills) — There is no dedicated campaign to do it. The Premier was of course on 3AW. I dare say it will get a fair bit of coverage in the media, and we will be ensuring that as any new issue comes up our drug education programs are kept up to date for young children as part of their schooling.

Ms PATTEN (Northern Metropolitan) — Just to clarify, when we are talking about the possession and publishing of documents, this is far greater than just young people around schools; this includes the whole community. I would like to understand that the government is aware that this is going to affect not just young people and drug education campaigns. This is about anyone who might be thinking that how to make magic mushrooms out of soiled socks is a funny thing to share on Facebook. They could fall foul of this legislation for disseminating that sort of information, so I am asking: how are we going to let people know that that sort of information could run foul of this legislation? Previously it would not have because you would have had to have shown some intent to use it to cultivate; now you just have to be in possession.

Mr HERBERT (Minister for Training and Skills) — In regard to the issue, of course it only becomes an issue should the police have reasonable grounds to suspect that there are illegal activities or that there is a danger to the community. I guess if you know you have willingly downloaded something that is absolutely illegal and could be dangerous to the community should it be disseminated and you deliberately do that with the aim of creating greater use of illegal drugs — I am not sure how Ms Patten's mushroom example actually fits in, I have got to tell you — that is one issue. But the police really do have discretion there. I do not think they have the desire, the intent or the resources to trawl the web for every minor indiscretion. Clearly the purpose of this legislation is to stop people deliberately, for usage, disseminating information about how to propagate, increase and make drugs.

Clause agreed to; clauses 3 and 4 agreed to.

Clause 5

The DEPUTY PRESIDENT — Order! I call on Mr O'Donohue to move his amendment 1, which seeks to increase the distance from a school with respect to trafficking in a drug of dependence to a child. I consider this amendment to be a test for Mr O'Donohue's remaining amendments 2 to 6.

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

1. Clause 5, line 22, omit "300" and insert "500".

As the Deputy President accurately summarised in that introduction, amendment 1 to clause 5 standing in my name seeks to expand the distance associated with the schools from 300 metres to 500 metres. As has been discussed during the second-reading debate, this will mirror the current provisions in South Australia. The expansion was supported by stakeholders I consulted with, and I think it is a sensible amendment. I note and am pleased to see the support of the government, as

articulated by the minister in his summation of the second-reading debate.

As you have detailed, Deputy President, I have five subsequent amendments which seek to do the same thing — to expand that zone from 300 metres to 500 metres — and, as you say, this is a test for all six amendments. I do not propose to speak in detail on the other amendments, but I wish to again acknowledge the support of the government for this amendment.

Mr HERBERT (Minister for Training and Skills) — The intent of this section is really to stop drug dealers targeting children by hanging around places where schoolchildren congregate. On advice and in discussions with the police, we thought 300 metres was a reasonable distance, but 500 metres equally suits. The argument has been well made, and the government accepts that amendment.

Ms PATTEN (Northern Metropolitan) — I also spoke to the police in regards to this, and they questioned the 300 metres, let alone 500 metres. I am curious as to how the 300 metres was determined as a good delineation and whether the minister was aware of any high-level drug operations going on within 300 metres of a school.

Mr HERBERT (Minister for Training and Skills) — I am not quite sure whether Ms Patten was in the chamber at the time when I responded to Mr O'Donohue's contribution; she may have been. The government believed when looking at it that 300 metres was a reasonable radius in terms of capturing those areas around schools, and we did speak to police on advice. Perhaps it was the police association that came out — I think that is who Ms Patten is referring to — in terms of the discussion of the 500 metres.

We thought 300 metres was reasonable. You could do 400 metres. You would not do 2 kilometres — that is not the kind of place where kids congregate to go to schools in general. But in terms of 500 metres or 300 metres, I think the argument has been put. It was what we thought was a reasonable distance. The argument has been put by Mr O'Donohue that 500 metres is more reasonable, and it aligns itself with the South Australian legislation so we get better harmony between the states. The government has simply accepted that as a reasonable proposition.

Ms PATTEN (Northern Metropolitan) — From my conversations with police in the Richmond area, 500 metres captures most of the high-rises in that area. It captures North Richmond train station. Even 300 metres was capturing that. We are not seeing people trying to sell drugs to children. We are seeing drug addicts and problem drug users who will now be affected by a far greater offence and a far greater penalty if this is the case. Would the government agree that this will have unintended consequences — that it will capture problem drug users in metropolitan areas like the Richmond area?

Mr HERBERT (Minister for Training and Skills) — I think it is great that it covers many of those areas. Being a former adviser on public housing, I know the drugs that were done in public housing foyers, particularly in walk-up flats. As a frequent-use area, people were coming in there and targeting vulnerable children. Certainly I know from my time as the member for Eltham, at Greensborough station and at the bus stops there was quite open dealing, and the police had great difficulty in stopping it. It was causing great damage to many children who were simply there, caught up in the smooth talk and the movements of the drug dealers.

This bill is about peddling drugs, trafficking drugs to children, and I do not accept those unintended consequences. There are a whole range of other issues that Ms Patten is covering in terms of what you do about habitual drug use, what support you give to people, how you keep them alive in many cases and the support you give in the community for them, and we could have a long debate about whether that is adequate. There is a whole heap of other things in there, but I do not accept the premise in terms of this particular legislation.

Ms PATTEN (Northern Metropolitan) — I agree it is a bigger question. For me, I am still looking at this legislation where we have had very longstanding penalties for supplying illicit drugs or illegal drugs to children. I guess I am trying to get an understanding of how creating this extra zone around schools that will capture adult drug users in it is useful, because this is not just about supplying a child within 300 metres; this is about possession of a trafficable amount of drugs within those 300 metres — or now within that 500-metre area. You are now capturing people under a much more serious offence, where we already had protections or we already had serious offences for supplying. I am trying to understand how the penalties for this 500 metres, or this 300 metres, around these areas, not just for supplying children but also for having a trafficable amount of illicit drugs on you, makes it better.

Mr HERBERT (Minister for Training and Skills) — I am advised on the point made by Ms Patten that while the legislation defines trafficable amounts,

the term 'trafficking' is in fact 'selling'. It is a clear definition which would mean that if you had the amounts that are in the bill but you were not selling it, it is not trafficking in itself. With regard to the legislation, though, it is unashamedly about stopping, making it harder to undertake and having higher penalties for trafficking — in other words, selling — drugs to children. That is what we believe is appropriate.

Ms HARTLAND (Western Metropolitan) — I would just like to follow up on that. I do understand the intent of what the government is trying to do. Obviously I do not want to see any child or young person engaged in the use of illicit drugs — having lived in Footscray for a long time I have seen the harm done — but I do not know if this legislation on its own is going to do that. I want to know about increased police numbers on the street and increased harm minimisation programs, because if you are going to have this kind of legislation, what are the other things that are going to happen to actually assist in this situation?

Mr HERBERT (Minister for Training and Skills) — I thank Ms Hartland. I certainly would not suggest that she or Ms Patten were taking anything but an ideological position in terms of the civil liberties that they raised and which we have differences of opinion on, as opposed to promoting the trafficking of drugs. I understand that is certainly a long way from anyone's agenda in this chamber. I absolutely respect that.

In terms of the other means, I can get some specifics, but of course we have had the ice task force make a large number of recommendations, and I think about half of them have been implemented to date. They go across a whole range of issues, particularly in terms of providing health and support for drug addicts. There is a range of things in there, and I for one would never say — and the government would never say and does not say — that this is a be-all and end-all approach. This is one tool relating particularly to children and to addressing the means of manufacturing illegal substances, particularly ice.

I am happy to get some more specifics for Ms Hartland on that, but without labouring the point and having a debate about extra police numbers et cetera, what I would say is that we have a very comprehensive ice task force report. I appreciate that the member's question goes to more than just ice, but in terms of ice, which was in many ways the spur for this legislation, there was a very comprehensive ice task force report. There is a whole range of measures which I am sure that Ms Hartland is more than well aware of — probably more than I am, to be honest, given our backgrounds. As I say, this is just one area in terms of response. It is not the be-all and end-all, and I certainly would not be saying it is.

Amendment agreed to.

Committee divided on amended clause:

Ayes, 33

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

Noes, 6

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

Amended clause agreed to.

Clause 6

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

2. Clause 6, page 4, line 7, omit "300" and insert "500".

Amendment agreed to; amended clause agreed to; clauses 7 and 8 agreed to.

Clause 9

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

3. Clause 9, line 18, omit "300" and insert "500".

4. Clause 9, line 24, omit "300" and insert "500".

Amendments agreed to; amended clause agreed to.

Clause 10

The DEPUTY PRESIDENT — Order! Ms Patten has a separate set of amendments. I call on Ms Patten to move her amendment 1, which seeks to remove the proposed offence of possessing a document containing information about trafficking or cultivating a drug of dependence. I consider this amendment to be a test for Ms Patten's amendments 2 and 3 to clause 10 and her further amendments 7, 8 and 9 to other clauses.

Ms PATTEN (Northern Metropolitan) — I move:

1. Clause 10, line 1, omit "**sections 71E and 71F**" and insert "**section 71E**".

I am calling for the removal of new section 71E. Clause 10, as we understand, inserts new section 71E into the principal act and makes it an offence for a person to possess a document containing information about trafficking or cultivating a drug of dependence. We already have an offence of possessing a substance, material or document containing instructions relating to the preparation, cultivation or manufacture of a drug of dependence or equipment with the intention of using said document for the purposes of trafficking.

New section 71E does not require the prosecution to prove that the defendant intended to use the document to traffic a drug of dependence, and that is what differentiates it from the existing section 71A. So effectively it reverses the onus, suggesting that the defendant must prove a reasonable excuse. As we know, 'reasonable excuse' is not defined in the legislation, so we do not know what a reasonable excuse is; it is up to the courts to decide. The offence of possessing instructions for trafficking or cultivating illicit drugs may possibly capture a number of young people for conducting random internet searches inspired by television shows such as *Weeds*, *Breaking Bad* or *Narcos* — a whole range of things. It could capture them for just being curious.

The problem is that we have no definition for 'reasonable excuse'. They thought it was funny; is that a reasonable excuse? The threshold is so low that it basically sets liability based on possession. If the defendant gives or points to evidence that he or she was authorised or licensed to possess the instructions and otherwise had a reasonable excuse to do so, then they must be acquitted unless the prosecution proves that the accused was neither authorised nor licensed and did not have a reasonable excuse to possess these instructions. I think this is onerous. I think it is unnecessary, and I believe that if someone does possess this information, we should at least be able to show that they had intent to use it, not just possess it.

Mr HERBERT (Minister for Training and Skills) — The possession offence is part of the government's election commitment on ice, as I have said before, and the provision we believe will strengthen the effect of existing laws against the manufacture of illicit drugs such as ice and send a strong message about the seriousness of this conduct. Instructions for manufacturing or cultivating illicit drugs basically provide a building block for illicit drug production in terms of where it is produced onshore as opposed to being imported. The new offence deliberately focuses strictly on the act of possession.

It is intended to apply to any situation where a person has possession of a drug recipe without a reasonable excuse. We have been through the issue, and I know the member will have a different opinion about whether the courts should be the determinants of a reasonable excuse, but that is the intention of it here. We trust the courts, quite frankly, in this regard. Trying to define every single aspect of what is a reasonable excuse is a very difficult task and one that invariably fails when you go down to that minutiae in this type of legislation, however, even where there is no evidence of drug manufacturing.

There are of course safeguards built into it so that we do not capture innocent or inadvertent behaviour. That needs to be clear. I will not go over some of the other issues we had earlier, but the offence relies on a common-law definition of 'possession', which requires the prosecution to satisfy the court of basically two elements: that the accused had physical custody of the drug recipe, and that he or she intended to possess it, so it is 'had control of' plus 'intended to possess' it.

Having physical custody or control involves a person carrying or watching over the document containing the drug recipe or keeping it in a place where they can place their hands on it should they wish. In an online environment, this means downloading the drug recipe to a hard drive or a memory stick; it would not be simply searching a website. You have got to do that — make the conscious effort to get that drug recipe and keep it. It is expected that the prosecution would also have to satisfy the court that the defendant intended to possess the drug recipe, so it was not just something where they pulled a whole heap of stuff down but a deliberate act of getting it, possessing it and keeping it.

There is also, as we have said earlier, the exception of a reasonable excuse as another safeguard which ameliorates the strictness of the offence by enabling a defendant to present evidence of a reasonable excuse. We believe that these are appropriate safeguards in this context, and as I said, we believe that this is one means of stopping the distribution of the means of manufacturing ice in particular.

I think, Deputy President, you were saying this also goes to the second amendment and other amendments regarding new section 71F in terms of the term 'reckless' One of the issues in the context of the criminal offence term 'reckless' has been debated, I guess, in terms of the intent of these amendments.

In terms of the criminal offence, it is important that the term 'reckless' involves a reasonably significant standard of proof, perhaps not what we would, with common sense, normally determine as reckless. The mere act of publishing a drug recipe online does not automatically suggest that a person has been reckless. This is in regard to the publishing of the recipe.

The prosecution, in fact, must show that the person was in a position to turn their mind to the risk that the instructions would probably be used for drug manufacture and, while conscious of that risk, decided to publish it anyway. That is quite a high bar, that one. The prosecution has to prove that in publishing that recipe the person was very conscious that other people would use it to manufacture drugs. A person would need to make a conscious decision to publish the instruction regardless of any probable consequences. That is quite a significant liability to prove for the prosecution, but one which is at the heart of the intent of this. If you pull it down off the web, devise a recipe, publish it because you want people — you expect people — to manufacture a drug clearly for use or for trafficking, then we think that is a very, very inappropriate thing to do.

This legislation goes to the heart of how we are trying to stop the acceleration of the manufacture and distribution of these drugs, particularly to children who may be picking up those recipes, but not just to children.

Ms HARTLAND (Western Metropolitan) — The Greens will be supporting these amendments, mainly because we think this is the most flawed part of the bill and we are extremely concerned about the fact that publishing is considered to be printing information or putting it on a website or saving a hyperlink. A person who just reads it off the screen and produces these drugs, possibly in large quantities, will escape penalty, but probably the young, curious person — and I take the point that the minister is making that this will be up to the courts, but you only need to get one young person — will get caught in the web. We actually want to be diverting them from this, not sending them to prison.

Mr O'DONOHUE (Eastern Victoria) — I thank Ms Patten for her explanation of her amendments and the minister for his response. I think that interchange has provided some useful material for the record. On the basis of the assurances provided by the minister on the record, particularly around the common-law definitions that sit behind some of these changes, while the coalition does have some concerns about these provisions, as I have flagged in the second-reading debate, the opposition will not be supporting Ms Patten's amendments.

Committee divided on amendment:

Ayes, 6

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

Noes, 33

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

Amendment negatived.

The DEPUTY PRESIDENT — Order! Ms Patten's amendment 4 seeks to alter the warning with respect to publication of a document containing instructions. I consider this amendment a test for Ms Patten's further amendments 5 and 6 to the same clause.

Ms PATTEN (Northern Metropolitan) — I move:

4. Clause 10, line 30, omit "dependence— " and insert "dependence with the intention that the instructions will be used by another person for the purposes of the trafficking or cultivation of a drug of dependence is guilty of an indictable offence and liable to a penalty of not more than 1200 penalty units or level 5 imprisonment (10 years maximum) or both.".

My second amendment is to remove the new section 71F(1)(b):

(b) knowing or being reckless as to whether the instructions will be used by another person for the purpose of the trafficking or cultivation of a drug of dependence …

Again I will go back to the same issue, that we already have legislation that prohibits someone from publishing a document with the intent of the cultivation and trafficking of a drug of dependence, so I cannot see why we need this new section.

I also think that the notion of 'reckless' is far too broad. It has been noted by the Law Institute of Victoria and

numerous other organisations that 'reckless' is an incredibly broad mental element. 'Recklessness' involves an awareness that the conduct is likely to produce a certain result. The government is now saying that publishing something is reckless behaviour — purely by publishing it. This means that an accused now has to prove that it was not reckless. As a result of posting something on Facebook because they thought it was funny they will have to go to court to prove that it was not reckless, that they were intending it to be funny or that they did not intend for somebody to use it.

We already have legislation that says you do not publish material with the intent of it being used, so why do we need now to add the level of recklessness as a mental element? I think it is superfluous, it is over the top and it makes this legislation so extraordinarily broad that it will have absolutely unintended consequences. It will drag a number of people through the courts for unintentionally putting up material. It was just that they thought the material was interesting, that they were curious about the material, but now they can be charged with a very serious offence on the grounds that purely by posting that material it has been deemed to be reckless.

Mr HERBERT (Minister for Training and Skills) — I was a little bit presumptuous in terms of going through what the technical definition of 'reckless' is in my response to the last amendment. I will not repeat that, but the fact is that were the elements of recklessness and actual knowledge to be removed it would certainly unduly limit the scope and usefulness of this offence and have a negative impact on its intended deterrent effect, and that is what it is about. It is about a deterrent effect in terms of the legislation.

Can I just clarify something which I raised before in regard to Ms Patten's comments about a person having to prove that they did not do this deliberately? I am advised that the defence does not require the defendant to prove they were not reckless or did not have actual knowledge. It is for the prosecution to prove every element of the offence beyond reasonable doubt — that it was a deliberate, reckless act. Earlier I went through those things that the prosecution must satisfy in terms of what is determined to be reckless in terms of the legal side of it. It really is quite a bar. The prosecution has to prove it as opposed to the defendant proving that they were not being reckless, and I think that is a clear distinction.

Ms HARTLAND (Western Metropolitan) — The Greens will be supporting these amendments.

Mr O'DONOHUE (Eastern Victoria) — The coalition will not be supporting the amendments.

Amendment negatived; clause agreed to; clause 11 agreed to.

Clause 12

Ms PATTEN (Northern Metropolitan) — In regard to clause 12, 'Permitting use of premises for trafficking or cultivation of drug of dependence', there already are offences that relate to aiding criminal enterprises, such as conspiracy and aiding and abetting, so my question is: why is this new section necessary?

Mr HERBERT (Minister for Training and Skills) — This part of the bill is a targeted measure, as opposed to general aiding and abetting, in terms of people allowing their premises to be used as drug labs or for the making of drugs. It is a very targeted offence. It is a straightforward offence where you know that your premises that you own or are renting out are being used as a drug lab, basically. This new offence is part of a range of initiatives to try to crack down on clandestine laboratories. It is part of a whole heap of initiatives, including the extra money we gave for forensic staff for the police and the $4.5 million for drug profiling and intelligence capability. It is a targeted measure to actually target where people have a property — they are a landlord or owner — and they are deliberately letting that property be used for drug purposes. We are trying to stop that.

Clause agreed to; clauses 13 to 16 agreed to.

Clause 17

The DEPUTY PRESIDENT — Order! I call on Mr O'Donohue to move his amendments 5 and 6 to clause 17, which have been tested by his earlier amendments.

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

5. Clause 17, line 12, omit "300" and insert "500".

6. Clause 17, line 29, omit "300" and insert "500".

Amendments agreed to; amended clause agreed to; clauses 18 and 19 agreed to.

Reported to house with amendment.

Report adopted.

Third reading

The ACTING PRESIDENT (**Mr Ramsay**) — Order! The question is:

That the bill now be read a third time and that the bill do pass.

House divided on question:

Ayes, 33

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

Noes, 6

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

Question agreed to.

Read third time.

JUSTICE LEGISLATION FURTHER AMENDMENT BILL 2015

Second reading

Debate resumed from 26 November 2015; motion of Mr HERBERT (Minister for Training and Skills).

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I rise to speak on the Justice Legislation Further Amendment Bill 2015. This omnibus bill makes amendments across some 29 different acts with amendments largely of a technical and consequential nature. I do not intend to address all of those amendments in the second-reading debate, but there are a couple that I will comment on on the way through, and indeed I expect to explore several of them when the bill goes into committee. I understand that potentially there will be third-party amendments to this bill as well, which we will no doubt explore in committee at some length.

The first key provision I touch upon is contained in parts 2 to 4 of the bill, which relate, firstly, to the capacity for the electronic issuing of warrants to Victoria Police, and this is something that the coalition sees as a sensible evolution of the mechanics and logistics of our justice system. We expect our law enforcement agencies to be able to access and use the latest technology in their investigatory efforts, and it is appropriate in that regard that, as technology has become available, we change and update the way in which judicial processes are carried out to reflect, for example, as with this amendment, the capacity to issue warrants electronically and to transfer those from the judicial decision-maker to the officer charged with implementing and activating those warrants. Where that can be done by electronic means, it is appropriate that it be done, rather than in the traditional way, obviously, which has developed over literally hundreds of years of jurisprudence, which is a far more clunky — that is a technical term, Acting President — and administratively burdensome way of issuing warrants and similar instruments. It is an appropriate step, and it is one that the coalition is happy to endorse in this legislation.

One of the other provisions in parts 2 to 4 of the bill relates to the appointment of Aboriginal elders to the Koori division of our Magistrates Court, County Court and Children's Court. In the past, since the establishment of Koori Courts — and I know there are a range of views in the Victorian community as to the appropriateness of standalone Koori Courts, but they have operated in Victoria for what must be the best part of a decade now — it has become an established practice for Aboriginal elders to be appointed in association with those courts, but traditionally that function has been undertaken by the Secretary of the Department of Justice as the relevant administrative agency. With the creation of Court Services Victoria (CSV) this legislation will pass that responsibility to the CEO of Court Services Victoria, which does raise an interesting question as to the transfer of functions which have traditionally attached to the executive to an entity which is now overseen by the judiciary.

Fundamental to that is the question of the separation of powers and the way in which they are implemented. That doctrine is upheld in Victoria, and it is one of the key questions which exercised the previous government's mind. With the establishment of Court Services Victoria, how do you preserve and reflect that traditional separation of powers? This provision which transfers that responsibility to make those appointments of Aboriginal elders into the Koori Court system, from the executive to the courts themselves, does highlight the challenges. Without reflecting that this is necessarily a retrograde step, it does highlight the challenges associated with the operation of Court

Services Victoria and the division between what are judicial functions and executive functions, and indeed the division between the accepted practice of the executive appointing members of the judiciary as opposed to the judiciary self-appointing, which arguably could be a consequence of Court Services Victoria making appointments, depending on the nature of those appointments. While this provision is not opposed, it does raise and highlight the question of looking at exactly the nature of appointments that are made by Court Services Victoria and the distinction between the appointments appropriately made by the executive and the appointments appropriately made by the judiciary and its agency, CSV.

Clause 14 of the bill changes again the mechanics of the way in which victims of crime apply for compensation online. It removes the current requirement for a statutory declaration to be made with respect to those applications, noting of course that there remain provisions with respect to making false statements in such applications, and that is something that the coalition is relaxed about, also noting of course that a statutory declaration would need to be declared before an appropriate person, which is somewhat difficult to do in an online environment. So it seems like a sensible step forward in recognising the capacity of new technologies to deliver services through the justice system.

Clause 15 of the bill removes the presumption of legal costs in favour of the successful applicant in a residential tenancy matter before the Victorian Civil and Administrative Tribunal (VCAT). This is an interesting area — the presumption that the party who wins in VCAT should be the beneficiary of the costs order — and it goes somewhat to other amendments which I believe the house will consider at some stage through the committee. I will be interested in hearing the minister's explanation of the reasons for the inclusion of this provision in the bill. It does raise questions as to why a successful party at a VCAT hearing will not be presumed to receive the benefit of a costs order and why the government has taken that step and indeed how that relates to what have been foreshadowed as potential amendments to this bill.

Part 8 of the bill goes to a fairly complex area, and that relates to the validation of past payments and the formalisation of future payments of superannuation contributions for magistrates and judicial registrars at their full salary rather than their maximum contribution level. Superannuation provisions for the judiciary have always been a complex area. I know from my previous experience as the minister responsible for state sector superannuation that the structures surrounding judicial superannuation are quite often substantially different from those for other public officers. Indeed the existence of what are known as constitutionally protected schemes for judicial officers is particularly unique, as is the way they are taxed by the commonwealth. This is a matter that leads to frequent confusion and frequent complexity, particularly when the commonwealth is dealing with the superannuation taxation matters that we have seen in recent years and will continue to see, potentially, with the current federal government.

The arrangements for most judicial officers — less so with magistrates, but certainly for the more senior level of the judiciary — are substantially different to the general accumulation arrangements for most members of the community, and there are good reasons for that. But those different arrangements, which in some cases extend to statutory defined benefits for some officers, particularly long-serving magistrates — as distinct from the constitutionally protected schemes and as distinct from the more common accumulation arrangements for most of the community — give rise to considerable complexity on the taxation front and quite often gross misunderstandings at the taxation level when arrangements are being put in place. So again this is confirming existing arrangements, and validating past payments in respect of these contributions from magistrates and judicial registrars is something that the coalition is relaxed about.

The final element of the bill that I will touch upon is part 9, which is a provision that allows the heads of the jurisdictions — the Chief Magistrate and the Chief Judge of the County Court — to also be commissioned and sit as judges in their superior court, so the Chief Magistrate to hold commission and sit as a judge of the County Court and the Chief Judge of the County Court to be commissioned and sit as a judge of the Supreme Court. This is something that is being presented as an opportunity to manage the workloads of the superior courts, to provide exposure to the heads of the junior courts to the environment of the more senior courts and to allow for better understanding and alignment between the court jurisdictions. It is an area which does raise questions as to how it is going to operate in practice, and it is one that I will probably explore in some depth with the minister, but it is one that on the face of it the coalition does not oppose.

This is a fairly mechanical bill. As I said, it amends 29 acts with largely technical and consequential amendments, the bulk of which I have not discussed tonight. The key provisions I have referred to are ones the coalition does not fundamentally oppose. Obviously we will seek some clarification from the minister on

how a number of those will work, and there may be further follow-up as a consequence of other contributions and other proposed amendments, but the coalition will not be opposing this bill.

Ms PENNICUIK (Southern Metropolitan) — The Justice Legislation Further Amendment Bill 2015 is indeed an omnibus bill that makes amendments, many of them technical amendments, to a large number — some 20-odd — of acts. I will be referring to the most substantial of those amendments that are in the bill, not to every single amendment to every single act that is covered in this omnibus bill.

The Greens will be supporting the bill; however, we will be moving amendments to areas of the bill that refer to amendments to the Victorian Civil and Administrative Tribunal Act 1998, and I will talk about that a little further into my contribution. These amendments do not actually mean that the Greens are not supporting the amendments already being made to that area, just that we would like those to go further.

Clauses 4 to 8 of the bill refer to the electronic transfer of warrants. The State Coroner recently recommended in the findings into the death of Luke Batty that all warrants in relation to family violence-related incidents should be executed with high priority and entered onto the Victoria Police law enforcement assistance program (LEAP) system within 24 hours of issue; otherwise delays in doing this through use of the manual system could have dire or tragic consequences. The bill will streamline the warrant process by enabling magistrates and registrars in the Magistrates and Children's courts to transfer warrant information electronically to the LEAP system via the court's IT system, which is known as Courtlink. The bill will also enable execution copies of warrants and copies of affidavits in support of warrants to arrest or search warrants to be transmitted by other electronic means, as well as by facsimile. The Greens are very supportive of these amendments and believe they are important amendments.

With regard to the appointment of Koori Court elders and respected persons, Court Services Victoria was established to provide administrative support to the courts and the Victorian Civil and Administrative Tribunal (VCAT) independently of the executive arm of government. This bill will enable the chief executive officer of Court Services Victoria, instead of the Secretary of the Department of Justice and Regulation, to appoint and manage the terms of Aboriginal elders and respected persons for the purposes of performing functions in the Koori Court, such as making contributions during court hearings relating to the cultural needs of Koori offenders.

We support these amendments given that the role of Court Services Victoria should be wholly contained within the court system and be separate from the executive.

Clause 14 removes the requirement for a statutory declaration to make an application to the Victims of Crime Assistance Tribunal (VOCAT). Essentially it makes the requirement to verify an application to VOCAT by a statutory declaration only necessary where applications relating to acts of violence have not been reported to the police. This will make the compensatory process more efficient and responsive to the needs of the victims of crime. A statutory declaration was originally required to verify an applicant's identity and impose a penalty for perjury. The bill removes this requirement to have a statutory declaration provided that the matter has been reported to police. However, the bill will retain the requirement for a stat dec if an alleged act of violence has not been reported to the police, and this will make it easier for victims of crime going through the compensation process.

The Greens would also like to raise that another area to be examined in relation to VOCAT is the levels of compensation that are available to victims of crime, as well as the accessibility of VOCAT. According to Smart Justice, only a small percentage of victims of violent crime actually apply for compensation at VOCAT despite being entitled to it. Some victims do not even bother making a claim because the average amount awarded in the state-funded scheme is quite low.

There are also other barriers in applying for crimes compensation where some Koori as well as non-Koori victims have been victims of family violence or sexual assault as children, which has led to drug use and a criminal record. However, the current law requires VOCAT to have regard to a victim's past criminal activity when making an award or when assessing the amount of the award, and this was an issue that was raised by the Greens when the legislation went through the Parliament. We would urge the government to consider increasing compensation paid to victims where possible and to reduce the barriers in accessing it, such as making sure that irrelevant and unrelated personal information about victims is not used when assessing a claim.

Clause 17 refers to the Sentencing Amendment (Historical Homosexual Convictions Expungement) Act 2014, which was passed and which commenced on 1 September 2015 with widespread support. In the course of preparing for the act's commencement in

September, VCAT suggested that the act be amended so that members of the tribunal other than the president or the vice-presidents could hear appeals. VCAT was concerned that the limited availability of the president and vice-presidents could mean that appellants would have to wait too long for a hearing. So the bill will amend the act to allow the president, vice-presidents, deputy presidents and senior members to hear these matters and will provide greater flexibility to VCAT. This will expand the pool of suitably qualified people who can hear appeals under the act and reduce the delay for appellants. The Greens believe this is a sensible and practical amendment and a welcome amendment to provide for efficient timely access to justice with regard to this particular act and particular issue.

Clause 15 of the bill refers to amendments to the VCAT fee reimbursement provisions, and in particular it repeals section 115C(1)(d) of the VCAT act so that the residential tenancy matters will no longer be subject to the presumption that fees will be reimbursed. In 2014 the VCAT act was amended to introduce a presumption in certain civil proceedings that a party who had substantially succeeded against another party was entitled to be reimbursed by the unsuccessful party for any fee in the proceeding unless VCAT ordered otherwise. The amendment provided for the fee reimbursement presumption to apply to a proceeding under the Residential Tenancies Act 1997 other than a proceeding in which the director of housing is a party.

Given the nature of landlord-tenant proceedings, tenants are often being unfairly disadvantaged by the fee reimbursement provisions. The overwhelming majority of proceedings under the Residential Tenancies Act are brought against tenants by landlords, many of whom are economically advantaged. We know that only 20 per cent of tenants attend the Residential Tenancies Act proceedings. In addition, as respondents, tenants are not able to seek a fee waiver on financial hardship grounds.

The amendment, the minister says, that repeals section 115C(d), is in the interests of fairness and equity and will remove the presumption for fee reimbursement. However, a fee reimbursement will continue to be available in relation to proceedings under the Residential Tenancies Act. But in making an order for the reimbursement of payment of fees VCAT will be required to have regard to the nature of and issues involved in the proceedings, the conduct of the parties and the result of the proceeding if it has been reached. The government is maintaining that this results in an appropriate balance between the interests of landlords and tenants.

While the Greens are supporting this amendment made by the bill, we think it could go further. I raised these points during the debate almost two years ago on the Victorian Civil and Administrative Tribunal Amendment Bill 2014 amongst a whole lot of other concerns I raised about that particular bill at the time and the changes it was making to VCAT. We think the government should go further. I note that the tenants union has said that ideally the residential tenancies list should be exempt from the application of section 115B to ensure that tenants are not unfairly disadvantaged.

The Greens will be moving amendments to section 115B and section 115C of the Victorian Civil and Administrative Tribunal Act 1998 such that VCAT should take into account, when considering reimbursement of fees under those sections, financial hardship and any other matter it deems relevant. We think it is appropriate that VCAT give attention to the financial hardship of the unsuccessful party when it is giving consideration to awarding the reimbursement of fees. I am very happy to have those amendments circulated.

Greens amendments circulated by Ms PENNICUIK (Southern Metropolitan) pursuant to standing orders.

Ms PENNICUIK — Amendment 2, which I have circulated, inserts a new clause before clause 15 of the bill such that in section 115B(3) of the Victorian Civil and Administrative Tribunal Act 1998 after paragraph (c) a new paragraph (d) be inserted which provides that VCAT considers:

> (d) any financial hardship of the party against whom the order would be made; and
>
> (e) any other matter the Tribunal considers relevant.

My amendment 3 to section 115C(3) of the Victorian Civil and Administrative Tribunal Act 1998, provides that after paragraph (b) a new paragraph (c) be inserted, similar to that for section 115B(3), which would read:

> (c) any financial hardship of the party against whom the order would be made; and
>
> (d) any other matter the Tribunal considers relevant.

Those amendments would require VCAT to take that into account when awarding a reimbursement of fees under those sections of the VCAT act.

It is interesting to note that I moved similar amendments to the bill in March 2014, almost two years ago. In fact those amendments were supported by the ALP at the time. I am looking forward to the

government's support for these current amendments, as almost two years ago it supported very similar amendments to the VCAT act.

While we are on the subject of VCAT, it is certainly worth noting that there need to be further reforms made to VCAT, in particular undoing the fee hike introduced by the previous government to make it easier to enforce VCAT orders. There have been many reports of a drop in the number of people going to VCAT. We know from media reports and from organisations such as the Consumer Action Law Centre that the fee hikes have particularly reduced access for people using VCAT to resolve basic consumer disputes. Small claims have plunged by one quarter, whilst VCAT's fee revenue jumped more than $1.4 million. Planning disputes have also fallen, while the amount paid to VCAT to hear cases has simultaneously jumped close to $1 million, according to the *Age*.

This is an area to which the government needs to turn its attention to ensure that VCAT remains a low-cost tribunal at which ordinary citizens can have their disputes heard. It is certainly not turning out to be that way with the huge hikes to VCAT fees.

Also with regard to VCAT, another issue that I have also raised with the Attorney-General — in fact with both the current and the previous Attorney-General — is about the enforcement of VCAT orders. Orders can be made in VCAT for people to either do something or cease and desist from doing something. However, those people who have been successful at VCAT often have to go through the court system to actually have those orders enforced. This is an extra expense for those ordinary citizens who have been successful at VCAT but who have not been successful in having the orders enforced. I have raised the case of Mr Michael Kanter with both the former Attorney-General and the current Attorney-General, but there are other cases that also come under this category of the inability to enforce orders.

Clauses 18 to 23 of the bill make amendments to the Magistrates Court Act 1989 and the Supreme Court Act 1986 regarding the superannuation entitlements of magistrates, reserve magistrates, non-magistrate coroners and judicial registrars to provide clarity with regard to superannuation entitlements. The feedback we have had from the legal community is that these are supported, as are the dual commission amendments in part 9 of the bill. These amendments will require that a person appointed as a chief judge may also be appointed as a judge of the Supreme Court and a person appointed as a chief magistrate may also be appointed as a judge of the County Court. This reform will help to improve the interconnection of the three largest courts by promoting cooperation between them and facilitating the sharing of resources. The bill also makes clear that the prime responsibility of that person will still be as the head of the jurisdiction.

These amendments will build on Victoria's existing judicial system, where the heads of three of the jurisdictions are members of either the County or Supreme courts — that is, the State Coroner, who is head of the Coroners Court, is a County Court judge, the President of the Children's Court is a County Court judge and the President of the Victorian Civil and Administrative Tribunal is a Supreme Court judge. Feedback we have received on those amendments also indicates that they are supported by the legal community.

With those comments on the substantive amendments made by this omnibus bill, the Greens will support it. We look forward to moving our amendments in committee.

Mr MELHEM (Western Metropolitan) — I rise to speak on the Justice Legislation Further Amendment Bill 2015. In doing so, I will be brief because the previous speakers have given a comprehensive report on the content of the bill. What I will say is that the bill will improve the operations of the courts and tribunals and obviously speed up the execution of warrants throughout Victoria.

On 28 September 2015 the State Coroner handed down his findings from the inquest into the death of Luke Geoffrey Batty. Recommendation 15(d) was that:

> all warrants issued in relation to family violence related incidents be executed with high priority and entered onto LEAP within 24 hours of issue …

The amendments proposed in this bill are consistent with this recommendation. Also the miscellaneous amendments to court and tribunal processes have been requested by the Magistrates Court, the County Court, the Children's Court, the Coroners Court, the Victorian Civil and Administrative Tribunal (VCAT), the Supreme Court and Court Services Victoria in response to various practical issues identified with the existing operation of relevant legislative provisions.

There has been a fair bit of consultation with these bodies I have just talked about, including Victoria Police, and we are trying to expedite some of the areas where there is a lot of reliance on paperwork. Some of these things can be now replaced by 21st century technology and be done electronically. The purpose of the bill is to expedite that and make sure that our system

runs efficiently and without undue delay and that we are not faced with unnecessary delay such as that which led to, for example, the tragic death of Luke Batty.

Also the bill talks about other areas like some legislative changes in relation to the superannuation entitlements of judges and judicial registrars et cetera. The bill also provides that a person appointed as chief judge must also be appointed as a judge of the Supreme Court, and a person appointed as Chief Magistrate must also be appointed as a judge of the County Court.

They are some of the examples of what the bill deals with. They are just technical areas and are also in response to some of the feedback from the court system by the people who are handling our justice system to make sure the system runs more efficiently and deals with the challenges we are facing in the 21st century. Some people might say it is not perfect and it does not go far enough, but you have got to start somewhere. It is an area the government has sought to address.

For example, some of the changes would allow hearing appeals regarding the expungement of historical homosexual convictions at VCAT. That again is to try to deal with things in an expedited manner. With these comments, considering the time, I commend the bill to the house.

Motion agreed to.

Read second time.

Ordered to be committed next day.

ADJOURNMENT

Mr HERBERT (Minister for Training and Skills) — I move:

> That the house do now adjourn.

Latrobe Performing Arts Centre

Ms BATH (Eastern Victoria) — The action I seek is that the Minister for Regional Development come and meet with representatives from the community group Get it Built, which is advocating for the redevelopment of the Latrobe Performing Arts Centre in Traralgon. The Latrobe Performing Arts Centre has long required significant upgrades that would not only benefit local user groups but also attract high-profile events to the City of Latrobe. For far too long Traralgon has been bypassed when it comes to showcasing these events, mainly because of inadequate infrastructure and seating.

My colleague the member for Morwell in the Legislative Assembly, Mr Russell Northe, has been a passionate advocate along with our local community for the current venue to be redeveloped. Unfortunately any notion of a redevelopment occurring was delayed by some Latrobe City Council councillors in 2009 and 2010 when a decision was made to build the new facility in Morwell, which was contrary to direct advice provided to the council by its own officers and independent consultants. Common sense prevailed, and the current councillors have agreed to redevelop the Latrobe Performing Arts Centre at its current site in Traralgon.

Just this week the Latrobe City Council voted to provide $10 million to support the redevelopment in Traralgon. Thousands of local community members over the years have signed petitions, given financial pledges and attended rallies to demonstrate their support. The Get it Built group was established in December last year and comprises community members, service clubs, business representatives, performing arts user groups and local council representatives, along with Mr Russell Northe. Its mantra is:

> This development will be a major cultural infrastructure project for all of Latrobe city and its residents, unlocking a new corridor of opportunity for performing arts touring in Gippsland, creating jobs, investing in the future of the region …

In the last two months 721 people, including myself, have been photographed with the Get it Built sign. I am pleased that Latrobe City Council is working to advance this project by recently engaging consultants to investigate a proposed scope and design along with a business case. Whilst time lines are tight, our community remains hopeful that applications will be submitted to the federal government's National Stronger Regions Fund over the coming month.

It is imperative that the minister understand the importance of this project to the Latrobe Valley and wider Gippsland communities, and I therefore call upon the minister to meet with representatives of the Get it Built team to understand firsthand the passion, need and desire for the current Latrobe City Performing Arts Centre to be redeveloped.

Warrnambool Special Developmental School

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is for the Minister for Education in the other place, and it is in relation to the Warrnambool Special Developmental School in the south-west of my electorate. Prior to the 2014 state

election Labor acknowledged that the Warrnambool Special Developmental School was long overdue for a new home. Originally built in 1989 with 13 students enrolled, the school, which sits on the side of a hill, now caters for around 120 students — far too many for that site.

Prior to the election I along with the minister visited the school and met with students, staff and parents. We toured the facilities, and it was clear that something needed to be done sooner rather than later. An article in the Warrnambool *Standard* stated at the time:

> School leaders have been unable to win support from the —

Napthine Liberal —

> government to relocate from Hyland Street despite urgent pleas about overcrowding.

Labor promised $5 million prior to the election for the purchase of a new site at which to relocate the school, and in our first budget that $5 million was allocated, fulfilling the promise we had made to staff, students and parents. The department has been working hard with the school and the local community over the past year to identify a site that will give students and teachers space and a high-quality facility in which to learn and grow.

The action I seek from the minister is that he join me in visiting the new site of the Warrnambool Special Developmental School once it has been formally selected to discuss further plans for the relocation of this fantastic school community.

South-western Victoria public transport

Mr PURCELL (Western Victoria) — The matter I raise tonight is for the Minister for Public Transport. We in this chamber have all been affected by the issues facing public transport over the recent few weeks, including the mass cancellation of services throughout Victoria. It is a great concern to me that the minister's department may now put all of its energy into solving the problems in Melbourne and forget south-western Victoria. I urge the minister to specifically address the public transport needs of western Victoria.

We have had regularly through my office constituents who have raised the issue, and by way of example today my staff have sent to me an email from a lady I will refer to as Anne. It reads partially that she wanted to let me know how appalled she was with the handling of the V/Line issue. She is a regular user and has been happy for many years. She is irritated at how both political parties are blaming each other for what is going on. She says now that travel is free a lot of 'yobbos' are taking advantage of it. She books her seat, and when she gets there it is often taken by young men who refuse to move. The Warrnambool staff try to sort it out, but it is very difficult. She goes on to say that there is a lack of concern for regional rail and our line in particular. Her patience is at an end; she just wants it fixed. It is a fairly common complaint, and I think it summarises the issue we have.

South-western Victoria, as I have mentioned many times, is in desperate need of infrastructure upgrades and additional rail services through to Warrnambool, Colac and Portland. In fact the growth of employment is an issue in the region, and good road and rail services are vital for the growth of business, employment and sustainability in the region. We need an efficient rail service to bring people in and out of the area for work and to support the growth of the region. Growing regions are characterised by good rail and road services, and unfortunately south-western Victoria is suffering from a lack of both.

Last year's extensive community consultations are now complete, and it is time for some action. I urge the Minister for Public Transport to prioritise an upgrade to train services to south-western Victoria, commit to funding additional daily services to Warrnambool and upgrade the antiquated rolling stock in this current budget process.

Goulburn Valley Health

Ms LOVELL (Northern Victoria) — My adjournment matter is for the Minister for Health, and it is regarding the recently released Victorian government hospital performance data, which shows that Goulburn Valley Health's Shepparton campus emergency department is now the worst performing in the state. My request of the minister is that she and the Premier finally acknowledge that Goulburn Valley Health is in crisis and in desperate need of immediate redevelopment and expansion by immediately announcing funding to undertake the complete redevelopment and expansion of the Shepparton hospital. And I ask that this announcement be made now as a pre-budget announcement so as to provide certainty and allow the department to finalise planning processes and move to tender processes.

The most recent health performance data — the Victorian health services performance report statistics, December 2015 quarter — shows that one in two or 50 per cent of Goulburn Valley Health's Shepparton campus emergency department patients are now being forced to wait unacceptable lengths of time for treatment.

The new figures show a continued decrease in the percentage of patients being treated on time. The June 2015 quarter had 64 per cent of patients treated within time. That dropped dramatically to 51 per cent in September 2015 and has continued to decline to just 50 per cent for the December quarter. The number of patients being treated at the Shepparton campus has remained basically static since April 2015, but the number of patients presenting for treatment at the emergency department continues to increase across the same period.

This is inescapable proof that the emergency department is now operating beyond its capacity, cannot meet current demand and will not be able to cope with the Shepparton district's growing population and increasing demand for health services. And the reality is that patient numbers will continue to increase. Shepparton and surrounds is one of the most disadvantaged areas in the state, and we know that with disadvantage comes ill health. Numerous reports released in the last 18 months have shown that this region has significant levels of ill health.

The government knows the issues with our hospital well. In recent media coverage the minister is quoted as saying that she knows Goulburn Valley Health is experiencing significant increased demand pressures in its emergency department. The hospital's CEO has publicly expressed his disappointment for his community and said that staff are working at full capacity but that the reason for the service performance issues are a physical lack of space in the emergency department.

The Shepparton community is sick of continually seeing statistics that show Shepparton's hospital continually ranking poorly in health service delivery. Personally I am disappointed that the hospital's medical and administrative staff, who work tirelessly and in difficult circumstances, are being disheartened by the difficulty they face in providing quality care due to the inefficient infrastructure and limited capacity at Goulburn Valley Health.

The PRESIDENT — Order! Where was the question?

Ms LOVELL — I made my request for action right at the beginning.

The PRESIDENT — Order! Right, and then followed it up with a setpiece speech.

Community shade grants program

Mr MELHEM (Western Metropolitan) — My adjournment matter is for the Minister for Health, the Honourable Jill Hennessy, and the action I seek is that she fund the Newport Power Football Club, Western Athletics and Altona Miniature Railway requests for community shade grants.

Be it a sports or hobby club, local organisations such as these are vital for bringing local groups together and piloting a sense of community spirit. That is why it is important that groups such as these are provided with the necessary support. In this case, it means assisting them with providing sun smart infrastructure for their communities.

Australia has the highest rate of skin cancer in the world, with two in three Australians diagnosed with skin cancer by the age of 70. Shade as a sun protection measure alone can reduce overall exposure to UV radiation by up to 75 per cent, and this is strengthened when used in combination with other sun protection strategies such as sunscreen, hats, sunglasses and protective clothing. The people in my electorate of Western Metropolitan Region will be safer, happier and more sun smart with this investment, and I call on the minister to consider that closely.

Wyndham City Council

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Local Government. Now, the minister might recall that last year I called for her to set up an inquiry into the activities of the Wyndham City Council. Things have deteriorated somewhat since I made that call — to say the very least, in fact — and I am now asking the minister to dismiss this council and appoint administrators. I think we have well and truly got enough to say that this council is totally dysfunctional, that good governance has broken down and that there really are not too many councillors there that are worth two bob, to tell you the truth.

It is a very, very sad state of affairs to see the situation that the Wyndham council now finds itself in after being such a strong, well-managed and well-governed council not so long ago. As I mentioned in an earlier contribution in this house, when I was elected almost 10 years ago the Wyndham council was the best council in the west. I think it would probably now be the worst, and that is really saying something. I ask the minister to take into consideration what is going on down there.

The latest incident involves the holding of a council meeting in secret, almost on the eve of Christmas. I say 'almost' because it was 23 December. At that secret meeting, almost on the eve of Christmas, they suspended a councillor who had applied for leave anyway. When, at the last council meeting as I understand it, he sat in the public gallery he was told that if he did not leave he would be in contravention of the local government act and he would be charged.

This council is a circus. Tommy Hanlon and Ashton's have nothing on this crowd, let me tell you. The community in Wyndham is showing extreme frustration and total disgust. The number of people who hear the name 'Wyndham council' and just shake their heads and walk away is quite staggering. The degree of anger is really starting to boil over. People have well and truly had enough of these councillors. They could not run a tap, and it is just a dreadful reflection on what should be a great community. They need a great council, and I ask the minister to sack this wretched council now.

Youth employment

Mr EIDEH (Western Metropolitan) — My adjournment matter today is for the Minister for Training and Skills, the Honourable Steve Herbert. My electorate covers some of the most disadvantaged suburbs and communities within the state of Victoria. Each and every day my constituents contend with many hardships that affect their and their family's livelihoods. Such hardships include lifestyle choices and health outcomes, access to social security and support, and significant disadvantage when it comes to education, training and unemployment, which all lead to significant long-term effects for my constituents.

Currently the unemployment rate in my electorate stands at 8.1 per cent and youth unemployment stands at 17.6 per cent. This youth unemployment figure in Melbourne's west is the highest of all Melbourne metropolitan areas. Under the former coalition government education and training was cut and thrown by the wayside, without regard for the implications this would have for all young people in the future, in particular for those confronting disadvantage. But the Andrews Labor government was committed to fixing our TAFE system and tackling youth unemployment as a result of young people not having access to gaining the necessary skills they needed in the workforce.

I ask the minister: now that the Andrews Labor government has made important steps in restoring the TAFE system within Victoria, which has ensured many young people can become work ready, what is the government doing to tackle youth unemployment in Melbourne's west specifically?

Gordon Primary School

Mr MORRIS (Western Victoria) — My adjournment matter this evening is for the attention of the Minister for Education. This particular matter relates to a school within my electorate, a great school, Gordon Primary School. It is a school that I was fortunate enough to go and visit. I had a conversation with the principal with regard to concerns around safety in terms of parking and student pedestrian access. After having this meeting with the principal I wrote to the Minister for Education asking him to assist Gordon Primary School in ensuring that safe access to the school and indeed greater car parking space were made available.

I note that the minister in his response did say, 'Reducing the need for vehicles to enter school grounds is one of the most effective control measures in lessening the risks associated with car movements'. I broadly agree with this particular statement. However, in Gordon Primary School's situation we have a school that is constrained on the outside of its property, whereas it has a great amount of land available on the inside of its property for car parking. So we see constraints on the outside, but inside the property there is certainly space available. I believe that a horses-for-courses approach to parking at schools is important.

Indeed we also saw the minister, in his response, refer to requesting the Moorabool Shire Council to assist Gordon Primary School in availing itself of greater car parking around the school. Again, had the minister taken the time to perhaps visit Gordon Primary School, or send someone from his department to visit the school, he would understand the great constraints that exist around the school but indeed not within the school itself.

Once again I seek that the minister work with Gordon Primary School to develop a solution to the safety concerns that exist due to car parking and safe pedestrian access to the school.

Community shade grants program

Ms SHING (Eastern Victoria) — The matter I wish to raise this evening is for the attention of the Minister for Health. I draw her attention specifically to the latest round of the community shade grants program, which closed last December, and in particular to applications that were submitted by Baw Baw Shire Council and

East Gippsland Shire Council. In this regard I note that there are a number of really significant initiatives right the way across Gippsland that are designed to improve the way in which children and young people understand the problems associated with sun exposure; address the way in which they take adequate protection, as much as slip, slop, slap is concerned; and understand the benefits and uses of fixed and portable shade.

In this regard I note that the Andrews Labor government has dedicated $10 million to assist local groups to provide that fixed and portable shade and to in fact introduce infrastructure to communities, to schools and to other groups within communities to make sure, again, that that sun smart message is really part and parcel of the way in which Gippslanders enjoy their outdoor time.

I would commend the applications that have been submitted by Baw Baw council and also by East Gippsland Shire Council, and the action I seek is for the minister to favourably consider those applications, which were submitted last December, in order to enable these two schools to provide their students, as well as staff, with the crucial portable and fixed shade that they require in order to be safer while they are outside enjoying what is often a very hot Gippsland sun.

Ambulance services

Ms FITZHERBERT (Southern Metropolitan) — My adjournment matter is for the Minister for Health, and it concerns ambulance response times in regional areas. Recently and for the first time we have had access to figures about ambulance response times that show the Andrews government's performance over a full year. The Minister for Health announced overall figures and boasted of improvements. On 1 February she boasted of an 8-second reduction on average for code 1 call-outs across the state, but if you dive into the figures in any sort of detail at all, it is clear that in rural areas in particular things have gotten much worse over the last year in many places.

In fact it is in only one local government area — Warrnambool — that ambulance response times meet the benchmark of code 1 call-outs arriving in less than 15 minutes. In 25 local government areas call-out times have actually increased for code 1 call-outs — that is right; they take longer. In West Wimmera, in the far west of Victoria, response times have grown on average from 22 minutes and 11 seconds to 28 minutes and 51 seconds — that is right; it takes 6 minutes longer to get an emergency ambulance to the council area that takes in towns like Edenhope, Harrow, Kaniva and Serviceton, and there are many others like that. In fact only one of the state's 79 local government areas is meeting a benchmark requirement of code 1 call-outs arriving within 15 minutes. Times have increased in places like Bacchus Marsh, Benalla, Castlemaine, Drysdale-Clifton Springs, Healesville, Ocean Grove, Barwon Heads and Sunbury. I note in particular that the Sunbury figures have gone up from 12 minutes and 51 seconds in the last quarter of 2015 to 14 minutes and 27 seconds.

Back before the election the ALP told us that the ambulance system was in crisis. Well, if it was in crisis then, what is it now — now that arrival times have actually gotten longer in many places? However, the government in my view has done very little to address ambulance arrival times in rural areas. I have done some research recently, and it is not really clear to me what it has done at all. Of the $60 million ambulance rescue fund, I ask rhetorically, how much has actually been budgeted, let alone paid, to any areas? The answer is zero. The money that we were told was going to be put into the system has not even been budgeted. We have a promise of $10 million sometime in the future.

The action that I seek is this: can the minister explain clearly to me what measures, if any, have been put in place in regional areas to reduce ambulance call-out times?

Bellarine Peninsula bus services

Mr RAMSAY (Western Victoria) — My adjournment matter is for the Minister for Public Transport, Jacinta Allan. Despite the urge to ask the minister to address the train crisis we have in regional Victoria, the controversy over wheel wear on V/Locity trains that is costing $300 000 per day and $6 million in lost revenue for V/Line freebies, the shambles of the metro system that has a breakdown in trigger points on level crossing boom gates or even the latest V/Line performance figures that show the punctuality of Warrnambool trains is at its lowest level since 1 July, I will resist the temptation.

In fact V/Line performance for reliability and punctuality on the Geelong line has failed to meet government targets for the last three months. I will not even ask Jacinta Allan why Geelong commuters have to put up with one in six train services being replaced by coaches, with 17 trains to operate as coaches, and the inconvenience of having to use coaches on the peak hour services on the 6.51 a.m. from Waurn Ponds, the 8.04 a.m. from South Geelong and the 8.15 a.m. from Southern Cross. I will not even ask the minister for an apology, because she has already done that — but with

the apology she gave no indication of when the mess will be fixed.

My matter for the minister concerns the much-heralded timetable changes, which have left commuters high and dry on the Bellarine Peninsula. There is no rail and there are no water taxis — just buses for public transport. Despite the Public Transport Victoria regional community development planning meetings clearly showing that bus users are unhappy with the new timetables and routes, the minister has seen fit to ignore the many complaints and calls for change.

John Eren, the member for Lara in the Legislative Assembly, heard the complaints and intervened to seek changes to the Lara bus timetables. In fact he even donned a Christmas hat to act as Santa Claus bearing gifts prior to Christmas. Lisa Neville, the member for Bellarine in the Legislative Assembly, added no such Christmas cheer to the Bellarine timetables, and there was no such luck for the St Leonards bus users who had bus services reduced from hourly services to 80-minute services that do not meet the business and personal needs of Bellarine residents.

The action I seek from the minister is to return the St Leonards-Portarlington bus service to Geelong to an hourly service to meet the needs of the Bellarine community.

East Gippsland planning scheme amendment

Mr DAVIS (Southern Metropolitan) — My matter is for the attention of the Minister for Planning in the other place. It concerns East Gippsland planning scheme amendment C115 — the site-specific control Boole Boole Peninsula.

I am in receipt of letters which indicate that the minister has rejected a request from the East Gippsland Shire for a specific planning amendment. He has determined his refusal of the amendment in a letter dated 6 October to the mayor of the shire. He does so perhaps in a thoughtful way, but I do not think he is fully informed. He indicates that the rejection is about road access; however, most of the access to this particular peninsula, which is quite near to Lakes Entrance, is in fact via water, including the emergency services. The shire and other local institutions have gone to a lot of effort to ensure that there is proper access, including emergency access, and in some cases that access is quicker than what occurs in many places where access occurs via the road. His decision concerns me.

I am also in receipt of a letter dated 18 December 2015 from the shire to the Natoli family. It reads:

> I refer to the abovementioned matter …
>
> At an officer level East Gippsland Shire is deeply disappointed with the decision.
>
> The reasons provided by the minister are contained in the attached correspondence …
>
> I can assure you that officers had repeatedly requested the opportunity to meet with the relevant senior officers prior to the final decision being made and such a meeting was declined. There have been no further discussions facilitated to gain a better understanding of the reasons associated with the decision.
>
> Officers are of the opinion that the matter requires further investigation to ascertain an acceptable solution …

The minister's decision perhaps was not fully informed. There is a legitimate point to be made here that the shire's emergency access is sufficient. I think it would be very generous of the minister and there would be a lot of support if he were to carefully reconsider this and obtain additional information before closing off any option in the future. I respectfully ask that the minister ask his officers to meet with shire representatives to seek the relevant inputs, to talk to landowners if required and to make a generous reconsideration. The needs that he has pointed to can be met, and a better outcome can be achieved.

South Morang railway station car park

Mr ONDARCHIE (Northern Metropolitan) — My adjournment matter tonight is for the Minister for Public Transport. It relates to the South Morang railway station car park. The original car park, built by the then Labor government, was undersized and badly in need of work, with the car park filling up by 6.40 a.m. each day.

The Napthine coalition government committed to building an additional car park, and that was hastily followed by the Andrews government's promise to build a car park after significant local pressure. Surprise, surprise! This car park is not working well either. It is badly undersized, it is not meeting the needs of the local people and it fills up very quickly as well. It does not fully cater for demand, and as a result some local people, in trying to get a spot, are parking their vehicles along the throughway and against the exits, which is causing great distress for people who find their cars are blocked in and they are unable to get out. A local resident, Mr Langdon, has written to the minister and to Lily D'Ambrosio, his local member in the Legislative Assembly, and has not received a response.

The action I seek is to urge the minister to visit the car park during business hours to see how congested it is

and to deliver an appropriate solution that meets the needs of these badly planned car parks.

Responses

Ms MIKAKOS (Minister for Families and Children) — This evening I received adjournment matters from Ms Bath directed to the Minister for Regional Development, from Ms Tierney directed to the Minister for Education, from Mr Purcell directed to the Minister for Public Transport, from Ms Lovell directed to the Minister for Health, from Mr Melhem directed to the Minister for Health, from Mr Finn directed to the Minister for Local Government, from Mr Eideh directed to the Minister for Training and Skills, from Mr Morris directed to the Minister for Education, from Ms Shing directed to the Minister for Health, from Ms Fitzherbert directed to the Minister for Health, from Mr Ramsay directed to the Minister for Public Transport, from Mr Davis to the Minister for Planning and from Mr Ondarchie directed to the Minister for Public Transport. I will refer all those matters to the relevant ministers for response to members.

I also have written responses to 81 adjournment matters for circulation to members. In the interests of brevity, I will refrain from reading out the full list.

QUESTIONS WITHOUT NOTICE

Written responses

The PRESIDENT — Earlier today I indicated to Mr Rich-Phillips that I would determine whether or not a written response would be requested from the Leader of the Government, Mr Jennings, in respect of two questions posed during questions without notice. The questions that Mr Rich-Phillips sought my intervention on in terms of written responses were his second and third questions. I indicated that I would give a decision later this day, and this is about as late as it gets.

In respect of the third question, it is my view that the minister satisfactorily answered that question. His answer was apposite to the question put, so I do not require any written response in that respect.

Question 2 from Mr Rich-Phillips went to why the government obtained legal advice and who from. I have given consideration to this in the sense that Mr Jennings indicated firstly that he did not seek that legal advice himself but was aware of it. Of course the status of that is no different to any other matter that might be referred to a minister in another place for some factual support. In the same sense the minister suggested that there was some sensitivity around revealing who provided that advice and that in fact it was a matter of some confidentiality.

I have given consideration to that matter and sought advice from the clerks. I have come to the view that it is not inappropriate for the question to be posed as to who provided the legal advice. The government has provided advice to the Ombudsman and has engaged legal advice to support its position and its views in respect of the debate previously held in this chamber, and I think that it is a fair question to ask who has provided that legal advice. If the proposition were what exactly that advice was, that would be a very different matter and I would not have accepted that question in respect of going to what that advice was; I think that is a matter of some legal privilege. I think who provided it is a relevant question, but I dare say that I would not have ruled successfully for Mr Rich-Phillips in regard to where it went in terms of that advice.

I think the proposition as to why the government sought that advice, whilst it might be self-evident, is also an appropriate question to ask. Therefore in regard to the second substantive question asked by Mr Rich-Phillips today, I ask that a written response be provided by the minister, and I declare that should be on Thursday, given the lateness of the hour tonight.

On that basis, thank you, everyone. The house stands adjourned.

House adjourned 10.32 p.m.