

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL**

**FIFTY-EIGHTH PARLIAMENT**

**FIRST SESSION**

**Wednesday, 9 March 2016**

**(Extract from book 4)**

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# HANSARD<sup>150</sup>



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 Small Business, Innovation and Trade . . . . .	The Hon. P. Dalidakis, MLC
Minister for Industry, and Minister for Energy and Resources . . . . .	The Hon. L. D'Ambrosio, MP
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Minister for Environment, Climate Change and Water . . . . .	The Hon. L. M. Neville, MP
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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** — #Ms Dunn, Mr Eideh, Mr Elasmarr, 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, #Ms Hartland, 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 Elasmarr 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

**MEMBERS OF THE LEGISLATIVE COUNCIL  
FIFTY-EIGHTH PARLIAMENT — FIRST SESSION**

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**Deputy President:** Ms G. TIERNEY

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

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**Deputy Leader of the Government:**  
The Hon. J. L. PULFORD

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

**Leader of The Nationals:**  
The Hon. D. K. DRUM

**Leader of the Greens:**  
Mr G. BARBER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Morris, Mr Joshua	Western Victoria	LP
Bath, Ms Melina <sup>2</sup>	Eastern Victoria	Nats	Mulino, Mr Daniel	Eastern Victoria	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFP	O'Brien, Mr Daniel David <sup>1</sup>	Eastern Victoria	Nats
Carling-Jenkins, Dr Rachel	Western Metropolitan	DLP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Dalidakis, Mr Philip	Southern Metropolitan	ALP	Patten, Ms Fiona	Northern Metropolitan	ASP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Davis, Mr David McLean	Southern Metropolitan	LP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Drum, Mr Damian Kevin	Northern Victoria	Nats	Pulford, Ms Jaala Lee	Western Victoria	ALP
Dunn, Ms Samantha	Eastern Metropolitan	Greens	Purcell, Mr James	Western Victoria	V1LJ
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Ramsay, Mr Simon	Western Victoria	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Shing, Ms Harriet	Eastern Victoria	ALP
Fitzherbert, Ms Margaret	Southern Metropolitan	LP	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Springle, Ms Nina	South Eastern Metropolitan	Greens
Herbert, Mr Steven Ralph	Northern Victoria	ALP	Symes, Ms Jaelyn	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			

<sup>1</sup> Resigned 25 February 2015

<sup>2</sup> 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

## WEDNESDAY, 9 MARCH 2016

ELECTORATE OFFICE STAFF .....	1031	<i>Auditor-General: Grants to Non-Government Schools</i> .....	1093
RULINGS BY THE CHAIR		<i>Auditor-General: Hospital Performance — Length of Stay</i> .....	1093
<i>Constituency questions</i> .....	1031	<i>Auditor-General: East West Link Project</i> .....	1094
<i>Questions on notice</i> .....	1032	ADJOURNMENT	
PETITIONS		<i>Shepparton region projects</i> .....	1096
<i>Whittlesea planning scheme amendment</i> .....	1032	<i>Pornography awareness education</i> .....	1097
LAW REFORM, ROAD AND COMMUNITY SAFETY COMMITTEE		<i>Sunbury Road duplication</i> .....	1097
<i>Fuel drive-offs</i> .....	1032	<i>South Oakleigh Primary School site</i> .....	1098
PAPERS .....	1033	<i>Grand Final Friday</i> .....	1098
MINISTERS STATEMENTS		<i>Strathmore Secondary College</i> .....	1099
<i>International students</i> .....	1033	<i>Technical schools</i> .....	1099
MEMBERS STATEMENTS		<i>Melbourne Youth Justice Centre</i> .....	1099
<i>Jenny Simko</i> .....	1034	<i>Family violence</i> .....	1100
<i>Spring Creek Reserve netball facilities</i> .....	1034	<i>Water policy</i> .....	1100
<i>Religious freedom</i> .....	1035	<i>Caroline Springs artificial lakes</i> .....	1101
<i>Rock of Ages</i> .....	1035	<i>V/Line customer compensation</i> .....	1101
<i>Wimmera Machinery Field Days</i> .....	1035	<i>Nunawading police station</i> .....	1101
<i>Health funding</i> .....	1035	<i>Gardiners Creek Reserve, Burwood</i> .....	1102
<i>Ross Hannaford</i> .....	1035	<i>Lalor small business</i> .....	1103
<i>International Women's Day</i> .....	1036	<i>Responses</i> .....	1103
<i>South Eastern Metropolitan Region roads</i> .....	1036	JOINT SITTING OF PARLIAMENT	
<i>Port rail shuttle project</i> .....	1036	<i>Victorian Health Promotion Foundation</i> .....	1105
<i>Victoria Road, Northcote, bus shelter</i> .....	1037	<i>Victorian Responsible Gambling Foundation</i> .....	1105
<i>Breaking Challah</i> .....	1037	<i>Senate vacancy</i> .....	1105
<i>Sydney Gay and Lesbian Mardi Gras</i> .....	1037		
<i>Food is Free</i> .....	1037		
PRODUCTION OF DOCUMENTS .....	1038, 1063		
QUESTIONS WITHOUT NOTICE			
<i>Deakin University Warrnambool campus</i> .....	1053		
<i>Wild dogs</i> .....	1054		
<i>VicForests</i> .....	1054, 1055		
<i>Problem gambling</i> .....	1055		
<i>Monash University Berwick campus</i> .....	1056, 1057		
<i>Drought assistance</i> .....	1057, 1058		
<i>Synthetic drugs</i> .....	1058		
<i>StartCon</i> .....	1059, 1060		
<i>Written responses</i> .....	1060, 1104		
QUESTIONS ON NOTICE			
<i>Answers</i> .....	1060		
CONSTITUENCY QUESTIONS			
<i>Eastern Victoria Region</i> .....	1061		
<i>Western Metropolitan Region</i> .....	1061, 1063		
<i>Northern Metropolitan Region</i> .....	1061		
<i>Western Victoria Region</i> .....	1061, 1062		
<i>Southern Metropolitan Region</i> .....	1062		
<i>Northern Victoria Region</i> .....	1062		
UPHOLDING AUSTRALIAN VALUES (PROTECTING OUR FLAGS) BILL 2015			
<i>Second reading</i> .....	1063		
ELEVATED RAIL PROPOSAL .....	1078		
STATEMENTS ON REPORTS AND PAPERS			
<i>Department of Treasury and Finance: budget papers 2015–16</i> .....	1090, 1092		
<i>Auditor-General: Public Safety on Victoria's Train System</i> .....	1091, 1095		



## Wednesday, 9 March 2016

**The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.34 a.m. and read the prayer.**

### ELECTORATE OFFICE STAFF

**The PRESIDENT** — Order! I wish to make the following statement in relation to the matter of employment of casual electorate officers, and the exact same statement is being made by the Speaker in another place at this time.

In September 2015 the Speaker and I advised parties that in consultation with the Parliament's audit committee we would conduct an internal audit of processes and practices related to the employment of casual electorate officers. This advice followed allegations about certain practices in the lead-up to the 2014 state election.

That internal audit has been completed and a copy of the report will be sent to the leaders or representatives of all parties and Independents today. A copy of the report will also be available in the library.

### RULINGS BY THE CHAIR

#### Constituency questions

**The PRESIDENT** — Order! Yesterday during constituency questions I ruled 3 of the 10 questions out of order. There were at least two others that I considered to be borderline with respect to meeting the sessional order requirements. As a result, I indicated I would provide the house with a reminder of the rulings and guidelines put in place early last year.

On 12 February 2015 new sessional order 4 came into operation relating to constituency questions. In particular, sessional order 4(1) states:

At the conclusion of questions without notice up to 10 members may ask ministers an oral question relating to a constituency matter.

Later in February 2015 I provided the house with further guidance with respect to this new sessional order and made a clear distinction between constituency questions and adjournment matters. In the 1 minute they have to ask their question, members should satisfy the Chair that the matter has a direct connection to their region. This does not prevent the matter from also being relevant to other regions, but the matter should not be so general as to have only incidental relevance to a member's region.

Several of yesterday's questions made fleeting reference to a region and then predominantly focused on a broad, general government issue. If anything, I would prefer to see a question structured the other way around — that is, make an initial reference to a broader issue and then narrow the question down to a specific matter in a constituency.

It is very clear to me that in fact the questions that are posed, because they are constituency questions, really must have a direct question that relates to the constituency. In other words, what is being sought from the minister in response is about something for a member's electorate, not about a change of government policy or about something that is happening along a railway line that trains might run through before they get to a member's electorate in the end.

In relation to the matters that were raised yesterday I will make a comment about two of them in particular. Mr Mulino's question concerned a railway line where the stations mentioned were in a metropolitan electorate, and, after I had ruled it out, Mr Mulino got up and said, 'Well, I meant to say'. That is all very well, but it was not said. Therefore from a Chair's point of view it was not a constituency question by the definition.

Mrs Peulich's question at the end sought to reconcile two different government policies, which is very different to a constituency question. Yes, those policies both impact on her electorate, as indeed on all electorates, but the point is asking for a reconciliation of two government policies was not a constituency question. I hope that we can refine those matters today.

While I am on my feet I also indicate that I am aware, and I guess I am anticipating, that a fairly serious motion will be debated today in terms of the possible suspension at a later date of a member of the house because of the non-production of documents. I simply want to place on record at the outset of the day that I regard these sorts of motions as very serious motions, and therefore I would hope that the house would accord proper behaviour in terms of the prosecution of that debate. In other words, I do not see that that is a debate that ought to be subjected to lots of interjections and commentary across the chamber. I would expect that the mover of the motion will take it in the serious vein that the motion is in, and I trust that all other members will show a courtesy to the member who is the subject matter of this motion and also recognise the importance of it in terms of the house's operation and the entitlements of all members of this house.

Yesterday there was some debate or some invective involving some members which included references that were not only unparliamentary but I think really beyond the pale. I trust that members will reflect on what they say very carefully and that they will ensure that, as one of my grandchildren says, 'If I feel angry, Mummy told me I am to count to 10'. That is not bad advice and hopefully might well prevent a further occurrence such as we saw yesterday.

### Questions on notice

**The PRESIDENT** — Order! Ms Crozier has written to me in respect of a question on notice that was placed on the notice paper which she believes was not satisfactorily answered. It is question 2009, and it refers to the Minister for Families and Children and is in relation to child protection practitioners. I have had a look at the question and the answer. The answer to some extent relies on data that may be published on an annual website. I think there are issues in terms of ministers relying on website data, because it is not always updated. It can be aged information rather than the contemporary information that questions are often seeking. In that context, as I understand it, the information that was being sought by this question would not be covered by the website at any rate because the answer is in response to staffing levels rather than to the turnover of staff, which is a different matter. Having considered the question and the answer, I am of the view that the question should be reinstated.

**Mrs Peulich** — On a point of order, President, thank you very much for your attempts to clarify the requirements for a constituency question to be ruled within order or to be allowed. I just want to place on record that I do not agree with your summation of my constituency question. I did mention a number of areas that were specifically in my region. However, I will write to you in greater detail on that. I ask you to further reflect on this.

**The PRESIDENT** — Order! I indicate that I am quite happy to entertain a letter. I advise that not only did I consider it yesterday but in fact I had it reviewed, and Mrs Peulich's and Mr Mulino's questions were probably the clearest cut constituency questions that should have been ruled out of order. As I said, Mrs Peulich's question was to reconcile what she saw as two conflicting government policies.

**Mrs Peulich** — It wasn't 'reconcile'.

**The PRESIDENT** — Yes, I am sorry. I have used the word 'reconcile' to paraphrase, but nonetheless that was the intent. Yes, 'reconcile' is my word, but that is

what the constituency question asked. I will see the letter.

### PETITIONS

#### Following petition presented to house:

#### Whittlesea planning scheme amendment

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 residents of the (Peter Lalor) Saxil Tuxen housing estate object to the rezoning by the state government from GRZ1 to NRZ1.

The petitioners therefore request that the Legislative Council move to revoke Whittlesea planning amendment C181.

**By Mr ONDARCHIE (Northern Metropolitan) (557 signatures).**

**Laid on table.**

### LAW REFORM, ROAD AND COMMUNITY SAFETY COMMITTEE

#### Fuel drive-offs

**Mr EIDEH (Western Metropolitan) presented report, including appendices, together with transcripts of evidence.**

**Laid on table.**

**Ordered that report be published.**

**Mr EIDEH (Western Metropolitan)** — I move:

That the Council take note of the report.

In doing so, I am delighted to table and speak on the final report by the Law Reform, Road and Community Safety Committee on fuel drive-offs. This report outlines eight recommendations, which will tackle this ongoing and very serious problem within the Victorian community. I would like to thank and acknowledge my fellow committee members for their contributions to this report. All of them have worked very hard in preparing this report. I acknowledge the chair, the member for Buninyong in the Legislative Assembly, Mr Geoff Howard; the member for St Albans in the Legislative Assembly, Ms Natalie Suleyman; the member for Benambra in the Legislative Assembly, Mr Bill Tilley; the member for Nepean in the Legislative Assembly, the Honourable Martin Dixon; the member for Sandringham in the Legislative Assembly, Mr Murray Thompson; and a member for Northern Metropolitan Region, Ms Fiona Patten.

In addition to these members I would also like to thank members of the secretariat for their ongoing tireless work on this report and their assistance to the committee. The committee is indebted to the dedicated work of our secretariat staff: Yuki Simmonds, executive officer; Andrew Homer, acting executive officer; John Aliferis, research officer; and Christianne Castro and Sarah Kate Terry, committee administration officers. Their professional research, drafting and administrative support were very much appreciated by the members throughout that inquiry.

As with other committees and reports, some of the most important and vital pieces of information came from the submissions from those both directly and indirectly affected by the issue, in this case fuel drive-offs. This report has come as a result of a combination of engagement with industry, government, law enforcement and community representatives. Such submissions included the significance of the costs of fuel theft to business and the efforts of traders and Victoria Police to investigate and reduce the prevalence of this crime within the community. Their insight has been invaluable during this process, and the committee thanks them for their contributions.

The report outlines eight recommendations, which include a Victoria-wide fuel drive-off education campaign, which will be developed as part of a partnership between Victoria Police, Crime Stoppers and the fuel retail industry. I will address four recommendations here today. Developing continued communication between Victoria Police and the fuel retail industry will be completed through Victoria Police conducting six-monthly forums to address and discuss the ongoing issue of fuel drive-offs and the best ways of dealing with the matter. In addition to this, the committee has recommended that Victoria Police develop a guide for the fuel retail industry on fuel drive-off prevention. Another recommendation is that the Victorian government consider measures to assist the fuel retail sector in implementing a prepayment system to prevent fuel theft.

These recommendations, along with the others in the report, highlight the importance of working in collaboration with the sector and Victoria Police when dealing with fuel drive-offs. I commend the report to the house.

**Motion agreed to.**

## PAPERS

### Laid on table by Clerk:

Auditor-General's Reports on —

Digital Dashboard: Status Review of ICT Projects and Initiatives — Phase 2, March 2016 (*Ordered to be published*).

Grants to Non-Government Schools, March 2016 (*Ordered to be published*).

## MINISTERS STATEMENTS

### International students

**Mr HERBERT** (Minister for Training and Skills) — When it comes to international education, like in so many other areas, the good news keeps on coming under the Andrews government. New commonwealth data has revealed a record number of international students are studying in Victoria. The data shows that a massive 175 000 international students studied in Victoria in 2015, up from 160 000 the year before and a 12 per cent increase. We now have nearly one-third of all international students in Australia studying in Victoria. International education is estimated to have grown from \$4.8 billion in 2014 to more than \$5.6 billion of activity for our local economy, and it creates and supports approximately 30 000 jobs. It is not hard to see why so many international students come here to study. Our universities are the best in the world. Melbourne is second only to Paris as the world's top student city. We have one of the greatest multicultural societies in the world.

We are committed to looking after international students and giving them a great experience while they are here. That includes the \$4 million International Student Welfare Grant program implemented by the Andrews government last year that supports students who are far away from home. We are also forging links with new export markets. In fact only this week a delegation of 14 education experts from Latin America were here to learn more about our vocational education system. This follows the state's largest ever delegation to Latin America, which I led last April. We are growing our markets, supporting international students and building on Melbourne and Victoria's strengths as an international student destination. Is it any wonder students from around the world are flocking to Melbourne to study, learn and grow their expertise?

**The PRESIDENT** — Order! I indicate that I had a bit of trouble with that ministers statement in respect of the fact that ministers statements are supposed to

provide information on new government initiatives. That statement was a reflection on a report that came out about the very good performance of the sector, but it did not contain any actual government initiative or anything new, other than the comment that the release of the report reflected well on what was happening. I think that was outside the scope of ministers statements.

**Mr HERBERT** — Thank you, President. Perhaps I did not articulate it as well as you would have liked me to. It was about new government programs seeking to open up new markets in Latin America. We had a trade delegation over there and a delegation from there here this week. They are part of our strategy to grow the marketplace and broaden the international education sector. I apologise for perhaps not articulating that as well as you, President, would have liked.

**The PRESIDENT** — Order! That is fine. The clarification satisfies me — and it did use up the remaining 15 seconds.

## MEMBERS STATEMENTS

### Jenny Simko

**Mr RAMSAY** (Western Victoria) — Motor neurone disease (MND) is a progressive and terminal neurological disease. There is no known cure and no effective treatment for MND. In fact each day in Australia two people die from MND and two people are diagnosed. Average life expectancy following diagnosis is 27 months. An estimated 1900 people have MND in Australia, and for every person diagnosed with MND it is estimated that a further 14 members of their family and friends will live with the effect.

At the age of 53 Jenny Simko was fit and enjoying life, she had been happily married for 30 years and was a proud mother of three wonderful children. On 7 August 2014 Jen was given devastating news that would change her life forever. After 10 months of medical tests Jen was diagnosed with MND. Receiving the news that she had a terminal illness with no known cause and no known cure was absolutely shattering to her family. Jen, however, amazed everyone with her remarkably positive approach in handling the situation. To those that knew Jen, this was typical of her; however, in these challenging circumstances she was truly inspiring.

Jen was a very special person and was loved by everyone that knew her. As a registered nurse for over 30 years she dedicated her life to helping people and never expected to be needing care at that stage of her life. It was hard for us to reconcile why this happened to someone like her. However, MND does not

discriminate: it is a cruel disease that kills over 100 000 people globally each year. Jen started an initiative called Rock Off MND, which I attended at the Deakin University waterfront last Saturday night. It raised \$136 000 for ongoing research. Jen sadly passed away on 14 November 2015, but her legacy and her work in providing funding for research for a cure for MND will continue.

### Spring Creek Reserve netball facilities

**Ms TIERNEY** (Western Victoria) — I speak on the issue of women's participation in sport. Particularly over the past few years we have seen some exciting new developments. In 2015 we saw the first televised women's AFL game between Melbourne and the Western Bulldogs, which in terms of viewer ratings was more successful than the Adelaide-Essendon men's game that same weekend. In 2015 we also saw Australia's women's hockey team, the Matildas, make the Women's World Cup quarterfinals. Our Opals will compete in the women's basketball at this year's Olympics in Rio, and there is our Southern Stars women's cricket team, who are currently ranked first in all forms of women's international cricket. These are all important feats in encouraging young girls to join their local sporting club and be inspired by these role models.

But the encouragement to participate must also come from adequate facilities at the grassroots level. Spring Creek Reserve in Torquay is a fantastic sporting precinct, and the football facilities are of an excellent standard. However, the current netball facilities do not meet the local and regional competition needs and they represent the last piece of the puzzle in making this a first-class sporting precinct. There are no showers, there is no disabled access and there are no disabled facilities. There is no umpire space, no separate first-aid room, no trainer's area and no pavilion storage. There are inadequate toilet facilities, and there is insufficient canteen and administration space.

The Surf Coast Shire Council has applied for funding under this year's Community Sport Infrastructure Fund. This funding would see the existing inadequate clubroom facility demolished and replaced with a new multi-use clubroom facility. I would like to see the Minister for Sport fund this important project to ensure that all netballers, whether they are training on the courts or playing at the Spring Creek facility, are provided with the adequate facilities that are so sorely needed.

## Religious freedom

**Dr CARLING-JENKINS** (Western Metropolitan) — I rise to speak about an event I attended on Wednesday, 24 February, hosted by St Mary's parish in Ascot Vale. It was a privilege to be one of the guest speakers on the night, alongside Rocky Mimmo, an expert in international law and human rights. The topic for the event was religious liberty, with the theme 'Free to follow and promote one's beliefs ... for now'.

Freedom of religion is about much more than just safeguarding the right of religious organisations to exist or the performance of religious rituals. It requires the freedom to live every aspect of one's life in the light of that person's faith and to bring that to bear on the society and culture in which we live. Freedom of religion should not be a big ask. It is, after all, a fundamental and universal right. We might have presumed that Judaeo-Christian values, derived from faith and the mainstay of our culture, government and legal system, would be treated with respect. However, this is often no longer the case. Gradually the views once recognised as foundational to our way of life have been eroded and undermined.

I would like to commend the work of Rocky Mimmo and the Ambrose Centre for Religious Liberty for their increasingly important work in strengthening democratic life in Australia and ensuring that genuine pluralism flourishes in our country through the unity of religious faiths pursuing this common purpose.

## *Rock of Ages*

**Mr MORRIS** (Western Victoria) — I would like to congratulate the cast and crew of the Ballarat Lyric Theatre's production of *Rock of Ages*, the very first amateur production of the show in Australia. I was pleased to join Heidi Victoria, shadow arts minister, at Her Majesty's Ballarat for the opening night of *Rock of Ages* last Thursday evening. Not only was the show amazing, but Her Maj, as she is affectionately known, is looking magnificent. With the installation of new seats and carpet recently completed, the old dame is looking superb.

## Wimmera Machinery Field Days

**Mr MORRIS** — Along with my fellow Liberal member for Western Victoria Region, Simon Ramsay, and Nationals colleagues, I attended the Wimmera Machinery Field Days at Longerenong, just outside Horsham. The field days, in their 54th year, are a three-day event that is an institution in western Victoria.

Congratulations to all involved in the organisation of the field days, especially the president of the field days, David Jochinke, and the manager, Murray Wilson, for their efforts in ensuring that despite the persistent drought conditions in western Victoria the 2016 field days were another great success.

## Health funding

**Mr MELHEM** (Western Metropolitan) — I rise to speak on the Prime Minister's vicious cuts to Victoria's health system and specifically what it means for the hospitals in my electorate. Our state's health system will suffer as a direct result of the actions of the federal government, which before the last election promised not to cut health funding. Of this, oddly enough, all that we have seen has been cut, after cut, after cut.

Victoria's health system is already under immense pressure from Prime Minister Malcolm Turnbull's impending \$17.7 billion cut to health funding. One would think that the obvious and sensible thing to do here would be not to further cut spending in health, yet that is exactly what the Prime Minister has not done, with his latest \$73 million cut to Victoria's health funding. The repercussions of such a callous decision will be felt widely, and this is especially true for constituents and hospitals in my electorate. The new \$73 million in cuts will see Western Health \$4.9 million worse off and Werribee Mercy Hospital \$2.3 million worse off. This could have been money used for many other operations.

What makes this situation that much more bitter is the fact that Mr Turnbull's new cuts come as a result of an accounting trick which changes the way Canberra calculates health activity funding. Despite agreeing on the Victorian counting method that the former Liberal government applied, the federal government has backflipped on this and has now changed the way in which the national health funding pool is being calculated. We have always honoured the terms of the funding agreement. Yet why are changes now being made to Victoria's funding allocation?

For the sake of all Victorians and of our hospitals and patients, I say to Malcolm Turnbull: stop cutting crucial funding to our health system in order to prop up your budget bottom line. Our state deserves better.

## Ross Hannaford

**Ms PENNICUIK** (Southern Metropolitan) — Legendary guitarist Ross Hannaford died yesterday. Ross was best known as the lead guitarist of Daddy Cool, which he formed with Ross Wilson, Wayne

Duncan and Gary Young. The single *Eagle Rock*, from the seminal album with the pink cover, *Daddy Who? Daddy Cool*, which was released 45 years ago, became and remains a huge hit.

After Daddy Cool split, Ross formed other bands and collaborated with many other Australian musicians on their projects. He also enjoyed busking around the traps. He had lately been playing with Steve Hoy and various other musicians in the local ensemble Holy Mackerel. Late last year, while very ill with cancer, he released his album *Hanna*, which was launched at the fabulous Caravan Music Club in Oakleigh.

I got to know and love the genius of Ross Hannaford's guitar playing while going to see his band Diana Kiss on Monday nights for years at the Espy in St Kilda. Diana Kiss played all genres of music and included many covers, all of which bore the unique stamp of the band and Ross in particular. Memorable songs include covers of Bread's *Everything I Own* and Bob Dylan's *Everything is Broken*.

Ross's guitar playing was amazing, and he had a very laid back, gentle style. He had the ability to transport you away with his playing, which I experienced many times. He was also famous for his distinctive, deep baritone voice, which is featured on songs such as *Come Back Again*. It was always a joy to hear him singing. Ross was a musical genius and a national treasure. He influenced so many musicians and will be sadly missed. My condolences to his family and his many friends and musical collaborators. Vale, Ross.

### International Women's Day

**Mrs PEULICH** (South Eastern Metropolitan) — I would just like to take the belated opportunity of congratulating all women on International Women's Day, which we commemorate on 8 March. It is an opportunity for us to celebrate the achievement of women in our own community and our own nation, to recognise and commit to addressing the areas within our own community where women still suffer serious disadvantage and harm and also to raise awareness of the suffering of women and their families right around the world.

### South Eastern Metropolitan Region roads

**Mrs PEULICH** — On another theme, I would like to acknowledge the near completion of the Dingley bypass in Kingston, something that I and previous Liberals have fought for for a very long period of time. It is partially open and will soon be open to improve

traffic flow and separate industrial traffic from the traffic of local residents.

I would also like to call on the government to seriously consider the congestion across the south-east and the need to get ahead with the construction of the Mornington Peninsula Freeway northern extension, the east-west link, the Westall extension, the Thompsons Road duplication, the serious congestion affecting the Monash Freeway and also the construction of the last leg of the Dingley bypass, which needs to connect to the South Gippsland Highway and South Gippsland Freeway. Without these investments in infrastructure, our community, our businesses and our residents will continue to suffer the serious amenity issues in relation to deficiency in infrastructure.

### Port rail shuttle project

**Ms DUNN** (Eastern Metropolitan) — I want to talk about a petition I received yesterday online from the Public Transport Users Association and Public Transport Not Traffic. It calls on the government to construct the port rail shuttle project. In a very short period of time 424 Victorians have signed this petition, and they recognise in signing it that without immediate investment in freight on rail more and more heavy trucks will be clogging suburban streets, costing billions in wasted time and condemning local communities to increased diesel and noise pollution.

It is also worth noting in relation to the port rail shuttle project that there are 34 organisations that have formally supported in some way this project going ahead and advocated publicly for that. Those organisations are the Australian Logistics Council, the Australian Manufacturing Workers Union, Australian Paper, the Australian Peak Shippers Association, the Australasian Railway Association, Avalon 2020, the Container Transport Alliance Australia, the Committee for Dandenong, the Customs Brokers and Forwarders Council of Australia, Fonterra Australia, Frankston City Council, the Freight and Trade Alliance, Greater Dandenong City Council, Habitat Trust, Latrobe City Council, LeadWest, Maersk Line, Maribyrnong City Council, the Maribyrnong Truck Action Group, Mornington Peninsula Shire Council, Port Phillip Conservation Council, Public Transport Not Traffic, the Public Transport Users Association, Qube Logistics, the Rail Freight Alliance, Southern Shorthaul Railroad and the South East Melbourne Manufacturers Alliance. I am going to run out of time to read those last ones out, but that is a good slice of them.

### **Victoria Road, Northcote, bus shelter**

**Mr ELASMAR** (Northern Metropolitan) — I was contacted recently by an extremely distressed elderly couple who live in Northcote in my electorate. They informed me that they had a problem relating to a clear access way through their garden to a path leading to their front door. It seems that when a bus shelter was installed it was placed too close to the gateway of 76A Victoria Road. Lately an ambulance was called to the house and had difficulty accessing the garden path leading up to the front door.

I quickly organised a time to meet with the mayor, Cr Vince Fontana, and the CEO of Darebin City Council, Mr Rasia Dev, together with the relevant ward councillor, Cr Steven Tsitas. An investigation took place immediately, and I have just been informed that the council has made a decision to relocate the bus shelter as a matter of urgency to a location a few metres away from the front gate.

I am always really happy to be able to fix problems for constituents. It makes being a parliamentarian so very worthwhile and fulfilling. I thank the Darebin council for its speedy action in resolving this important matter.

### **Breaking Challah**

**Mr DAVIS** (Southern Metropolitan) — I am pleased today to advise the chamber that I was lucky enough to be invited to a Breaking Challah Friday evening Shabbat outing, and I want to place on record my thanks to Justine and Bernie Kuran for their hospitality, warmth and embracement of people from all different backgrounds at their home. This is a very generous step by a wonderful Jewish family who have jointly, with Henry Roth, founded the Breaking Challah group and are working in a very practical way to build goodwill in the community between different groupings that traditionally may not have got on so well.

We hear lots about the Middle East and its challenges, and at a community level we hear of challenges here and elsewhere, but here is a group of people — a family in this case, Justine and Bernie — who are getting on with the job in a very practical way of building goodwill in the community. Inviting people to their home for a Shabbat dinner on a Friday night with food, good company and hospitality I think is a very practical way of doing this, and I for one pay tribute to them. I am a very strong supporter of the Jewish community, and I am particularly a very strong supporter of people like Justine and Bernie, who are prepared to open their home and in a practical way build goodwill in the community. I say thank you to them. I think this is a

great role model that can be put out further across the world in a constructive way.

### **Sydney Gay and Lesbian Mardi Gras**

**Ms PATTEN** (Northern Metropolitan) — Last weekend I had an absolutely fabulous time celebrating the Australian Sex Party's inaugural appearance at the Sydney Gay and Lesbian Mardi Gras. In 1978 the Gay Solidarity Group planned an event in commemoration of the Stonewall riots, where LGBTI protesters and their supporters demonstrated against the homophobic, racial and gender-based discrimination and harassment they faced. While the parade has now grown into a symbol of gay rights throughout the nation, it was birthed from the same place as so many movements for equality — that is, civil liberties. The long-awaited apology to the 78ers for the violence they faced at the first Mardi Gras brings us back to the core of why this parade started.

I loved parading alongside party members, as well as my sister Kirsty, her partner Linda and my gorgeous niece, Bonnie. Being there was a fantastic testament to how far LGBTI rights have progressed. However, it is also a timely reminder that we do not have marriage equality in Australia, and informative programs like the Safe Schools program are still coming under attack from government and religious conservatives. The rate of HIV infection in Victoria continues to be a problem, and while it is great to see the government's action on PrEP, more can be done. All these issues remind us more than ever that Mardi Gras is not just a celebration, it is also a call to action.

### **Food is Free**

**Mr EIDEH** (Western Metropolitan) — I rise today to speak on the Food is Free project which has been spreading across Victoria and is proving to be a successful community building and gardening movement. The Food is Free initiative encourages participants to build low-maintenance vegetable gardens in front yards to provide fresh produce to people who need food. This initiative already has locations in Ballarat, Bendigo, Smythes Creek, Daylesford, Castlemaine and Gippsland. I am pleased to say that the latest addition to these locations is Sunshine and it has been established by my constituent Mr Paul Sargeant.

Paul has worked hard to turn his front yard into a free vegetable garden as part of the Food is Free project and generously offers fresh produce for those in need.

I am pleased to hear that Paul and his family have applied for a grant to start an initiative called Build, Grow, Connect. They have received assistance from Brimbank City Council, which has provided funds for up to 10 established vegetable gardens in the hope that recipients will share their harvest with neighbours and the community. This is such a wonderful demonstration of good citizenship, and it makes us truly proud knowing that there are people who are so willing to help others.

I am certain that this project is just the beginning of a new way to strengthen our communities across the state. I congratulate Paul on his hard work and dedication in bringing the Food is Free project to the western suburbs and on his ongoing commitment to strengthening the local community through sharing fresh produce. I encourage everyone to get involved in this project.

## PRODUCTION OF DOCUMENTS

**Ms WOOLDRIDGE** (Eastern Metropolitan) — I move:

That this house —

- (1) notes the continuing failure of the Leader of the Government, on behalf of the government, to comply, to the satisfaction of the Council, with the following resolutions of the Council requiring the Leader of the Government to table in the Council certain documents, specifically the resolutions of —
  - (a) 11 February 2015 in respect of port of Melbourne documents;
  - (b) 25 February 2015 in respect of West Gate distributor documents;
  - (c) 25 February 2015 in respect of Australian Formula One Grand Prix documents;
  - (d) 25 February 2015 in respect of Cranbourne-Pakenham rail corridor project documents;
  - (e) 10 June 2015 in respect of Advanced Lignite Demonstration Program documents; and
  - (f) 5 August 2015 in respect of Peter Mac Private hospital documents;
- (2) notes the failure of the government to comply with the further resolution of the Council of 19 August 2015 reaffirming the requirement for the Leader of the Government to table in the Council the documents outlined in (1)(a) to (f);
- (3) notes that the government's continuing failure to comply with the resolutions of the Council is inconsistent with the Andrews government's election commitment to proper accountability to Parliament by the executive;
- (4) reaffirms the privileges, immunities and powers conferred on it by section 19 of the Constitution Act 1975, which includes the right to require the production of documents, and the power to make standing orders under section 43 of that act;
- (5) regards its capacity to obtain information on any matter affecting the public interest as being fundamental to the reasonable exercise of its role and powers to scrutinise executive behaviour;
- (6) regards it as essential that the rightful powers and principles of the Council be protected and that appropriate sanctions be imposed for any obstruction to the proper performance of its important functions;
- (7) condemns the government for its apparent belief that it is not accountable to the people of Victoria through their elected representatives in the Parliament of Victoria;
- (8) accordingly adjudges the Leader of the Government guilty of a contempt of the Council for his failure, on behalf of the government, to comply, to the satisfaction of the Council, with the resolutions of the Council outlined in (1)(a) to (f) and further resolution of 19 August 2015;
- (9) suspends the Leader of the Government from the service of the Council from 12 noon on the next Tuesday the Council sits following the adoption of this resolution;
- (10) in the event that the documents specified in the resolutions of the Council outlined in (1)(a) to (f) are subsequently lodged with the Clerk, a member may move at any time, providing there is no question before the Chair, 'That the suspension of the Leader of the Government be lifted';
- (11) for the purposes of a motion moved in accordance with (10), standing orders are suspended to the extent necessary so as to provide for the motion —
  - (a) to be a procedural motion for the purposes of standing order 5.03;
  - (b) to take precedence over all other business;
  - (c) to be put without amendment; and
  - (d) in the event that it is negatived, to be put again on a subsequent sitting day;
- (12) notwithstanding the terms of this resolution, a suspension of the Leader of the Government in accordance with (9) ceases to have effect on the day that is six months after the day such a suspension came into effect.

This is a long motion, but it is a very important one and a very serious one. In speaking to the motion today and bringing it to the chamber for debate we are very much considering the rights of this chamber to not only the production of documents that it has requested but also

the imposing of sanctions as a result of an obstruction of a request of the Council.

This has direct implications for one of the ministers of the government. It is important that this is not seen as a direct attack on Mr Jennings himself, because in all cases the documents that have been requested are not actually areas of his ministerial responsibility. It is the decisions of the Andrews government and the failure of the Leader of the Government to produce documents to the chamber that leads us to this motion today.

The coalition and the chamber have methodically and deliberately gone through a staged process to ensure that at every point the arguments can be put, the debate can be had and the votes can be undertaken to consider the production of the documents. There have been significant opportunities, in some cases over the space of more than a year, for those documents to be sourced by the government and for those documents to be provided to the chamber.

This is also important in the context of what the Leader of the Government — what Daniel Andrews and the Andrews government — promised the Victorian community prior to the election. The government was elected on a platform of accountability to the Parliament by the executive, and in fact Labor's own 2014 platform states:

Labor believes in our public institutions and our Parliament. They should never be misused and abused.

We believe that the actions of the government, as demonstrated through the Leader of the Government in this place, are not consistent with the powers of this place, and therefore we come to the motion today. What we have seen, time after time, document motion after document motion, is that the Andrews government and the Leader of the Government are defying this Parliament and the resolutions of this chamber. These resolutions are the result of the Council doing its job and the failure of the government in not doing its job.

Let us have a brief look at some of the resolutions that have been passed, which is what we are talking about today. On 11 February 2015 — over a year ago — a motion was passed in respect of port of Melbourne documents. In each of these cases the process has been a holding response from the government in the first instance that says, 'We acknowledge the request. We need more time', and then there has been some level of response in relation to those documents. In some instances there has been a complete refusal; in some instances some documents have been provided. In almost all instances there has been a claim of executive privilege and documents have therefore not been

provided. For the port of Melbourne it actually took over four months for a final response in relation to the requested documents, which is an example of the delays that we have seen consistently in all of these requests.

On 25 February 2015 the Council requested West Gate distributor documents. Once again there was a four-month delay — until 23 June — before some of those documents were provided, although it was highlighted that there were many documents. I think 23 000 documents were identified. Of course only a very small number were provided, and the response was very thin. On 25 February 2015 a motion was passed in relation to the Australian Formula One grand prix, and it took over six months for a definitive response from the government in relation to that documents motion. Again on 25 February 2015 a motion was passed for Cranbourne-Pakenham rail corridor documents. The government's response took one and half months, so that has been the speediest response by the government to a Council motion. On 10 June 2015 a motion was passed requesting documents on the Advanced Lignite Demonstration Program. Over three months was the response time once again, and comprehensive documents were not provided.

On 5 August 2015 a motion was passed requesting Peter Mac Private hospital documents. It actually took a second motion and then the threat of a third motion for the documents to be provided. This occurred three and half months later, just in advance of a motion which, had it been passed, would have imposed a sanction on the Leader of the Government for the non-production of those documents. We had an extended debate over a series of weeks, but on 19 August a resolution was passed by this chamber that provided a second occasion for the Leader of the Government to provide the requested documents to the chamber, and that also has not been comprehensively fulfilled.

What this motion does is reaffirm the Council's capacity to obtain information on a range of matters affecting the public interest — that it is absolutely fundamental to the reasonable exercise of the role and the powers of this chamber to be able to scrutinise the activities of the government.

In the 58th Parliament this chamber has debated so many documents motions that have been passed and not complied with or had the times extended. We even saw a farcical situation with the east-west link contracts, where we saw months of government delays and excuses, only for the documents to be released at a staged media event, totally and utterly in defiance of

this chamber. This motion reaffirms the essential, rightful powers and principles of the Council that must be protected and allows for appropriate sanctions to be imposed for any obstruction to the proper performance of this Council's function.

It is important to give some historical context, because this is not an issue that is new to this Parliament. In the 56th Parliament there were a number of debates on this issue. I refer to a contribution of the Honourable Philip Davis back on 21 November 2007. I want to draw from his contribution at that time to remind members in the chamber of the work that was done that in fact set a precedent for the process of being able to pursue the non-production of documents in this chamber and to apply a sanction. I understand there was a lot of work done by all parties at that time in relation to it, and there was legal advice sought quite extensively. That advice was sought from Bret Walker. In that advice he referred to a number of the precedents that exist. For example, *Erskine May Parliamentary Practice* in 1893 related to the well-established powers of the House of Commons before 1855. The advice quotes from chapter 21, and I quote:

Parliament ... is invested with the power of ordering all documents to be laid before it which are necessary for its information. Each house enjoys this authority separately ...

That is very much, I suppose, the basis on which the decisions were made in the 56th Parliament, and we are seeking decisions again today. Further, referring to his advice, it states unequivocally:

Where a document is not to be regarded as a cabinet document, there should be no public interest reason to keep it from the people's representatives, the legislators, in the Council.

It goes on to say:

It is for the Council to determine, in its assessment of the public interest, how secrecy of this kind should be observed. In my experience, there is no difficulty in restricted access and redacted publication, where public disclosure would hurt the public interest.

We too hold that view — that there are limits, particularly on the basis of executive privilege, in relation to documents that can be provided — but there are processes that need to be gone through in order to get there. Mr Walker was saying for the Council that this was a matter for the Council. In effect, what we saw then were the events in 1995 and 1996 in the Parliament of New South Wales. Mr Davis quoted from the *State Constitutional Landmarks* and the section by Gerard Carney titled 'The triumph of responsible government', and Carney wrote:

The constitutional significance of *Evan v. Willis*, a decision of the High Court in 1998, and of *Evan v. Chadwick*, a decision of the New South Wales Court of Appeal in 1999, is profound — both within the state of New South Wales and nationally. These cases judicially confirm the fundamental role of each house of Parliament, including the Legislative Council, to scrutinise the activities of the executive branch. Together, they establish the power of each house to call for the production of 'state papers' despite their privileged status. The fact that the government does not have to maintain the confidence of the Legislative Council does not mean that it is not accountable to that house. By recognising the different way each house of Parliament may hold the executive government accountable for its administration of the state, these cases have reinforced and reinvigorated, if not redefined, the principle of responsible government in Australia.

What we have seen is that where we are today is embedded in principles from *Erskine May*, and it has been reaffirmed in decisions made in New South Wales by its courts and the decisions made back then in the 56th Parliament in relation to actions that the house could take following the non-production of documents.

On three previous occasions in that 56th Parliament the Leader of the Government was suspended from the Legislative Council, with motions passed on 21 November 2007, 10 June 2009 and 15 September 2010, so this is not new for this chamber. There is a precedent here, and there are experiences that we can draw on in terms of where we end up today. Without foreshadowing the contributions of those opposite, I am sure we will hear about the constitution versus convention in this chamber. This motion addresses the key fundamental principle of this chamber, which is to act as a house of review. All 40 members of this chamber are elected to do that, and that is what we are further pursuing today. This motion reaffirms the privileges, the immunities and the powers conferred on it by section 19 of the Constitution Act 1975, which include the right to require the production of documents, and the power to make standing orders under section 43 of that act.

During the debate we had in August, Mr Rich-Phillips detailed to the house the processes that we had well established and that the Legislative Council has the power to require the government to provide documents as ordered by the Council. In the responses we have had we had a letter from the Attorney-General that refers to his letter of 14 April 2014. In it — and I quote a couple of paragraphs — the Attorney-General wrote:

In 1855, the House of Commons power to call for the production of documents was subject to clearly established exceptions. One of those exceptions was Crown privilege (now known as executive privilege). If the government asserted that documents were the subject of executive

privilege, this was a sufficient reason for refusing production to the House of Commons.

Accordingly, section 19(1) of the Constitution Act 1975 provides that this exception represents a limit on the Legislative Council's power to call for the production of documents and that it is for the executive government to determine the application of the privilege to documents subject to a call for production.

We as a coalition have absolutely no issue in relation to executive privilege. We believe that this is a longstanding position and that it is fair that executive privilege is applied. The issue at hand is the extent to which executive privilege is claimed in relation to the documents that we seek. Let me give you an example. One of the things — —

**Mr Leane** interjected.

**Mr O'Donohue** — On a point of order, Acting President, the President gave very clear guidance to the house prior to the commencement of this debate. This debate is an extremely important debate. The Leader of the Opposition is giving a detailed contribution on this motion, which is a complex and detailed motion. I would suggest that the interjections from the government member are unruly, particularly in the circumstances of this debate.

**The ACTING PRESIDENT (Mr Eideh)** — Order! I ask Mr Leane to respect that guidance and let the member continue her contribution.

**Ms WOOLDRIDGE** — As I was saying, the Victorian coalition does accept that genuine cabinet documents should remain with the executive government and acknowledges that the Leader of the Government is not only a member of the Legislative Council but also a member of the executive and executes responsibilities under both positions. But it is the view of the coalition that the constant refusal to release many key documents — studies, reports, briefings — which are readily available to departments and to ministers, which we believe can be released without the cover of cabinet in confidence, is a deliberate failure to comply with the resolutions of this chamber.

I want to refer to a particular example and walk through it as an example of this experience that we are having. There was an extensive debate, and we have had a number of motions in relation to documents related to Peter Mac Private hospital, which was slated to be a private facility on the 13th floor of the new Victorian Comprehensive Cancer Centre (VCCC). Extensive work had been done by Peter Mac, by the VCCC and

its board and also by the department in relation to it, and this government made the decision to cancel it.

The first item requested in the documents motion was the business case that had been developed by Peter Mac. The Attorney-General's letter of April 2015 goes through a number of tests as to whether the government would allow disclosure. I would argue that something like the business case for a private hospital which has been developed by Peter Mac itself does not breach the items outlined in the Attorney-General's letter — for example, 'reveal, directly or indirectly, the deliberative processes of cabinet'. This was developed well in advance of and separate to that process. Other tests include:

reveal high-level confidential deliberative processes of the executive government, or ... genuinely jeopardise the necessary relationship of trust and confidence between a minister and public officials;

reveal information obtained by executive government on the basis it should be kept confidential ...

reveal confidential legal advice ...

otherwise jeopardise the public interest ...

prejudice national security ...

prejudice law enforcement investigations ...

One that may also be claimed is 'materially damage the state's financial or commercial interests', but the letter actually goes on to say 'such as ongoing tender processes, or changes in taxation policy'. This is a tender that was concluded over a year ago, in contrast to 'ongoing tender processes'.

So when you apply the government's own filter to some of the documents that it has declined to provide, it is very clear that they do not meet the government's own tests — and they have in fact been declined under those categories. We believe that these need to be resolved, and there are ways forward to resolve them. You only need to go to the standing orders. I go to chapter 11, 'Production of documents', which outlines a mechanism by which claims of executive privilege can be tested, because we believe that is at question. The standing orders allow that where executive privilege is claimed, a return is prepared outlining some details about the claim, including who created the document, a description of the document, the author of the document and the reasons for the claim. It is fair to say that the responses we have had have not outlined that level of detail in relation to why executive privilege is being claimed.

Once again, in the case of Peter Mac Private, documents about which have been withheld on the basis of executive privilege, it basically has the document description ‘Report briefing email’ — a very succinct description — and reasons. The detail that is provided does not actually meet the requirements, but certainly what we do not see going on is that the documents are delivered to the Clerk, that they are made available to the mover of the motion and that, where there are claims about the veracity of executive privilege, an independent arbiter is appointed — and it can be a Queen’s Counsel, a senior counsel or a retired Supreme Court judge — to review the claims of executive privilege. Therefore there is a mechanism that I think is allowed for in the standing orders that has not previously been utilised but is clearly there and has been in place since the 56th Parliament, when this issue was debated and the need for an independent process to assess this was determined. There are some clear ways forward to assess the government’s claim in relation to executive privilege.

As I have said, we support the notion of executive privilege, but we do not believe it is being exercised genuinely by the government in relation to the documents that have been requested. This is, as I have said, a very serious motion, partly because the Council is asserting its right to be able to require the production of documents but also of course because of the potential imposition of sanctions. It is my hope that these sanctions never have to be implemented, because our intent is purely about the transparency that the government committed to and the provision of documents that has been requested by this Parliament. It is entirely up to the government whether these sanctions will apply or not through its decisions about the provision of the documents. I am saying very clearly to the government that we will be reasonable and that we expect it to be reasonable in this process.

What I do want to make very clear is that from our perspective this is not about an additional vote. This is not about trying to change the balance of the chamber. From the coalition perspective, if the unfortunate situation arises that sanctions are applied as a result of this motion being passed and the government making a decision to not provide the documents as requested by the Parliament, we will be committing to a pair for the Leader of the Government for the period the sanctions apply. This is not about anything other than the provision of the documents that this house has requested of the government. It is our view that if this motion is to pass, it is totally in the hands of the government as to whether it decides to comply with those wishes or not. That is our sole intent in bringing

forward this motion and supporting this motion, and, as I have said, we think there are very clear ways these issues can be resolved if the government wishes to utilise those that have been outlined in the standing orders for some time.

The provision of documents is not new to anyone in the chamber. In fact there is a quote from the previous Parliament that I would like to remind members of today:

I implore the chamber today to seek a mandatory requirement invoking the sanctions of Parliament ... Today the government is interested in invoking standards of appropriate parliamentary scrutiny and rigour ... but it is not actually applying them to its ministers. It is not applying standards of public disclosure, accountability and consistency, and a flagrant hypocrisy is being demonstrated by one of its ministers.

The quote continues:

But if they rise up in the spirit of improving parliamentary standards, they will probably put their minister on notice and say, ‘This information should be made available to the Parliament and the people of Victoria’. I look forward to any government member rising to that opportunity to show they have some standards of propriety and accountability. Let us see whether they can do it. Let us just see whether that can be achieved today. It is a good test for the Parliament this week.

Who was that? Who was that erudite individual? It was in fact, on 3 September 2014, the Leader of the Government, Gavin Jennings. What it says is that we did see from this government just two months before the election — at about the same time those commitments were being made in relation to transparency and to the role of the Council and the role of the Parliament in enabling us to fulfil our duties — a very clear articulation of those rights and the necessary sanctions that can be applied and a call to members to live up to that standard. It will be a big test for all members of this chamber, including those on the government benches, to do the same today during this debate. Will this chamber say that this information should be made available to the Parliament and to the people of Victoria? Will this Parliament uphold the traditions, the conventions, the votes of the past, the resolutions carried and in fact what is enshrined in our constitution to take the appropriate actions afforded today by supporting this motion in relation to the production of the documents and the message that this is what the Council wishes?

This motion will adjudge the Leader of the Government guilty of contempt of the Council for his failure on behalf of the government to comply to the satisfaction of the Council with the resolutions of the Council if those documents are not provided. But it gives the

government time and another opportunity — a third opportunity — to comply with the expectation of the Council and deliver the documents on these key issues: the port of Melbourne, the West Gate distributor, the Australian Formula One Grand Prix, the Cranbourne-Pakenham rail corridor, the Advanced Lignite Demonstration Program and the Peter Mac Private hospital. If there is a continued failure to provide these documents, this motion provides for the suspension of the Leader of the Government from the service of the Council from 12 noon on the next Tuesday the Council sits following the passing of this motion. These are serious matters, but this is a serious issue in relation to the rights and privileges of this Parliament to request documents of the government.

I urge all members to support this motion. It is important for the 58th Parliament and for the Legislative Council. We have gone through the process of having individual orders made, we have given the government a second opportunity and we have taken further steps to ensure that those orders are complied with. There have been numerous opportunities over an extended period of time, and I encourage the government to comply with the resolutions of the house. But with the failure to do so, there have to be consequences. So I encourage all members to support this motion today and to support the rights and the privileges of this Council in relation to the oversight of the government in a way that is appropriate, in a way that is reasonable and with a mechanism that is provided in the standing orders in order to do so through an independent process. This is very reasonable, and it is time for the government to deliver on its commitment to transparency. It is time for the government to confirm that this is the right of this Council.

**Mr LEANE** (Eastern Metropolitan) — This morning when I got into my car and headed into this place it was just after 7.00 a.m. I looked at the readings on the dashboard, and they actually indicated to me that it was 34 degrees just after 7.00 a.m. I also looked at the reading, which I constantly do, for how many kilometres I have left before I run out of petrol. That reading was 666. As people know, I do not follow any particular religion, but I do believe in the universe's energy. Looking at those two signs — that just after 7 o'clock this morning it was 34 degrees and that I had 666 kilometres worth of petrol left — said to me that something evil was afoot today. If the good oil is right, the opposition parties — the Liberal Party, The Nationals party and the Greens party — are going to do something evil. They are going to use their opportunity of 20 plus 1. Forget the speech that Ms Wooldridge made and all the weaselly excuses for why they are

going to pull the trigger with their 20 plus 1. They have nothing to do with it. What they will do today is suspend a member of this chamber for six months for fulfilling his oath as a minister.

**Ms Wooldridge** — That is not what I said.

**Mr LEANE** — That is exactly what is going to happen. They are going to pull the trigger because they can and because it suits their political ends to do so.

It amazes me that — and they probably understand this, but they probably do not care — this action will mean that this particular minister will be a record holder in the state of Victoria by a mile. He will hold the record by being suspended from this house for six months, in comparison to the previous record holder, Mr Geoff Shaw, who was suspended for 13 days, if I am correct. Mr Geoff Shaw is no longer in Parliament to defend himself, so I do not want to regurgitate the circumstances around that — I do not think there is any point — but the people in the other place decided that that was an appropriate suspension at the time. As I said, Mr Shaw can argue about what he did or did not do, but the chamber decided that suspension was the appropriate punishment for him — 13 days. Mr Shaw at the time could have rightly been quite upset that he became the record holder by being suspended from the Victorian Parliament for 13 days.

What we have today is the opposition parties banding together because they can, because if they band together they make 21. This is just the 20-plus-1 rule. They are banding together today to suspend a minister for six months for fulfilling his duty as a minister to do everything in the interests of the constituents of Victoria. It does not serve the interests of the constituents of Victoria to gut the democratic system that we come under.

Governments cannot have deliberations in cabinet without fear or favour, and discussions or debates about where the end point gets to cannot be free or objective, because this chamber, under the 20-plus-1 rule, can decide that it wants to know about those deliberations. If a commercial entity wants to enter into an arrangement with the Victorian government and have a commercial discussion around that tender without fear or favour but cannot because this chamber might call on all their documents, deliberations and negotiations around how they got to a point where they may or may not have been successful in obtaining a tender from government, this would actually cripple the state. Why would companies from interstate, our own state and overseas want their price range, their negotiations, their conditions revealed for all the world to see and then

used against them in future negotiations with other jurisdictions?

The debate we are having here is an attack, as I said, on our democratic system. As has been said before, the Westminster system is not the best system, but no-one has ever shown us a better one. That is the system that we rely on and come under, and I actually believe in that. It is amazing to think that 20 plus 1 people in this chamber are saying, ‘Forget the way Victoria is going to operate in the future, forget the way future cabinets need to operate, just bastardise the system completely at this point by handing over a huge suspension to a government minister’.

We heard a lot from Ms Wooldridge about the 58th Parliament and we heard a bit about the 56th Parliament, but we heard nothing about the 57th Parliament. I congratulate Ms Wooldridge on her new vigour, compared to only 18 months ago, about the release of documents — what should be released and what should not be released. Good for her, but it clearly does not reflect the government that she was part of.

I used to actually glance at speaking lists last term. I have lost a bit of interest in that now, but I really hope Mr O’Donohue’s name is on the speakers list for the opposition. I will come to that later, but I really hope that he is prepared to get up here and defend this particular motion. I am sure he probably will not; if I were him, I would not, because I am going to speak extensively about the Parliament that Ms Wooldridge has completely forgotten about. I actually want to speak a bit about that one, so we will get to that.

I knew this was coming. I have to say to Ms Wooldridge or any future speakers who are planning to say ‘Mr Jennings, this isn’t personal’ that at the moment my constitution is a bit weak; I have not been well lately. So please do not say that; please do not test my constitution at the moment, because that is absolutely sickening. ‘No, Mr Jennings, it’s not personal; we just want to give you a world record for being suspended from Parliament. We actually like you, Mr Jennings; we think you’re a good minister. Out of all the ministers we actually admire you, Mr Jennings. This isn’t personal at all. We’re just going to give you a world record suspension, so when your great-grandkids turn to the history books they will see, “Your great-granddad was actually quite an effective minister in a number of governments that actually did the right thing by Victoria”. They are going to google it, and they are going to go, ‘Really?’. Or maybe Google will not be there; maybe there will be something far advanced. But whatever they do when

they search for it, at least one of the topics that will come up is, ‘Gavin Jennings was suspended from the Victorian Parliament for six months for fulfilling’ — it will not say this much; I am sure it will not, but the bottom line is that it should say — ‘his oath as a minister. For fulfilling his oath as a minister, Minister Jennings was suspended for six months’. That is what is happening here today.

**Mrs Peulich** — It is just spin.

**Mr LEANE** — It is not spin. That is a perfect segue to the last Parliament. Let us go back to when Mrs Peulich was a member of cabinet in the last Parliament. In the last Parliament there was not one motion to suspend a minister, despite the abysmal effort that was made in delivering documents — —

**Mrs Peulich** interjected.

**Mr LEANE** — Let us talk about consistency, which Mrs Peulich and her party have not got. I was actually going to save Mr O’Donohue until later, but I think we should bring him in now. In the last Parliament there were a number of call-for-documents motions. The Labor Party has always been consistent on this. Obviously members in this chamber have the right to put forward a call-for-documents motion. In the last Parliament, the 57th Parliament — which seems to have disappeared in the debate from the other side — a lot of the time it was a Greens party member who would move a motion for a call for documents. The government would respond, and the person who would respond, probably 99 times out of 100 — if there even were 100 — would be Mr Ed O’Donohue. Mr O’Donohue would say that the government would not oppose the motion. I cannot remember; there might have been one or two times when the 57th Parliament might have opposed a couple, but as a rule the previous government would say, ‘We don’t oppose this motion, but we put a rider on it that if the documents are commercial-in-confidence or cabinet-in-confidence, we reserve the right not to hand them over to the Parliament because the government needs to operate’.

So 99 times out of 100, if it was the case that there were 100, the call to the opposition would come to me as the whip, because I had the responsibility to speak on these paperwork motions, and I would say — and please check it in *Hansard* if you doubt it — that we supported the call-for-documents motions. But I would also say that the Labor Party — or the opposition at the time — respected the fact that there would be documents that would be deemed commercial-in-confidence and cabinet-in-confidence; we actually put that on the record.

Of course there were follow-up motions when we as the opposition were not satisfied with what was delivered, but we always respected the fact that in order for a government to operate and do the right thing by the people we all represent in this chamber departmental people need to be able to give advice to cabinet without fear or favour. That is a very important aspect of government. If that is in the form of a cabinet document, then that advice and those individuals who gave it have every right to be protected, because if they are not protected in that fashion, then their advice could be skewed; their advice may not be as brave as the government would want it to be. It could be called into this house and used by an opposition member to attack that particular departmental person if their advice was not taken up or even if their advice was taken up and things did not operate in the best form that was hoped for in all good faith by that particular departmental person and the government.

I have to tell you, I am not a big one for talking about what you did and what we did; I think that can get a bit tedious. This is a case where we have to highlight the issue. We have to highlight that there were calls for paperwork from the non-government members of Parliament — it might have been Greens party MPs, it might have been Labor Party MPs. Then the government of the day and the minister of the day who was called upon to deliver that particular documentation would just be arrogant in this chamber.

On the debate around not respecting this chamber, I have got to say that the standard of not respecting this chamber was set in the last Parliament. I will use one instance. Obviously the east–west link was a hot debate, and the people of Victoria had a right to know more. They wanted to look at the actual business case and the associated papers to help them make up their minds about whether they believed that the project stacked up and should go ahead. I clearly remember a number of motions calling for the full business case for the east–west link, but I have got to say what was delivered at the time to this chamber was a 12-page glossy brochure, which was called the short-form business case for the east–west link. It could not have been any more underwhelming as far as a document that was supporting — —

**Mr Ramsay** interjected.

**Mr LEANE** — It might have been easy to read, Mr Ramsay, but I have got to say it was very scant on detail. It was a 12-page glossy brochure, where if you took away the cover it became 10 pages. Then you need to take into account that three-quarters of one of the pages was a picture of a tram, and I remember that

another half-page was a picture of a pedestrian crossing. Both of those activities were a long way from where the proposed site was going to be. Further, there was an item about the benefit-cost ratio; it was going to deliver, I think, \$1.40 for each dollar that was spent, which was false. The complete disregard that the previous government in the 57th Parliament showed at the time was just outrageous.

In saying that, when that particular document was delivered — and obviously it was full of falsehoods, full of colour triangles, full of nothing — —

**Mr Finn** — Green-coloured triangles?

**Mr LEANE** — We can talk about Mr Finn's coalition partners later if he likes. The disregard that the previous government showed this chamber was completely amazing.

Now we have a situation where the opposition believes that with a coalition it can deliver 20 plus 1 votes, and it wants to use that power to suspend a minister who is doing the right thing. The opposition is doing that because it can. We have heard the arguments, and I know the arguments that we are going to hear in the future, around why opposition members are pursuing this particular motion to suspend a minister for six months, but they carry no weight at all. The bottom line is that the opposition knows it can garner 20 plus 1 votes in this 40-member chamber and actually suspend a minister because it can. Opposition members should be up-front; it is all just a political stunt.

As I have said before, I was here when John Lenders was suspended from the chamber for a short period of time in a similar situation where opposition members could garner 20 plus 1 votes. The period of time Mr Lenders was suspended from the chamber was not anywhere near as long as what is being suggested here. I have got to say, if this is how desperate the opposition has become to try and get a headline in page 13 of one of the main papers, then it is a sad situation that it has got to. As I said, I was here when John Lenders was suspended for that short period of time, and it did not headline the electronic news.

**Mr Dalidakis** — We didn't suspend Michael O'Brien for his \$22 billion excesses.

**Mr LEANE** — No, not at all, Mr Dalidakis. The John Lenders suspension did not lead the electronic news; it did not even make the radio. I reckon it made page 13 of the *Age*. So if this is the best opposition members can do for their political ends, they need to have a rethink, because they might be spending a fair bit of time on that side of the chamber.

As far as the particular documents go that the opposition is calling for that form the basis of the motion that we are discussing today, I turn to the paperwork requested in respect of the port of Melbourne. I am pretty sure Ms Shing was on that committee, but my understanding is that the port bill and the proposed action by the government could not have been scrutinised any more than it was. There was a committee that spent hours and hours on it and actually delivered a report, which is being utilised by the opposition as the basis for calling for amendments to the existing legislation.

**Ms Shing** interjected.

**Mr LEANE** — Actually that is a good point: most people on the other side probably did not read it. But the basis was the report.

The scrutiny of this particular action and the bill that goes with it could not be any greater. There is irony in saying, ‘We’re going to suspend a minister for six months, and one of the reasons is that we want to know more about the port of Melbourne’. There have been hours and hours of discussions and meetings with the opposition and the government, and hours and hours of the leaders of both parties and the respective ministers in debate and discussion and meetings about this particular action and the bill that we may be debating tomorrow, so to say that we are going to suspend a minister for six months and one of the reasons is that the government has deemed some documents commercial-in-confidence — or cabinet-in-confidence, more likely — and this particular minister will not hand them over is just absurd.

As I said, there probably has not been more discussion between the opposition and government over an action and a bill. There probably has not been more scrutiny of a government action and a bill by a joint committee, which by my understanding was not a government MP dominated committee and which had a chair who is a high-ranking shadow minister in the opposition who then also carried on the negotiations after that particular committee and that report was finished. I cannot get my head around it. I cannot get my head around the fact that this is part of the basis for suspension — that we are going to give a world record suspension to a minister in this chamber because the opposition is worried about scrutiny of the port of Melbourne lease. It is just amazing and absurd.

I will get back to the western distributor, but in respect of the Australian Formula One Grand Prix, since I have been here there have been calls for documents around this particular major event in every Parliament.

Successive parliaments obviously have not satisfied the people who are calling for these documents, but what I cannot fathom is that when this call for documents was made in the 57th Parliament the government members, who are now occupying the opposition benches, were very forthright in their comments around how they believed this particular major event, as well as other major events, needed to be supported, not white-anted and not attacked.

The competitive nature of the cities around the world that want to attract major events is enormous. I am not trying to verbal the members opposite; I am just trying to go by my memory of their debate around this particular call for documents. I think successive governments, despite their particular political flavour, have actually supported Melbourne’s and Victoria’s major events programs, and for obvious reasons. Tourism and the economy get boosted when we do hold a major event like the grand prix. It is actually quite important to Melbourne’s economy.

I know this particular event had a stigma around it for a long time so far as the use of the particular park that it runs in goes, and I have to say, as I have said before in this chamber, I know firsthand that every year this event generates a great deal of employment for our fellow Victorians. I have lost track of a lot of them, but I used to know a lot of the tradies who would go annually to that particular site and do the set-up for the facility and for the event. It is actually quite extensive. It involves months of work, and decamping that particular event takes, if not months, weeks of work as well.

So far as major events go, as I said, consecutive governments have always been supportive of the major events program. I think it should be respected that obviously because of the competitive nature of cities all around the world trying to attract major events like the formula one grand prix of course there will be commercial-in-confidence discussions and of course there will be discussions around the government contribution to attract and maintain these sorts of events. Of course they should be able to be in confidence, because I would have thought, as I said, another city competing for one of these events across the country or across the world would be delighted for this chamber to make known the amount of government contribution or the amount of other contributions that are put forward to maintain this event. Not being a great mathematician or economist, I would have thought if a country across the world knew that, they could actually offer an extra thousand dollars or offer some different

conditions to what has secured this particular event for our state.

So in terms of the West Gate distributor, the business case has been called for — the interim or final traffic and traffic management studies reports and environmental studies. I think some of these studies would be worked through once the project and the negotiations have been completed. Some of these documents could be made available, but when you look at what was called for, out of all the documents the government had a limited response to only seven of the categories. There were 13 of these documents that were released in full; one of these documents was released in part, because there was some personal information in that particular document, which I think we all as reasonable thinking people would think is a fair thing; and the other documents were withheld because of cabinet-in-confidence information or information that would damage the state's financial and commercial interests or otherwise jeopardise the trust and confidence between the ministers and officials.

This exactly reinforces what I have been saying: for a government to operate, these things need to be able to happen. There has to be confidence between ministers and departmental officers — there has to be. And as I said, the departmental officers have to have confidence that they can give advice, whether that is in written form or verbally, without fear or favour, otherwise our system just falls over. This is what some in this chamber are calling for: they are calling for our system of democracy to completely fall over.

As far as a cabinet taking ownership of the state's financial and commercial interests goes, I would imagine that would be the oath that the minister makes when he makes an oath to be a minister. So here we are again highlighting that what we are doing here is saying to a minister that it is all right to break that oath if 20-plus-1 of us decide they should, which is outrageous. I would be 100 per cent sure that all of our ministers would not break that oath and would be in the position that they would just accept the dumb consequences that 20-plus-1 members in this chamber have decided to act upon. It is just complete madness.

As far as the formula one grand prix documents go, if I can go back to that: the resolution sought a contract in full, signed by the Napthine government, to host the formula one grand prix in Melbourne from 2016 to 2020. On 15 September 2015 the government responded, noting that six agreements were identified, but they had to be withheld for exactly the same reason. These documents were withheld as they contain commercially sensitive information.

**Mr Barber** — Really? You have seen them, have you?

**Mr LEANE** — I am going from the information that has been supplied by our ministers. As I said, Mr Barber is the smartest person in the world, and I am sure he will get up and he will have all these reasons why he will support this grubby motion. He will get up and he will give all these great reasons — —

**Mr Barber** — You are still auditioning to become a minister, aren't you?

**Mr LEANE** — The reason he is doing this is that he can; there is nothing intellectual in what he is doing. He is doing this because he can, for his political ends. I think if he got up and just said that, then we would all respect that. I know that in planet Greens Party there should not be any commercial agreements that are kept out of the public eye, but in the real world that would make it impossible for a government to actually perform in the best interest of the people it is supposed to represent. Maybe Mr Barber will be a minister in a coalition government.

*Honourable members interjecting.*

**Mr LEANE** — There is no malice in my saying that; I wish him well. Maybe he will be a minister in a coalition government, he will take an oath, and maybe then he will see what he is doing today in a completely different light and what position he is putting a member of this chamber in.

**Mr Barber** — I know you haven't got to take it yet, but what is the form of that oath?

**Mr LEANE** — Mr Barber, I will never take a ministerial oath.

**Ms Crozier** — Do you want to?

**Mr LEANE** — There is a really good chance that I never will — —

**Ms Crozier** — But do you want to?

**Mr LEANE** — I am actually quite relaxed in my own skin.

**Ms Crozier** — I know you are.

**Mr LEANE** — I think I am too.

**Ms Crozier** — You would still like to be on that front bench.

**Mr LEANE** — I actually enjoy being a member of government. I enjoy what I am doing, and if I can be a member — —

**Mr Finn** — You would make a very good minister.

**Mr LEANE** — I am actually comfortable in my own skin. We have a system that determines our ministry, and it is a collective system we represent. We do not have an emperor. We do not have one emperor who decides, ‘I like you’. We do not have an emperor who decides, ‘I like the way you’ve been greasing up to me for the last two years’ — I am not reflecting on the shadow minister at the moment — and we do not have an emperor who decides who should be on the front bench. We actually have a collective, and we believe in collectivism over on this side of the chamber. We actually do, so our ministers are in place because they should be in place and they deserve to be in place, because the collective has decided that they should be. That is where we come from.

As far as the resolution around the Cranbourne-Pakenham rail project documents goes, I know this is an issue that some opposite think they are making a lot of hay out of. They are looking for conspiracies everywhere as far as the actions that the government takes go. The resolution seeking those documents was adopted on 25 February 2015.

**An honourable member** interjected.

**Mr LEANE** — That’s a good one. I never thought I would hear that.

As far as those documents are concerned, three were released in full and one was withheld in full. Of the documents released, there was an amendment for one that removed personal information. I think all reasonable people, and that is what we are in here, would think that is a fair thing. So the documents released in full with the personal information removed were the Cranbourne-Pakenham rail corridor project community survey and submission overview, the Cranbourne rail corridor project communications and stakeholder engagement and the community consultation material.

What was withheld was an evaluation. The executive had to withhold that document so that it was able to function and to run a successful tender which provided the best value for the people it represents. It could not disclose that document because of commercial-in-confidence issues. There was also a deliberative process in cabinet around the release of that particular document. As I said, for a government to

operate it needs to be able to call for tenders in a fashion that ensures that the people tendering will not have details of their commercial interests tabled in this chamber. Otherwise why would you bother tendering in this state if that were the case, because you would lose your commercial competitiveness in other jurisdictions.

As I said, there was a deliberative process in cabinet in relation to that document. Cabinets need to be able to freely deliberate on any issue that concerns the people they represent in the state and not be in a situation where any deliberative conversation that is minuted is tabled in this chamber for opposition members of Parliament to use to any end they seek, whether that be genuine or whether that be just pure, unadulterated, grubby politics. I think all the old parties here should never say they are innocent of that, and when I say the old parties, obviously I mean the coalition, the Labor Party and the Greens party. There is no party here that is so pious that it would not be tempted to use anything to its political ends to achieve the outcome that it seeks. For an opposition party, the outcomes that its members seek is to actually be in government. I think it is as simple as that.

On all the piety and all the purity expressed by those opposite around what we are discussing here today, I just say spare me, because my constitution is quite weak at the moment. Do not make me vomit by saying this is all pure; this is all about the constitution. They say, ‘There are no hard feelings, Mr Jennings. We’re only going to give you a record sentence. There are no hard feelings, Mr Jennings. We actually reckon you’re not a bad guy, you’re not a bad man. But we’re going today to use the 20-plus-1 rule, because we can, to actually put you in the history books as holding the record for a suspension because — —

**Ms Crozier** interjected.

**Mr LEANE** — Ms Crozier, he has to fulfil his oath as a minister to the people of Victoria.

*Honourable members interjecting.*

**Mr LEANE** — You can make fun of the way I talk. I accept I am a year 10 graduate. I am actually proud to be standing here as a year 10 graduate and as someone who is a quite standard, average person. There are lots of us. I am proud to be standing here representing people like me, because there are heaps of people like me. I do not know whether ‘heaps’ is the right word, but there are lots of people like me. If I say a word incorrectly, if I use a word incorrectly, well I think there are lots of people like me out there who do that. But we

know what we know, and we know what is right and we know what is fair.

Moving on to the contracts that were sought around the Advanced Lignite Demonstration Program (ADLP), I know this has been discussed in this chamber a number of times. A number of documents were sought and the resolution covered any agreement in relation to the Advanced Lignite Demonstration Program between the state government and (a) Coal Energy Australia, (b) Ignite Energy Resources and (c) Shanghai Electric Australia Power & Energy Development Pty Limited. That resolution was on 10 June 2015. There was a response from the government. The government responded to the request on 11 September 2015. Three documents were identified as being relevant, and all three documents were released in part. Only commercial-in-confidence and personal information was withheld from the released documents.

**Mr Elasmr** interjected.

**Mr LEANE** — Mr Elasmr will remember this well because he spent a lot of time in the chamber in the previous government with me. If Mr O'Donohue were actually standing at the front bench on this side, as he was in the previous government, he would be arguing passionately about commercial-in-confidence not being released. As I said, when we were in opposition, we actually accepted that premise because we have been consistent around this. We have been consistent in saying that Victorian governments have to function, and if they cannot be part of commercial discussions that are not going to be released as far as tenders or services go, then they will not be able to function. I thank Mr Elasmr for his clear memory about Mr O'Donohue and the speeches he would make time and time again. They were not long, and there was not a lot of colour or movement to them, but they were to the point. He basically said that the government would accept the motion and was prepared to release the documents that were requested unless there was an issue with commercial-in-confidence or cabinet-in-confidence. As I said — —

**Mr Ramsay** interjected.

**Mr LEANE** — As I said, Mr Ramsay, he said that a number of times. Mr Ramsay is worried about time. This is a very serious motion. It is not a motion to be flagged through for the convenience of the chamber or because of whatever agenda people have for the rest of the day. It is a motion that calls for a minister to serve a world record suspension for not handing over documents that are cabinet-in-confidence and commercial-in-confidence. That is the crux of it.

Getting back to the Advanced Lignite Demonstration Program documents — —

**Mr Barber** — Tell us a bit more about that.

**Mr LEANE** — I am happy to because the call for documents was actually adhered to.

**Mr Barber** — No, it wasn't.

**Mr LEANE** — Yes, it was. Three documents were identified as far as relevance to the motion goes. All three were released in part, but the part that was missing is exactly the argument we are making, because it was commercial-in-confidence and it was personal information. I am sure that Mr Barber will argue the commercial-in-confidence part of this, but I would be gobsmacked if he argued that personal information in documents should not be withheld.

**Mr Barber** — Public servants' email addresses.

**Mr LEANE** — Yes.

**Mr Barber** interjected.

**Mr LEANE** — You have not got a problem with that, so we have met halfway.

**Mr Barber** — I didn't say half. Half of half.

**Mr LEANE** — We have met 60 per cent of the way then. All three of the ALDP documents were negotiated and signed by previous coalition governments. That is good that the government was doing something around this — good for it. Regarding the incoming government, if issues were identified around these particular documents, probably the political end that our government could have used would have been to release all the documents in full, and that may be used against the previous government. But as I said, our government believes that any government, despite the flavour, needs to be able to operate to do the right thing by the Victorian people at the time.

I know there is controversy around the Peter Mac hospital site. A motion was moved in August 2015 seeking:

... a copy of all documents in relation to the establishment of the Peter Mac Private hospital on the site of the Victorian Comprehensive Cancer Centre (VCCC) including, but not limited to —

- (1) the business case;
- (2) presentations and/or documents prepared for the Peter MacCallum Cancer Centre (PMCC) board or subcommittees;

- (3) a copy of the agreement (be it a contract, MOU, heads of agreement or any other agreement relating to the relationship between PMCC and the private provider selected), or the most recent draft, together with working papers relating to this agreement between PMCC and the private provider selected to operate the private hospital on the 13th floor of the VCCC;
- (4) the state government contract with the Plenary Group to lease the 13th floor of the VCCC, or if there is no such contract, any document constituting or evidencing a commitment to Plenary by or on behalf of the state to take up a lease of that floor, any subsequent agreements (draft or otherwise) for PMCC to sublease this space from the state and any document recording the cost to the state of that lease;
- (5) information (not already covered by (1)–(4)) provided to the Department of Health and Human Services by PMCC in relation to the business case for the establishment of Peter Mac Private; and
- (6) documents provided to the Department of Health and Human Services from the VCCC proposing future use of the 13th floor.

That was the motion that was moved and agreed to in this house on 5 August 2015. There was a response on 24 November 2015 by this government to that request identifying that there were 43 documents relevant to this request. Out of those 43 documents, 21 documents were released in full, 10 documents were released in part — part of the ‘in part’ was obviously related to personal information, and we in this chamber have all agreed that we are fair-minded people and believe that personal information should be withheld — and 12 documents were withheld in full.

Those 12 documents contained cabinet-in-confidence and commercial-in-confidence material. I do not think there is any great mystery. We saw in the 57th Parliament, we saw in the 56th Parliament and we are seeing in this Parliament now that governments and cabinets have to make decisions to achieve the best outcome for the people they represent. I know I am labouring the point, but it is madness to think that all commercial interaction around a project or a service needs to be released to the public when — —

**Ms Crozier** — That’s not what you said in the last Parliament.

**Mr LEANE** — That is not true at all — that is exactly what I said in the last Parliament. We have been consistent on this. I implore Ms Crozier to check with her colleague Mr O’Donohue, because he used to lead the government in debates when it came to paperwork. Mr O’Donohue would say, ‘The government is happy

to comply with this request for paperwork from the chamber, but the riders are that the government is not prepared to hand over documents that have commercial-in-confidence details, cabinet deliberations or cabinet-in-confidence details in them’. Then it would come over to our side of the chamber. As I said before, sometimes Mr Elasmir filled in for me when I could not be here, but between the two of us we would respond by saying that we supported the documents motion but that we also respected the government’s need to operate and we respected that some of those documents may have come under those categories. We said that we would respect that. There was never in the last Parliament a motion initiated by Labor Party MLCs that called for the suspension of a particular minister for not satisfying us.

**Mr Finn** — You’re easily satisfied.

**Mr LEANE** — I have got to say to Mr Finn that the 12-page east–west link glossy was far from satisfying to us.

Going through that list of documents — not just the ones that are being discussed in this motion but in general — this government has been a shining light in handing over documents compared to previous governments. It is easy to highlight a few areas, and it is easy to find areas where documents cannot be handed over. Not long ago some people over there on the other side were ministers. Political cycles are always there. One day in 8 or 12 years people over there will be ministers, and I wish them well. I want them to be ministers — good luck to them — but they will be running — —

**Mr Dalidakis** — In coalition with the Greens.

**Mr LEANE** — Mr Barber might be a minister and Mr Finn might be a minister in that Barber-Finn government. I would really like to see that. As I said, there are political cycles. That is the reality. People opposite need to consider that. Is this the precedent they want to set? If they do form a government in 8 to 12 years time and if this chamber’s composition means that they do not have the majority — and obviously there is a very good chance that would be the case — do they want to set a precedent that 20-plus-1 people in this chamber can suspend any minister for not fulfilling a request for paperwork to the satisfaction of the 20-plus-1? Those opposite have called for the paperwork, but some of the paperwork has not been delivered for the same reasons that government does not release paperwork time and time again. They are not satisfied because they have not found something they can get on the front of one of the papers, so they

want more. It is not the government's fault if they have not found it. I am sure they have found some things to kick the government with. That is the way it works. They want more, but the reality is — —

**Mr Ondarchie** — You keep leaking it to us.

**Mr LEANE** — That is a problem. But the reality is that people in the chamber who have been around for a while know that this is not the be-all and end-all of how you unseat a government. Calling for paperwork and the suspension of a minister are not the be-all and end-all of how you are going to unseat a government. You have to do hard work. You have got to work on policy that will attract the voters away from the current government. Maybe I am sharing too much here, but I think that — —

**Mr Finn** — You are a sharing and caring person!

**Mr LEANE** — I am, and I am glad that Mr Finn has acknowledged that.

**Mr Finn** — You gave Mr Dalidakis your ministry. How sharing and caring is that?

**Mr LEANE** — Do I need to go through this again? Our front bench is not selected by someone sucking up to one person — sucking up to the Sun King.

**Mr Finn** — It is selected by someone with a knife in your back.

**Mr LEANE** — No, we make a collective decision because we believe in collectivism. That is why we are on this side of the chamber. I would not like to be in a situation where I had to be on the good side of one sun god or emperor to have any possibility of moving to any position, whether it be committee chair, parliamentary secretary or anything. I back our system up 100 per cent, compared to the system that, unfortunately, the people across the other side of the room have to endure.

If we go back to the 57th Parliament — I know the mover of this motion did not want to talk about the 57th Parliament and did not mention the 57th Parliament — there were a number of calls for documents, and some of them came from Greens party MLCs and some of them came from the Labor Party MPs who formed the opposition at the time. Executive privilege was called upon time and time again by the government of the 57th Parliament, and we had a number of instances where that particularly happened, not to mention the call for the full business case for the east-west link. Little did we know there was a side letter as well.

*Honourable members interjecting.*

**Mr LEANE** — We might have called for that, if we had known about it. There were a number of calls in the previous Parliament for a number of documents, which were rejected. Many more documents, in percentage terms, were rejected in that Parliament than in this Parliament in the time that this government has been in power.

As far as the principles go, we are not arguing against the Legislative Council having the power to request that the government of the day produce specific documents held by government agencies and departments. We respect that power, and we have actually shown respect for that power. The Parliament's power to order the production of government documents is not unlimited, and we respect that as well. We respect that, and we have shown that. It is also an accepted principle that a government may withhold disclosed documents in response to an order for the documents, when disclosure would be contrary to the public interest. This is the crux of it. This is the crux of the whole argument.

The public interest should be at the forefront of the minds of every one of us. The public interest should outweigh any argument that we have across this chamber, and I like to think that the public interest is in the forefront of the minds of all members of this chamber. But what I say is that it is not today. Clearly the public interest being first is not in consideration today. It is far from the consideration today.

I think that it will be a sad day if people in this room, 20 plus 1, decide that this particular penalty will be incurred by a minister in this chamber. It will be a sad day and a bad precedent for this government and future governments, which, as I said, may involve people on that side of the chamber in conjunction with people on the crossbench. I think we are all making a rod for our backs and doing the wrong thing by the public interest if this particular motion goes forward. We as government members are going to passionately oppose this motion. We believe in the reasons why we oppose this motion. I implore every member of this chamber to consider what they are doing when this particular motion goes to a vote.

**Mr BARBER** (Northern Metropolitan) — I have debated many, many similar motions over the last nine years, where we have had many opportunities to tease out the various principles and considerations that both Ms Wooldridge and Mr Leane have put forward. But just for the benefit of any casual listener, let me talk about what is at stake here, and this is a matter that I do not think has been particularly highlighted by either of

the previous speakers. What is at stake is whether the Parliament, in doing its business — legislating, scrutinising the government — is to operate on the basis of an informed position with access to relevant information or whether it is meant to fumble around in the dark. That is in fact the key principle here, and if this issue ever gets contested in another sphere — such as if this ends up over in the judicial sphere — one of the fundamental principles they will need to weigh up is the capacity of the Parliament to inform itself, without which some would argue the Parliament really could not do its job.

**Mr Mulino** — It is subject to limits.

**Mr BARBER** — Mr Mulino, who I think is going to get a crack after me, is saying, ‘Subject to limits’, and that is exactly what we will be talking about when I expand out some of the statements that have already been made by other speakers. What, if any, are those limits and who, if there are such limits, actually gets to decide? At the moment the only proposition I have heard from Mr Leane is that if the government says a document is secret, then it is secret and that is it. He has not put forward any mechanism by which that particular claim is tested or challenged or even the conflict that arises would be resolved. He did a pretty good job of issuing a threat to opposition members — that is, that one day they will find themselves in the opposite position, and maybe they will not like the precedent they are setting.

It actually came across as a pretty hollow threat, because what Mr Leane was basically saying was that even if he were in opposition, he would still support the principle that the government can say that any document is secret and that will be that. If that was meant to make opposition members think twice, I do not think they are going to be too worried.

*Honourable members interjecting.*

**Mr BARBER** — It seems like it.

**Mr Jennings** — That is close to my position, though; it is very close to my position.

**Mr BARBER** — Well, yes. It is a great shame we did not hear Mr Jennings as the lead government speaker, because we would have been able to dispose of that particular question and get down to some of the more meaty chunks.

I am as surprised as Mr Leane to see opposition members come in here and actually move this motion, because it is absolutely true that when they were last in

government they parroted the exact same arguments that Mr Leane put up today. While they did go through the motions of releasing some documents, it was the important information that had to be held back, lest the Parliament, standing in the shoes of the people, might plunge us into some terrible danger by actually learning about some of these details.

Let us talk about the matters that we are supposed to be talking about. There are a range of documents in relation to the port of Melbourne and a range of documents in relation to the proposed West Gate distributor. That is the new name for the east–west link; it is now the west–east link — it starts from the west and works its way east, rather than the Liberal proposal. At the end of the day it puts a lot more trucks and a lot more poisonous diesel through the inner city and does not really solve the congestion problem, because eventually that traffic is dumped into an inner-city road system that is at capacity.

There are the Australian Formula One Grand Prix documents — some people might like that debate to be over, but unfortunately the state subsidy gets higher and higher every year and so the debate will never be over while it continues — and the Cranbourne-Pakenham rail corridor project documents.

More and more interesting questions continue to come to light no matter how closely you scrutinise the issue, whether you are asking about the noise levels, asking for some proof of the government’s claim that it will be less noisy, asking for some proof of the government’s claim that it will increase capacity or just asking a simple question of what is the actual design and who is it — local government perhaps, burdened ratepayers — that will end up maintaining it.

There are the Peter Mac Private hospital documents and, last but not least, my absolute favourite, the previous Liberal government’s proposal now being implemented by the Labor government to give \$75 million to a range of projects that are going to massively increase Victoria’s greenhouse gas pollution and in fact lock in that level of pollution for many years to come. When Mr Leane talks about commercial in confidence, I think that is one particular example that we need to unpack and highlight.

Mr Leane talked a lot about the deliberations of cabinet, but in fact one of the documents we are seeking here is simply a grant funding agreement between some polluting coal companies and the state of Victoria. I am not particularly interested in the deliberations of cabinet around that matter. I do not want to know whether the Minister for Energy and Resources was smashing her

first repeatedly into the table saying, ‘No, no, we must give this money to a coal-fired power company’, while the Minister for Environment, Climate Change and Water shrank under the table saying, ‘Oh my God, I can’t believe I’m actually here funding greenhouse pollution!’. I am not interested in the cut and thrust of the cabinet debate. I am not interested in who said what to whom, but I am particularly interested in why we are giving \$75 million to lock in greenhouse pollution and in fact what particular milestones these companies have to deliver before they get that public money.

Mr Leane — and I do not think I am verballing him on this — basically came in and said that the government would shut down if it had to release commercial information, which in this instance is being funded by the taxpayers to then go out and run some sort of polluting coal-fired plant somewhere. When we outsourced government services, when we privatised a vast range of essential services, when we destroyed in-house research and development capacity in regard to new energy options and handed that over to the private sector, Mr Leane seems to think we outsourced Westminster accountability for how those funds are being spent. I am sorry, but the only thing that has changed in recent years is the structure of government service delivery.

**Business interrupted pursuant to sessional orders.**

**QUESTIONS WITHOUT NOTICE**

**Deakin University Warrnambool campus**

**Mr PURCELL** (Western Victoria) — My question is to the Minister for Training and Skills. Deakin University’s Warrnambool campus has been the key tertiary education provider to the students of south-western Victoria since 1990. Not only has it allowed thousands of students to access tertiary education, many of whom would otherwise have missed out on tertiary education because of the tyranny of distance, but it has underpinned the vibrancy of the regional city of Warrnambool. We are very concerned that Deakin Warrnambool’s days are numbered, following on from course closures and job cuts. We are gravely worried that the south-west of Victoria will be left without a university if Deakin closes its doors in Warrnambool. My question to the minister is: will the government commit to ensuring Warrnambool retains a university campus for the long term?

**Mr HERBERT** (Minister for Training and Skills) — I thank Mr Purcell for his question and for his ongoing commitment to and passion for education in the south-western area. I know he has been active with

South West TAFE, he is obviously very strongly interested in the provision of research and higher education in that region and he understands the importance of this education to the region, to industry and to the local economies.

The chair of Universities Australia, Barney Glover, is reported in today’s newspaper as having said that the federal government’s lack of action on higher education policy has for two years ‘subjected the sector to intolerable uncertainty’ — uncertainty around the \$20 billion in savings measures that are in the forward estimates in the budget, including a 20 per cent cut to course funding over the forward estimates. In Victoria and across the country these measures, this uncertainty and this policy hiatus are having an impact on university provision and are particularly having an impact on the viability of small and regional universities and their campuses.

I have not received any formal advice on the issue raised about the Deakin Warrnambool campus. However, I do know that enrolments at the campus have dropped over the last couple of years and that there has been a significant drop in enrolments this year.

From the state government’s perspective we have a limited role in running universities, which are basically self-governing bodies and primarily the responsibility of the commonwealth, particularly in terms of funding and in terms of course load and the locations of those loads. However, the government is absolutely committed to continuing the provision of tertiary education in Warrnambool and in the south-west area, and I would happily work with the federal government and Deakin to have a look at getting rid of that policy uncertainty, getting rid of those funding cuts and working to ensure strong tertiary education provision in the Warrnambool area.

*Supplementary question*

**Mr PURCELL** (Western Victoria) — I thank the minister for his reply. Considering that uncertainty and the importance of the particular marine culture training that is being undertaken at Deakin University and also the medical school that is run there and trains a lot of the GPs in western Victoria and throughout Victoria, my question is: as well as retaining the university, will the government ensure that these regionally important programs continue to be offered in the Warrnambool region?

**Mr HERBERT** (Minister for Training and Skills) — I thank Mr Purcell for his supplementary

question. They are important programs, the medical one in particular, in terms of doctors. We know there is an issue with regional doctors in regional areas that are a fair way from Melbourne, and training them or educating and having programs for them in regional centres is important — costly, but important. That marine biology centre at that campus, which I have been to, is very impressive. It would certainly be my hope and intention that they do remain.

As I said, I have limited powers within the legislation as it currently stands in Victoria to direct any university in terms of their courses and their offerings at their campus. In fact I have powers to stop the sale of campuses over \$5 million or long-term leases, but I have no powers to stop them closing and I do not have powers to stop course shifts; that is the domain of the federal government. What I will say, however, is that these provisions are important and higher education in Warrnambool is important to that regional area and to Victoria. I will certainly give a commitment to meet with the chancellor of Deakin University; with Mr Purcell, if he would like, formally; and with Dan Tehan, the federal member for Wannon, who I am sure has an interest in this. I will make contact with the federal Minister for Education and Training, Senator Simon Birmingham, to offer any assistance we can as a Victorian government and to discuss these issues in terms of making sure that we do have stability in tertiary education in the Warrnambool area.

### Wild dogs

**Mr BOURMAN** (Eastern Victoria) — My question today is to the Minister for Agriculture. That the fox bounty is successful is beyond question, with large numbers of foxes being handed in. Shooters may well still hunt foxes without the bounty, but it encourages them to go that extra mile, and every single fox removed from the environment is a fox that cannot kill native wildlife. Wild dogs continue to be a significant problem in East Gippsland as well as the rest of the state. Wild dogs, like feral cats, bear little resemblance to the pets that we have, and they work in packs killing livestock as well as native animals. My question to the minister is: as there is still no wild dog bounty in Victoria, will the government reintroduce the bounty to further encourage shooters to assist in active environmental activities, in this case the suppression of an introduced pest?

**Ms PULFORD** (Minister for Agriculture) — I thank Mr Bourman for his question and his interest in this matter. Wild dogs can do and do do extraordinary damage to livestock, and the financial and also

emotional consequences of this for farmers impacted by wild dog attacks are profound. The wild dog bounty was not funded on an ongoing basis. Funding concluded last year as the former government had funded it only for a finite period of time. It is important to recognise that effective management of wild dogs requires an integrated approach, which includes trapping, baiting, exclusion fencing and hunting, and importantly work with the community, industry and other land managers to ensure a coordinated approach and to ensure that the impact of all efforts is as high as it possibly can be.

Wild dog management in Victoria is guided by two key strategies: the national wild dog action plan and the Victorian wild dog action plan. Mr Bourman asked about the wild dog bounty: wild dog skin pieces were accepted for reward up until 30 June 2015, and the government is committed to continuing an effective and efficient wild dog management strategy.

### *Supplementary question*

**Mr BOURMAN** (Eastern Victoria) — I thank the minister for her answer. If the government will not reintroduce the wild dog bounty, will the government compensate farmers affected by packs of marauding dogs?

**Ms PULFORD** (Minister for Agriculture) — I thank Mr Bourman for his supplementary question. Community consultation workshops are actually kicking off this month, so there will be an opportunity for people in the community who have a view about this to have their say about this and all matters of wild dog management. This incorporates, of course, importantly, local knowledge and experience, which are absolutely critical. The workshops will be an important opportunity for farmers to contribute their very specific local knowledge and experience, because what we know is that local approaches are what work best. I look forward to hearing the results of these community consultations and the review work that is underway, which has of course also sought the views of the advisory committee and other interested parties, so that we can move forward with a sustainable and effective set of strategies to control wild dog activity. I am sure the shooters of Victoria will continue to have an important role to play in this.

### VicForests

**Ms DUNN** (Eastern Metropolitan) — My question is to the Minister for Agriculture. Can the minister advise how and when VicForests will change its approach to targeted pre-logging fauna surveying, and

will VicForests from now on survey every coupe that is likely to contain protected species?

**Ms PULFORD** (Minister for Agriculture) — I thank Ms Dunn for her question. I note that Ms Dunn, to the best of my knowledge, has not yet taken up the opportunity to have a question and answer session for as long as she would like with VicForests on these matters. I would again urge Ms Dunn to avail herself of that opportunity.

In response to the member's question, the arrangements that are in place do provide for the monitoring and protection of protected species. The Department of Environment, Land, Water and Planning and VicForests work closely on ensuring protection of in particular protected species but also the natural environment.

It is important to note that it is a very, very small proportion of public land in Victoria that is available for the logging industry. I know that the Greens like shutting stuff down and shutting industries down and that this would be their no. 1 favourite industry to shut down, but our government supports a sustainable logging industry. We are committed to ensuring that the balance is right and that those protections are in place, because this industry supports the jobs of around 21 000 people in Victoria. I know the Greens do not really give a hoot about that, but we do, so we will continue to ensure that VicForests is conducting harvesting work and managing its contractors to ensure the preservation of those environmental values that we hold dear.

I again urge Ms Dunn to take up the opportunity to talk these issues through with VicForests until she runs out of questions.

*Supplementary question*

**Ms DUNN** (Eastern Metropolitan) — I thank the minister for her answer. I am currently wrangling my diary on behalf of members, but there is a role for accountability in this house. With that, my supplementary question is: does the minister see that there is a conflict of interest in VicForests undertaking its own targeted pre-logging fauna surveys as it is in its own commercial interest to not find protected species?

**Ms PULFORD** (Minister for Agriculture) — That question is just ridiculous, and the suggestion that I have avoided answering questions on this topic is also ridiculous. I am sure when Ms Dunn sees it as a priority to squeeze VicForests into her very busy schedule for a never-ending question-and-answer session on matters on which there have been more than 50 questions in

question time in this Parliament and at least twice as many questions on notice we can all move on, but Ms Dunn will not rest as long as there is a timber industry in Victoria.

I can assure Ms Dunn that VicForests takes absolutely seriously and is very committed to ensuring that it undertakes its work in accordance with the principles and arrangements that are there to protect our endangered species and other environmental values that the Victorian community holds dear. I will just add to that — —

**The PRESIDENT** — Time!

**Problem gambling**

**Ms HARTLAND** (Western Metropolitan) — My question is to the Minister for Small Business, Innovation and Trade in his capacity as representing the Minister for Consumer Affairs, Gaming and Liquor Regulation. It has come to my attention that the report that Crown Casino wrote analysing the gambling behaviour of individuals, including the intensity, duration and frequency of gambling, as a tool to identify potential problem gamblers has been completed, but the freedom of information department at the Victorian Commission for Gambling and Liquor Regulation has rejected releasing this report. This report is of the utmost community importance. It would show the negative impacts of pokie machines that allow \$50 bets or show excessive use of pokies by some punters, for example. Having this information would enable us to better target legislative reform to reduce the harm of problem gambling. Will the minister use her powers to request that this information be made public and transparent to the community?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank the member for her question. I will take the question on notice and pass it on to the minister responsible.

*Supplementary question*

**Ms HARTLAND** (Western Metropolitan) — Under the new legislative arrangements the casino receives compensation when any measures are put in place to curb problem gambling that impact negatively on its bottom line. This report would provide us with information that I think would warrant legislative reform. Can the minister see that there appears to be a conflict of interest here? If the government does not pursue the release of this report, it will actually save in payouts to the casino as well as potentially in regard to government revenue. Does the government in that case

deny that there is actually a conflict of interest in this matter?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Again I refer to the substantive answer. I will take that question on notice and refer it to the appropriate minister in the other place.

### **Monash University Berwick campus**

**Mr O'DONOHUE** (Eastern Victoria) — My question this afternoon is for the Minister for Training and Skills, Minister Herbert. What action is the minister taking to retain Monash University at Berwick?

**Mr HERBERT** (Minister for Training and Skills) — I thank Mr O'Donohue for his question. It is in line with the question Mr Purcell has asked, although on Monday Monash confirmed that it was withdrawing from delivering tertiary education at its Berwick campus prior to 2018. It did have a student intake this year. I understand that this decision has been on the cards for some time and that it made the decision in about 2013. I am sure the previous minister, Minister Hall, and the shadow Minister for Education in the other place, Mr Wakeling, are well aware of the situation there.

There have been, I am advised, lengthy consultations involving Victoria University and Chisholm TAFE. However, they have advised that there are not other parties at this present time interested in taking over the campus. I am also advised that Monash is having discussions with other universities about tertiary education provision there.

From the state government's perspective, as I said, universities are self-governing bodies and are the primary responsibility of the commonwealth. Over successive years state responsibility has been weakened, it is fair to say, by legislative measures. I have written to the Monash vice-chancellor and offered any assistance from the state government needed to continue tertiary education at the Berwick campus, certainly until arrangements can be made for another suitable provider. I have also written to the federal education and training minister, Senator Birmingham, urging him to discuss the issue with Monash and support continued tertiary education provision at the site.

It is the state government's view that having tertiary education at Berwick is vital for the continuing growth of Melbourne and the south-east. We would prefer Monash, quite frankly, there, but if it has taken the

decision to exit the site because its priorities are as a research-intensive university, then the state government will work with the federal government in terms of tertiary education provision out there.

### *Supplementary question*

**Mr O'DONOHUE** (Eastern Victoria) — I thank the minister for his answer. I note in response to my answer and in response to the question from Mr Purcell that the minister cited the powers he has to intervene. The Monash University Act 2009 is state legislation; the minister appoints members to the board. I note the minister has sent two letters. That is all very well and good, but the minister has real power and real authority. Why will the minister not do more to fight for this vital university campus that is so important to the south-east?

**Mr HERBERT** (Minister for Training and Skills) — Let me assure the member we will do all we can for tertiary education provision in Berwick, unlike the previous government, which did zip, zero, zilch at Lilydale when Swinburne pulled out there. We will actively work on this campus with these providers. The member mentioned the point about legislative powers. Perhaps the member should revisit the legislation he brought in — —

### *Honourable members interjecting.*

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

**Mr HERBERT** — Perhaps the member should remember the legislation he brought in that weakened state government responsibility in terms of universities and TAFEs and handing back property to those bodies that saw the sell-off of substantial campuses across Victoria.

As I say, Monash is a terrific university. The provision of education in the south-east is vital and important, and we will do all we can to make sure provision stays there. In terms of that, why does the member not go and talk to the local federal Liberal member?

### **Monash University Berwick campus**

**Mr O'DONOHUE** (Eastern Victoria) — My question is again to the Minister for Training and Skills. Nossal High School in Berwick and the Insight Education Centre for the Blind and Vision Impaired are both currently operating on the broader Monash Berwick campus. The minister has a significant role in the long-term leases of these operations. Can the

minister guarantee that these two important education facilities will continue to enjoy security of tenure?

**Mr HERBERT** (Minister for Training and Skills) — That is a better question, actually. I understand that what Monash is talking about — —

**An honourable member** interjected.

**Mr HERBERT** — No. It is a big site — a 50-acre site, I understand, or 50-hectare site. There are a number of peppercorn leases on there. I have heard nothing, apart from the question the member just asked, that alludes to the fact that Monash intends to change any of those leases. What I understand is that it is talking about its actual campus buildings. But I can certainly assure the member that I will do every single thing I can to ensure that those facilities continue operating there, and I have not heard anything to the contrary about them being under threat.

*Supplementary question*

**Mr O'DONOHUE** (Eastern Victoria) — Both of these important education facilities utilise programs, facilities and infrastructure associated with the Monash University Berwick campus. What assurances can the minister give today about Nossal's and Insight's continued use of education infrastructure at Monash Berwick?

**Mr HERBERT** (Minister for Training and Skills) — I am not sure what the difference is in the question, but I can answer once again that I am not aware that there is any threat to these schools. Monash made a decision and told its staff on Monday. However, I do not believe there is a threat to them. On the question of joint arrangements with Nossal, I will be talking to Monash about that, but I understand that there is no threat, as the member is alluding to, to those facilities.

**Drought assistance**

**Mr DRUM** (Northern Victoria) — My question is to the Minister for Agriculture. I refer to the government's Our Say drought package consultation website, which was used for the community to identify what are called winning ideas, including the Donald stadium upgrade, the Charlton Park multipurpose facility and the Rocklands Reservoir pipeline to the south-west Wimmera. Given the community has strongly voted in favour of these projects, can the minister inform the 20 000-plus people who made the effort to vote what these particular projects have actually won?

**Ms PULFORD** (Minister for Agriculture) — I thank Mr Drum for his interest in the government's \$10 million Drought Support Fund, the details of which were announced earlier today. This is part of the \$27 million package that the government announced in November last year and represents its initial response to the communities that have been most dramatically impacted by drought in 10 local government areas, and today was announced the inclusion of Ararat Rural City Council as the 11th.

For the \$10 million fund we wanted to hear from affected communities about what they thought were the areas of greatest need, and so there was an extensive period of consultation over the summer. I met with many groups of farmers in people's lounge rooms and in people's sheds. We had an online forum that Mr Drum referred to and discussions with farmer groups, including but not exclusively the Victorian Farmers Federation. The Victorian Agricultural Advisory Committee provided advice to government as well, as indeed did the department.

There were some common themes that emerged from this extensive consultation. One was around support for farmers to respond to current conditions but also to prepare for the next drought, because their observation has been that there has been a stepped change in rainfall in their area. Whilst some would say that this is a second or third failed season, there are plenty of others who would say there have been 10 really dry years with a brief reprieve on a couple of occasions, and I am inclined to agree with that assessment.

Support directly for farmers includes a drought employment program; extension services, which are information and advisory services for farmers; stock containment areas, including different criteria as a direct response to some feedback we had in January; farm risk management grants of up to \$10 000, which is really about risk management; traineeships for school leavers; dedicated small business services, which is again something that came through very loudly and clearly in the consultation; additional events funding of \$120 000; and recreational water and sports grants. In almost every conversation I had with people the need for people to get a break from drought and from the really tough environment in which they are living and working came through loudly and clearly, so the package seeks to balance all of these things.

The online forum attracted a great many suggestions and, as Mr Drum pointed out, more than 20 000 votes. There are a couple of projects in particular that Mr Drum referred to that are probably better suited to seeking funding from the Regional Jobs and

Infrastructure Fund. Regional Development Victoria is working closely with the project proponents in Donald and Charlton and the Buloke Shire Council to develop these projects and proposals. It is worth noting that out of a \$10 million fund, the \$6.8 million Charlton Park project would of course have absorbed two-thirds of that resource.

We just loved seeing this level of community participation. Donald has a population, according to the latest census, of 1693 people, yet 6343 people supported the Donald multipurpose facility. Similarly in Charlton, a community that was really impacted by floods, there was a level of support for the project that exceeded the population. We are working on these projects and identifying funding sources for them as appropriate.

*Supplementary question*

**Mr DRUM** (Northern Victoria) — It might come as a surprise to the minister that the reason the website was so readily complied with was the fact that the government gave a promise that it would be listening to the community to take advice on the projects that the community wanted. Given the minister has not committed to any of the projects that more than 20 000 people have supported, can she confirm that this sham consultation has exploited those vulnerable communities affected by the drought?

**Ms PULFORD** (Minister for Agriculture) — Unfortunately, as happens here all the time, Mr Drum is wrong. Many of the initiatives that were proposed through the Our Say forum have been included as part of the package. The Our Say forum was a great way to talk to a whole lot of extra people about the types of support that the community wants, and if Mr Drum had actually had a look at the website, he would know that there were people who voted from Gippsland, there were people who voted from the Melbourne CBD and there was a really good spread through the areas that were affected.

**Mr Ramsay** — Name one.

**Ms PULFORD** — Name one? Farmer-led groups improving soil health, capturing all rainfall and drought-proofing farms; the economic stimulus idea from Wycheproof was something that was not known to the local council but we are now talking with it about it; and Charlton Park, I think, is a project of great merit.

**The PRESIDENT** — Order! I thank the minister.

**Synthetic drugs**

**Mrs PEULICH** (South Eastern Metropolitan) — My question is directed to the Minister for Small Business, Innovation and Trade. On 2 February, with the Legislative Assembly member for Frankston, the minister visited the Erotic Nights sex shop in Frankston. As the minister must surely be aware, since the election of the Andrews government this particular store has been raided and synthetic drugs have been seized. Over the last month new batches of synthetic cannabis known as Panda, disguised as potpourri, have also been discovered in Frankston. I ask the minister: did employees or the small business owner address the issues of regulation and approvals for small businesses like the Erotic Nights sex shop to sell new and dangerous batches of synthetic cannabis when he visited?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — In my short time as a minister I have not been as surprised by the stupidity of such a question. Let us just lay some clear facts on the table. I did not actually go inside the shop in question. In relation to the shop, I took a photo in front of the shop.

*Honourable members interjecting.*

**Mr DALIDAKIS** — I will come back to the shop in a moment. I took a photo in front of the shop and I sent it to my colleague in this chamber, none other than the leader of the Australian Sex Party, and I made it clear to her that I do represent all small businesses, despite the fact that I actually did not go in. But if I had gone in, I probably would have seen that the customer of the month was Geoff Shaw.

That said, whilst I cannot comment on the veracity of the claims made by Mrs Peulich in relation to the shop in question, let me make it very clear that the denigration of the adult entertainment industry and the attempt by Mrs Peulich to somehow smear and denigrate those people that work in this industry — which is not necessarily an industry that I use but is nonetheless a legalised industry in the state of Victoria — is, I think, beyond the pale. It is disrespectful to all those that work in an industry that has been legalised and enabled to operate in this state by governments of all political persuasions. The member concerned should be better than that. Despite the fact we know that she is not, she should be.

**The PRESIDENT** — Order! That last remark of Mr Dalidakis was totally uncalled for.

*Supplementary question*

**Mrs PEULICH** (South Eastern Metropolitan) — I note that attack is often the best form of defence. I thank the minister for his answer, and notwithstanding his denial of entry into the shop I would imagine that his own department would have prepared him with a brief for the activity that had been organised with the member for Frankston. I note that the same sex shop chain in the south-east was caught selling synthetic cannabis disguised as potpourri, with \$45 000 worth of synthetic drugs being seized in December 2015, just three months ago. Small Business Victoria would no doubt have provided detailed information about the banning of synthetic drugs to relevant small businesses. I ask the minister: in his visit to Frankston and the said business was he aware of Small Business Victoria's advice about banned synthetic drugs when he walked in or in front of the Erotic Nights sex shop door in February with the member for Frankston?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I refer back to the substantive answer that dealt expressly with that question.

**Mrs Peulich** — On a point of order, President, the minister has not answered my supplementary question, and that was whether he had received advice in relation to the seizure. In fact his answer to my substantive question did not address the supplementary, and I ask that you ask him to provide a written response.

**StartCon**

**Mr ONDARCHIE** (Northern Metropolitan) — My question this afternoon is to the Minister for Small Business, Innovation and Trade. Last year as minister for innovation he proudly stood on the steps of the Sydney town hall and announced to the world that Melbourne had stolen Australia's biggest start-up conference from Sydney. In his now famous grand style, he boasted that Victoria had stolen the rebranded StartCon from Sydney, with it moving to Melbourne in 2016 at a cost of \$1 million in a big coup for Victoria. To quote the minister, the:

... decision to move Australia's biggest start-up tech conference to Melbourne highlights Victoria's reputation as the no. 1 tech destination in Australia.

On the day he said a government needs to walk the walk, not just talk the talk. He even tweeted the New South Wales minister for innovation and offered him a free ticket to Melbourne 2016 to bask in his glory. Can the minister inform the house when and where in Melbourne in 2016 the StartCon conference will take place?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — I thank the member for the question. There is no doubt that we have been very, very active within the innovation space in Victoria. We have a great deal of start-up conferences in Victoria and a great deal of tech conferences. In fact the conferences that I have been to and opened this year include Pause Fest and also the above all human conference.

In relation to StartCon, what in fact occurred was that as a result of the delay in the incorporation of LaunchVic, which has to go through a legal process for us to then be able to undertake the contract, it was concluded only very recently — —

**Mr Ondarchie** interjected.

**Mr DALIDAKIS** — If Mr Ondarchie wants the answer, I am getting to it. Would he like me to answer it? Then let me answer it.

In relation to the conference, the conference is actually provided by a company called Freelancer. In the discussions with Matt Barrie, who is the CEO of Freelancer, Matt was keen to make sure that there was a conference this year. As a result of the delay in the incorporation of LaunchVic we were not able to meet his time line for the conference to be held.

This is what we did. Rather than not have any conference at all, which would affect the whole of the start-up community, including here in Victoria, that has attended this conference previously, and rather than stopping that, what we agreed with Freelancer was that the conference would be held in Randwick this year to ensure that the start-up community is well served. What we have agreed is that that conference will be held this year in Randwick, and that will give Freelancer enough time to put everything in place, with a contract signed by LaunchVic at the same time, to ensure that that conference will be here in Victoria from 2017 and beyond.

Let me just add that in relation to the start-up community we have done a great deal. At no stage have I had a question in relation to the \$60 million LaunchVic fund that will support incubators, accelerators and co-location spaces.

*Honourable members interjecting.*

**The PRESIDENT** — Order! Perhaps I am the only one, but I am interested in the minister's answer, and I expect to be able to hear it. The minister, to continue without assistance.

**Mr DALIDAKIS** — Thank you, President. In fact let me also go further to say that the recognition of the work that Victoria is doing in this space has meant that I spoke at a panel in Sydney at the Nexus summit on Monday — and it was not the New South Wales minister in Sydney that was invited, it was me. So the opposition would do well to talk up Victoria instead of trying to talk it down, because unfortunately those opposite prefer to be Liberals first and Victorians second — Liberals first, Victorians second. I say to them: start trying to talk up Victoria instead of trying to denigrate what we are doing within the start-up community, within the tech community and within the medtech sector, the biotech sector, the pharma sector and the tech sector. Instead of talking it down, why don't they try to become Victorians and talk the sectors up?

*Supplementary question*

**Mr ONDARCHIE** (Northern Metropolitan) — I thank the minister for his answer, and I remind him that as minister for trade he is not supposed to export stuff to New South Wales!

So close, yet so far: after committing \$1 million the minister's claim that the rebranded StartCon would be held in Melbourne in 2016 seems to be a promise to the start-up community that he has not delivered — perhaps a case of premature edification. So I ask the minister: is he able to advise the house how much of that \$1 million has already been spent, including a breakdown of the cost of the proposed program and the cost of the new logo designed for StartCon Melbourne 2016 — a conference that will never take place?

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — Zero taxpayer funds have been spent at any stage in relation to StartCon, and they will not be spent until StartCon comes to Melbourne.

**QUESTIONS ON NOTICE**

**Answers**

**Mr JENNINGS** (Special Minister of State) — I have three written answers to questions on notice: 4585, 4922 and 4937.

**QUESTIONS WITHOUT NOTICE**

**Written responses**

**The PRESIDENT** — Order! In respect of today's questions, Ms Hartland's question to Mr Dalidakis in respect of the Crown report on gambling and the matter

of whether or not there is a conflict of interest associated with its collection of that information and its responsibilities to government, obviously Mr Dalidakis offered to refer that to the Minister for Consumer Affairs, Gaming and Liquor Regulation, a minister in another place, so that is two days; and I do direct that both the substantive and supplementary questions will be taken into account on that.

In respect of Mrs Peulich's question to Mr Dalidakis, I have reviewed that question and I will not be seeking a written response to either the substantive or the supplementary question. One of the reasons for this is that whilst the minister might have attended the premises or been outside the premises, I am not aware that he actually has jurisdiction for drugs or products that are sold within those premises or indeed any other premises for that matter. It is my understanding that in regard to drug substances the question would be more properly addressed to the police, the Minister for Health or perhaps the Minister for Consumer Affairs, Gaming and Liquor Regulation. There was an assertion in the question that Small Business Victoria provides briefings on this business; I am not aware of why it would provide a briefing on this business.

**Ms Wooldridge** — Because they're small businesses; they're small businesses themselves.

**The PRESIDENT** — Order! It might be a small business, but can I be assured that Small Business Victoria has, 100 per cent guaranteed, provided a report on this matter?

**Ms Wooldridge** interjected.

**The PRESIDENT** — No, not 'They do generally provide reports'. Can I be assured it has provided a report on this matter?

**Ms Wooldridge** — On synthetic drugs, yes.

**The PRESIDENT** — Small Business Victoria, on synthetic drugs, to the minister in regard to these premises?

**Ms Wooldridge** — I don't know to this minister, but they provide briefings to small businesses in conjunction with the Department of Health and Human Services on synthetic drugs, for the use of small businesses.

**An honourable member** — As they should.

**The PRESIDENT** — Not necessarily 'As they should', because they have got no jurisdiction in this matter. If they are providing an educative role, that is

perhaps something, but they do not have jurisdiction; they are not required to do this. I will consider this matter further, and I will come back on it later this day.

## QUESTIONS ON NOTICE

### Answers

**Ms WOOLDRIDGE** (Eastern Metropolitan) — In regard to unanswered questions on notice as allowed by the standing orders on Wednesdays for opposition parties, this actually relates to four questions — 571, 572, 868 and 872 — two of which were first asked in May and two of which were first asked in August. These are questions that, President, you have reinstated a number of times. I did raise this issue last November with the Minister for Families and Children, who represents the Minister for Health, who at that time promised to follow up directly with the minister and to seek a timely response. I still have not received a response to those four questions that in November the minister committed to following up. I emailed the minister for a second time in relation to these questions on 24 February — two weeks ago. There has not been any subsequent response to these questions.

President, you yourself have said that the minister appears very disinclined to answer these questions. They have been reinstated. Two weeks ago I emailed the health minister for a second time in relation to these questions. This is an inordinate amount of time, completely unnecessary, with repeated requests from you, President, and I expect also from the minister in this house. I ask that these questions be answered. They are questions 571, 572, 868 and 872.

**Ms MIKAKOS** (Minister for Families and Children) — Ms Wooldridge has referred to an email she has sent to the Minister for Health. I obviously was not privy to that email, but I will endeavour to follow up the matter directly with the responsible minister.

**Mr O'Donohue** — Just on a point of order, President, it appears to me to be common practice for ministers to leave the house straight after question time, before members of the opposition or the other parties have the opportunity to put matters such as the Leader of the Opposition has just put, and I think it would assist members if the ministers stayed until questions about unanswered questions on notice and the like could be answered.

**The PRESIDENT** — Order! Perhaps as a matter of courtesy, but there is no compulsion for them to do so, and indeed the Leader of the Government is here and

often takes matters on notice on behalf of other ministers.

## CONSTITUENCY QUESTIONS

### Eastern Victoria Region

**Mr O'DONOHUE** (Eastern Victoria) — My constituency question is to the Acting Minister for Police, and the question I have is: will he work with the chief commissioner to ensure that the Casey and Cardinia shires within my electorate of Eastern Victoria Region have sufficient police numbers to ensure that 24-hour police stations can remain open 24 hours a day?

The context for this question is that the number of police in Casey and the number of police in Cardinia have both decreased between September 2015 and December 2015, from 156.95 full-time equivalent positions in September 2015 in Casey to 148.79 full-time equivalent positions in December 2015 and from 84.47 in September 2015 to 78.47 in December 2015 in Cardinia. Casey City Council has expressed concern about police numbers. The mayor has been quoted as saying:

We're down 6 per cent on officers we had two years ago. It's ridiculous. We cannot fight crime without police.

I would ask that question of the minister.

### Western Metropolitan Region

**Mr EIDEH** (Western Metropolitan) — My constituency question is addressed to the Treasurer, the Honourable Tim Pallas. Last year was a big year for my electorate of Western Metropolitan Region due to the numerous infrastructure commitments that were promised, so I ask: can the Treasurer update me about the progress being made on delivering the significant infrastructure projects?

### Northern Metropolitan Region

**Mr ONDARCHIE** (Northern Metropolitan) — My question is for the Minister for Emergency Services, and it concerns approaches I have had from constituents in Epping in Northern Metropolitan Region, particularly those who are volunteer firefighters and have been associated with the Epping fires, the most recent ones being in December. This question concerns the support provided by the Metropolitan Fire Brigade (MFB) for those fires in Epping.

The volunteer constituents in Epping in Northern Metropolitan Region have said to me that at the time

that the fire was under control the MFB decided to leave the fire scene, yet there was still work to be done, including what is called 'blackout'. That is where every one of the smoking embers is completely extinguished. The incident controller asked the MFB to remain to support the blackout activities, yet the MFB said, 'No, we don't do blackout'. My constituency question on behalf of the people of Epping is: is it MFB policy that it does not remain to do blackout?

### **Western Victoria Region**

**Mr RAMSAY** (Western Victoria) — My question is to the Minister for Regional Development, the Honourable Jaala Pulford, and it is in relation to a recent tour I did with the general manager of GeelongPort, Steven Anderson, of the facility down in Geelong. To my horror I found out that there is a 1-kilometre stretch of the Murray Basin rail project that is actually not funded to the Geelong port. It seems extraordinary that the Andrews government has not yet fully committed to the full funding of the Murray Basin rail project and has not provided a rail track directly to the Geelong port. Part of the success of this program will be moving exports on rail from Mildura right through central Victoria to the Geelong port and then to the Melbourne port, but I found out, disappointingly, that 1 kilometre of track is not funded to the Geelong port. So my question to the minister is: why not?

### **Western Victoria Region**

**Ms TIERNEY** (Western Victoria) — My constituency question is for the Minister for Sport. Over the last few months I have been having meetings with players and officials of the Torquay netball club. I have gone down and had meetings on site with them as well, where they have shown me that the current facilities do not by any measure fulfil the requirements of the players, umpires or supporters. I utilised my members statement this morning to outline in more detail what is required down at the Spring Creek Reserve, and my question to the minister is: is he going to support the development of new facilities for the Torquay netball club, and indeed when he will make that decision?

### **Southern Metropolitan Region**

**Ms FITZHERBERT** (Southern Metropolitan) — My constituency question is to the Minister for Education. Parking is a massive issue for schools around my electorate office in port Melbourne. The Galilee Regional Catholic Primary School in Bank Street, South Melbourne, is a case in point. The principal there told me last year that teachers have to

leave classes to move their cars and regularly get parking tickets. Public transport is not an option for many of the teachers, who come from quite a wide area to teach at what are really some fantastic schools that any teacher would enjoy teaching at.

The Ferrars Street school site, it has been revealed, will have no on-site parking. Albert Park College is another great local school but suffers from having no staff parking on site. My question to the minister is: will the minister reverse his decision to have no parking at the school at Ferrars Street and, if not, explain why?

### **Southern Metropolitan Region**

**Mr DAVIS** (Southern Metropolitan) — My matter today is a question for the Minister for Planning, and it concerns the government's current statewide review of residential zones. I am particularly interested in the impact on my electorate, on the municipalities of Boroondara, Glen Eira, Stonnington and others, Bayside in particular. The review appears destined to strip away residential zone protections — the neighbourhood residential zones — which provide the highest level of protection for individual properties within those particular municipalities. The government has recently released a number of reports, the so-called 'state of play' reports, that relate to those municipalities within my electorate, so what I am seeking from the minister is a guarantee that this process will see no reduction in the level of protection and no wind-back in the area that is covered and protected by the neighbourhood residential zones in my electorate.

### **Northern Victoria Region**

**Mr DRUM** (Northern Victoria) — My constituency question is to the Minister Public Transport, and it has to do with improved rail services into Shepparton. We recently had a briefing from V/Line, and when the organisation was asked directly whether it has plans to improve the number of services into Shepparton it said, 'Yes, we have a broad community network plan of improvements based around Shepparton'. That is a very broad plan. Therefore the next stage of that conversation will be to ask Minister Allan to give a more direct course of action as to how Shepparton is going to have improved rail services into the future, predominantly based around more services into Shepparton and home again.

### **Northern Victoria Region**

**Ms LOVELL** (Northern Victoria) — My question is for the Minister for Health. I have received correspondence from a constituent that reads:

Nine hours my son sat at the GV hospital after a workplace accident. Arrived at 10.00 a.m., X-ray at 1.00 p.m., scan at 2.00 p.m. Result at 5.45 p.m. Plaster on and out at 7.00 p.m. Not good enough! I witnessed sick children groaning in pain, elderly people looking stressed and disoriented and was front and centre to blood pressure tests and a bung being put in. What has happened to privacy?

I have to agree that waiting for 9 hours to have a fractured foot fitted with a plaster or waiting for 9 hours with a sick child or as an elderly person is not acceptable; neither is the obvious privacy issue. Goulburn Valley Health is in desperate need of expansion and redevelopment. The state has no excuses for not funding this project; the \$540 million returned to the state from the Tatts Group presents an ideal funding stream. Will the minister immediately fund the expansion and redevelopment of GV Health to ensure the people of the Goulburn Valley have access to the health services they both need and deserve?

### Western Metropolitan Region

**Mr FINN** (Western Metropolitan) — My constituency question is for the Minister for Education. Recent media reports highlight the fact that no new schools will be opened in the City of Wyndham this year. Understandably this has angered locals who understand only too well the desperate need for increased educational opportunities in Wyndham. Wyndham is one of the fastest growing municipalities in Australia. Families are moving in every day and babies are being born every hour. What hope can the minister offer that the government will sometime soon meet the demand for new schools in the City of Wyndham?

## PRODUCTION OF DOCUMENTS

### Debate resumed.

**Mr BARBER** (Northern Metropolitan) — In continuing on the documents motion, in summary the rather unfocused argument put by the government is as follows: if cabinet deliberations are to be exposed there will be no more democracy — and yet that is not really the subject of the documents that are in front of us; and that if matters associated with accountability for public dollars that happen to be transferred to private entities are to be disclosed in this place, that will cripple the state — and that was the exact term used. The remaining argument was basically that any time 21 votes are cast here out of the 40 that that is an illegitimate use because we are all doing things because we can. Well, I do not know about 21 votes, but at the moment the only votes that Mr Leane can speak for is

14 out of 40. We will wait and see how members decide to vote on this matter.

But it all basically seeks to avoid the core issue here. Since all would agree that Parliament needs to be informed in order to conduct its business, does Parliament have the power to seek documents and scrutinise them? Just think of it this way, President: the Auditor-General already has the power to obtain cabinet documents, and if the Auditor-General believes that it is in the public interest to do so he can actually disclose those documents. A stream cannot rise above its source, so how can it be that the Auditor-General has in fact more power than the Parliament? It is a bizarre notion.

By the way, the government has a bill before the house — and this is not anticipation; this is analogy — to establish a Parliamentary Budget Officer (PBO), which in fact gives the PBO the power to obtain both cabinet material and commercial-in-confidence material, and yet it is argued here today that the Parliament does not have such power.

It has been suggested that this is a six-month suspension of the Leader of the Government. That is not at all true. On the way out the door the minister is handed the power to let himself back into Parliament whenever it is that he seeks to. He simply needs to provide those relevant documents, and there is a mechanism established in this motion for the house to consider whether all relevant material has been provided and whether in fact the motion has been complied with. I think it is a good approach. Unless the Parliament is to continue on fumbling in the dark on these incredibly important matters ranging from major transport projects, the sale of the port of Melbourne lease and of course global warming and even the provision of health services, then we must resolve this conflict once and for all and make clear the relative powers of the Parliament and the executive. It is for that reason in addition that we should all be supporting this motion.

**Sitting suspended 1.00 p.m. until 2.03 p.m.**

**Debate adjourned on motion of Mr ELASMAR (Northern Metropolitan).**

**Debate adjourned until later this day.**

## UPHOLDING AUSTRALIAN VALUES (PROTECTING OUR FLAGS) BILL 2015

### *Second reading*

#### **Debate resumed from 24 February; motion of Mr YOUNG (Northern Victoria).**

**Ms SYMES** (Northern Victoria) — It is a pleasure to speak today on a bill that has been introduced by the Shooters and Fishers Party. This bill caused me to spend an inordinate amount of time googling all things flags. It is a world I was only partially aware existed. There are flag associations, flag societies, flag appreciation groups and flag experts in Australia and internationally. I was not previously familiar with the term ‘vexillology’. Vexillology is the scientific study of flags and related emblems. It is concerned with research into flags of all kinds, both modern and historical, and the creation of a body of practice for flag design and usage and a body of theory of flag development. Vexillology seeks to understand and explain the important part played by flags in the modern world. It is quite relevant to today’s debate.

As is common when googling things, you get started and you go down a few rabbit holes. I was unaware of the fact that the Australian national flag came out of a public design. It could well be something I was taught in the early years of primary school, but it is certainly something I did not retain. The public design competition was in 1901, and it received 32 823 entries. I was fairly gobsmacked by that number of entries at the start of the 20th century. The Prime Minister of Australia at the time, Edmund Barton, announced that five entrants who had submitted similar, if not identical, designs were to share the honour of being declared the designers of the Australian flag. They included a 14-year-old boy, Ivor Evans. I now realise the significance of Ivor Evans Flags Pty Ltd, a flag shop in Keilor East, where I used to live.

I read the story of Ivor’s inspiration, and it seems he had really clear ideas about what his flag meant to him and what he thought it should mean to Australia and Australians. The inclusion of the southern hemisphere indicates our geographical location south of the equator, and the constellation stars relate to various Indigenous legends and remind us of our Aboriginal heritage. Ivor thought the inclusion of the brightest constellation in the sky was a good symbol to represent Australia’s bright future as a leading nation. He also chose the Southern Cross after being influenced by the poet Dante, who wrote about four bright stars which symbolised the four moral virtues of justice, prudence,

temperance and fortitude, principles that Australians should live up to.

Ivor believed that the flag of the United Kingdom had a place on Australia’s flag because of the historical links between our island continent and the British Isles. Ivor believed that the Union Jack deserved an honourable place on the new Australian flag as a way of a new nation paying respect to its origins. I think that is pretty remarkable for a 14-year-old. The Australian flag also contains the Commonwealth Star representing Australia’s federal system. Originally the Commonwealth Star had six points for the six states, but in 1908 a seventh point was added to represent the territories of the commonwealth.

The flag was first flown in Australia on 3 September 1901. There was a public ceremony held at the Royal Exhibition Building, which of course was then the commonwealth gathering place. The flag that was raised was 11 metres by 5.5 metres, which for the 1900s is a pretty impressive effort. Of course this is the flag that is now displayed, with an extra point, in many forms throughout Australia. It has become a meaningful flag that by law, custom and tradition is Australia’s chief national symbol.

I enjoyed a bit of the Flag History 101 in preparing for this bill, although perhaps I got a bit distracted on the history as opposed to the law. But coming back to the purposes of Mr Young’s bill, I agree with him that our national flag should be treated with dignity and respect as it represents all Australian citizens equally, whatever their background, their race or their religion. Our flag is a reminder of the contributions of past and current generations to this nation and hopefully the inheritance that we pass on to future generations. The government supports Mr Young’s view that the burning of the flag is provocative, it is disrespected and it is wrong. We say that in regard to the four flags referred to in the bill and indeed to many, many other flags as well.

The name of the bill, Upholding Australian Values (Protecting Our Flags) Bill 2015, describes its purpose. It is to provide for the upholding of Australian values by protecting certain Australian flags. In particular it creates an offence to dishonour certain Australian flags. Specifically a person aged 18 years or more must not intentionally or recklessly dishonour the Australian Aboriginal flag, the Australian national flag, the Australian red ensign or the Victorian flag. The penalty proposed is 40 penalty units or imprisonment for two years.

The explanatory memorandum outlines that the intended example of dishonouring a flag would be

burning the flag in public. In fact most of us here are referring to it as the ‘flag-burning bill’. The offence as set out in clause 4 does not apply to a flag damaged through wear and tear, the disposal of a flag in a dignified manner or the use of a flag for the purposes of discussing a new flag design.

The path of attempts at lawmaking around the protection of the Australian flag from desecration is a well-worn one. As it might well be, it is both particularly emotive and surprisingly vexing. The prospect of implementing flag desecration laws was raised at least as far back as 1953 during a debate on the passage of what ultimately became the Flags Act 1953. This has subsequently attracted commentary in the commonwealth Parliament and indeed the WA Parliament on an average of about every decade since. Each time the issue comes up it tends to be met with a mixture of confusion that the desecration of a flag is not already illegal and surprise that the question has not been dealt with previously. I note from Mr Young’s contribution that that was certainly his experience during his consultations on the development of his bill. It is a matter of past experience, though, that this position tends to slowly dissolve each and every time into a realisation that this is a sensible enough sounding idea that is ultimately found to be either constitutionally prohibited, practically unworkable or both. I feel we are likely to be headed towards a similar conclusion in this instance, where the issue has again emerged not just in this place but also in a more expansive form in the commonwealth Parliament.

We have concerns with the working of the legislation for the following reasons. There is a significant constitutional risk or uncertainty about the Victorian Parliament making laws such as this. Our advice is that there is a respectable argument that when the bill is held up against the High Court decisions in *Lange* and in *McCloy* it may be found that criminal punishment of the dishonouring of flags is an invalid limitation on the freedom of political communication. This would certainly be consistent with decisions of the United States, where the Supreme Court invalidated flag desecration laws.

Another area worthy of consideration is whether in fact this bill would be inconsistent with federal legislation. It is possible that the Flags Act 1953, a commonwealth act, would be found to cover the field when it comes to regulation of national flags, and in that case any attempt by state Parliament to legislate in relation to the two national flags may be invalid.

We are concerned that the criminalising of the burning of four specific flags will give an implicit approval to

the burning of other flags — for example, the Union Jack, the Star of David flag or the Torres Strait Islander flag. It would be wrong for one group of protesters to be prosecuted for the burning of the red ensign, or the Victorian flag, but for no action to be taken against protesters who burn and stomp on the Star of David flag. In fact it may green-light such behaviour in the knowledge that burning one flag invites criminal sanction and burning another does not.

It is unclear where lie the limits of ‘dishonouring’. There is a little bit of ambiguity — for example, many may believe that using the Australian flag as a cape and then verbally abusing or assaulting another dishonours the flag. However, it is unclear whether this particular behaviour would be caught by the legislation. Nor does the bill make a specific distinction between the actions which occur in public and those which occur in the privacy of one’s home.

The definition of a flag is something that is a little bit unclear. What is a flag? For instance, at Australia Day celebrations, street parades and sporting events, often those little plastic Australian flags are handed out, and in many instances they may not be disposed of respectfully. Would patrons be liable for a sanction if they dumped one of their little flags in their plastic pot of beer? On a strict reading of the bill perhaps that could be caught by the legislation.

So whilst the government has sympathy for elements of what Mr Young and Mr Bourman are seeking to achieve, it does hold reservations about the bill before us today. However, I am very interested in hearing what others have to say during the debate today.

**Mrs PEULICH** (South Eastern Metropolitan) — I must say — and I do not think it was the problems with our IT today, although we did have some excitement yesterday — that I found some of that contribution very difficult to hear. I am just providing that little bit of feedback.

I am very pleased to speak on the Upholding Australian Values (Protecting Our Flags) Bill 2015, and from the outset I would like to put on the record that the opposition supports this bill and I have great pleasure in making some remarks on it. The purpose of the bill is to make it an offence to dishonour certain Australian flags and to enshrine in law protection for these flags, following recent cases of flag burning in public places. It is regrettable that when protesters of the left-wing and right-wing variety create flashpoints — they are probably as bad as each other — often they take the opportunity of burning flags as a way of inciting a response from the other side. This bill would make it an

offence to dishonour the Australian national flag, as was mentioned, the Australian Aboriginal flag, the Australian red ensign and the Victorian flag.

'Dishonour' is defined as 'burn, damage, deface or desecrate' these flags, with the maximum penalty being two years in prison or a fine of 40 penalty units, which is approximately \$6000.

The test is that it would become a criminal offence to wilfully destroy or otherwise mutilate the a in circumstances where a reasonable person would infer that the dishonouring and defiling of the flag by burning or other actions is intended to publicly express contempt or disrespect for the flag or the Australian nation. I am certainly very pleased to see the bill introduced and to see this debate occur in this Parliament while I still serve in it.

The Australian national flag uses three prominent symbols: the Union Jack; the Commonwealth Star, also known as the Federation Star; and the Southern Cross. It is Australia's foremost national symbol, was first flown in 1901, and has become a very powerful expression of Australian identity and pride. Certainly like many of us who have migrated to Australia because it has been a beacon of democracy, I must say I love the Australian flag.

The symbolic meanings of the Aboriginal flag colours, as stated by Harold Thomas, are: black, representing the Aboriginal people of Australia; a yellow circle, representing the sun, the giver of life and protector; and red, representing the red earth, the red ochre used in ceremonies and Aboriginal peoples' spiritual relations to the land. I think now the welcome to country, a traditional greeting that is more common now at many of our civic events, is something that is warmly embraced by all.

The Australian red ensign resulted from the 1901 commonwealth government federal flag design competition, as was mentioned by the previous speaker, which required two entries: a flag for official use by the commonwealth government and one for use by state and local governments, mercantile marine, private organisations and individuals.

Of course this bill also refers to the flag of Victoria, symbolising our great state, which is a British Blue Ensign defaced by the state badge of Victoria in the fly. The badge is the Southern Cross topped by an imperial crown, which is currently the St Edward's Crown. The stars of the Southern Cross are white and range from five to eight points, with each star having one point pointing to the top of the flag. The flag dates back to

1870, with minor variations, the last of which was made in 1953.

Our flag has traditionally been treated with dignity and respect, as it represents the values that all Australians share, irrespective of our colour, our origin, the languages we speak or the religion that we profess. Australia is a great country of equality, of opportunity, of egalitarianism and of mateship, irrespective of our background, race, ethnic identity, colour, religion or age. Our flag is a reminder of the contributions of past and current generations to the nation and of the inheritance that will be passed on to future generations. What is most moving is to see the strength of the embrace of our flag by younger generations. In particular this has occurred with the stronger pride and involvement in the celebration or commemoration of Anzac Day and Remembrance Day by the broader community but in particular by our schools and schoolchildren and their families. I just say thank you to all of those schools which do that important work in making sure that the sacrifices of our forefathers are remembered and that we certainly understand that what we enjoy today would not be the same if it were not for those sacrifices.

The flag means a lot to many people, and many of those children who take part in Anzac Day and Remembrance Day services do so because they have uncles or grandfathers or great-uncles who were involved in conflicts. Obviously it is very moving for those who have fought under the flag and to many Australians who value the flag. What we also see are many returned servicemen — unfortunately a reflection of current conflicts — who still have mates serving in those conflicts or who are suffering from the experience of those conflicts. The flag represents our country, our system of government and virtually everything that we as a nation stand for.

Over the past 100 years more than 1 million Australians have served under various versions of the Australian national flag, and 102 000 Australians have died defending our national symbol during war and conflict. It is obviously the most powerful symbol of our nation. The sacrifice of men and women who have fought and died under this flag to defend our nation obviously requires a recognition by this Parliament and a recognition of all that has been fought for. If the Australian national flag is to continue to stand as a tribute to those who have defended our national symbol and the values and traditions it stands for, any attempts to intentionally or recklessly dishonour it should be condemned and opposed, and this bill certainly strives to achieve that. I would be very interested in seeing

some of the legal opinion that has been cited earlier, and I am disappointed that that legal opinion has not been circularised to this chamber for consideration by all members of Parliament.

The other area where the flag is proudly flown — fluttered — is in our sporting arenas and at our contests. As a mother of an athlete, let me say there is nothing more emotionally moving than winning an international contest, no matter in which sport or sporting code, and seeing that flag fly. It certainly brings me to tears, let alone the athletes who have earned their success and who proudly stand there representing our nation.

Australians have identified with tremendous national sporting successes under the Australian flag, including wins at the Davis Cup tennis, medals at the Commonwealth and Olympic games, qualification for World Cup soccer and wins in Ashes cricket. Victory in the America's Cup in 1983 united the nation with a sense of pride in Australia's sporting achievements. My son has had the great privilege of representing our nation on a number of international occasions, but in particular the world juniors and world youths, and it has choked me up with tears to see him competing under the Australian flag.

More recently Australia has celebrated successes in the sporting domain and has continued to upgrade and reinforce its international standing by hosting the Olympics in Sydney in 2000 and the Commonwealth Games in Melbourne in 2006, all under the Australian flag. I do remember that I had not purchased any Olympic tickets. I was much too busy to get that sort of forward planning in place, but we got into the car and drove up in the vain hope that somehow we would be able to secure tickets. We were prepared to pay very good money to secure the tickets but found that in actual fact, if you lined up 45 minutes before the start of any competition, any uncollected tickets were sold at face value, and we were able to get the best seats in the house on the most important day of our Olympic Games in Sydney to see Cathy Freeman win the 400-metre race, to see Tatiana win the gold medal in pole vault and to see some of the world champions in hammer throwing.

I can say that when I saw Cathy Freeman, whom I had met on many occasions but who had not really been a personal icon of mine, run, win and take a lap of honour with the Australian flag and the Aboriginal flag I cried like a baby. I cried like a baby and have never been more proud of Cathy Freeman than at that moment. At the 1994 Commonwealth Games and the 2000 Olympics in Sydney, as I said, Cathy Freeman draped herself in that flag and demonstrated her identification

as well with her own community and culture. It was indeed a very proud moment.

The singing of the national anthem and the hoisting of flags in schools is now commonplace. For a time it became a rarity, an exception; now it is commonplace for this to occur at the weekly assembly. I recently attended one of the local primary schools to present some leadership badges, and every single child in that assembly hall knew the words of our anthem, no matter their colour and no matter where they were born, and they rose proudly of course under the flag. They all sang *Advance Australia Fair*, perhaps not all as eloquently in the second verse, but the first verse is certainly well practised and an essential part of our Australian identity. Let me say, the popularity of this practice, as well as Anzac Day and the day of remembrance, is a reflection of the pride that we take in living in the best country in the world.

In terms of our multicultural communities, as shadow Minister for Multicultural Affairs I am absolutely delighted when I see our multicultural communities not only fly their own flag as they attempt to retain their heritage, culture and values that are the best to keep, but also fly it side by side with Australian flags to demonstrate their commitment to the country that they have selected to make their home. We have become one of the most harmonious immigrant nations because we have absorbed so many people of different races, cultures and creeds, and of course we do so and they are all Australians. We have benefited from that hybrid vigour that immigration brings and that the Australian identity has adapted to and been enriched by.

We are a secular nation, but the values that have made Australia a free, prosperous, fair democracy that migrants strive to join and embrace have come from basically our Judaeo-Christian foundations, which underpin Western civilisation. But can I say that the other major religions share in some of those common values that are embraced in those foundations. It does represent the origins of our democracy — the rule of law, equality of every human being and freedom of speech. As I said, this is shared by most of the major religions.

The objective of this bill is to outlaw the actions of destruction and desecration of the Australian flag and other related flags that are performed with the intent of causing distress or offence at the reckless damage to our national symbol. There is a community expectation that the Australian national flag is treated with respect and dignity. We invest money in trying to get people to treat each other with greater respect, and I think this in itself is probably the pinnacle of being a respectful

country — respecting all that our nation stands for and all of the opportunities that extend to all Australians irrespective of their origins. We have fostered this level of regard for our foremost national symbol, and this bill of course is about the expression of that national pride and the expectation that people will abide by these principles of honour and respect.

There are countries that do protect their flag under legislation, and there are some that do not. That does not mean it is not the right thing to do. Some that do include Austria, France, Germany, India, Italy, New Zealand, Portugal, Norway, Taiwan and Turkey. The intent of the bill is to enshrine in law the protection of the flag, especially following the two recent cases of flag burning in public places by protesters. On both occasions it must reasonably be assumed that the acts were undertaken to dishonour the flag in front of Australians who consider such desecration of their foremost national symbol highly offensive, and I think it is very sad that our national symbol is used in that way. As a democratic society, we do uphold freedom of speech, but burning a flag is not about exercising free speech; it is an act designed to offend, insult, humiliate and intimidate and is done so because of national origin.

We are a secular nation, but the values that make Australia a free, prosperous and fair democracy that migrants have embraced and sought to make their home every year by 100 000 in Victoria represent all that is great about our nation — our origins, our democracy, our rule of law, the equality of every human being and freedom of speech.

The singing of *Advance Australia Fair* and raising of the Australian flag are traditionally secular expressions of allegiance to this country. They do not conflict, in my view, with freedom of expression — which has never been totally unfettered, but obviously we still do need to protect it — and neither does it conflict with religious expression. The Australian flag is a symbol of our achievements as a nation. Respect for the flag is respect for the Australian nation and all that we stand for and all that we have achieved. To display the flag is to display pride in our nation and our heritage, and, as a free and democratic society, we should take this measure to protect our chief national symbol. With those few words, the opposition supports the bill as an expression of our national pride and our achievements, and I wish the bill a speedy passage.

**Mr BARBER** (Northern Metropolitan) — Deputy President, there are a couple of problems with this bill, and when I have finished describing what they are I

hope you will agree that there is no way that any member of this house can support this bill. The first problem is that we have got a group of gun enthusiasts coming into the Parliament telling us what Australian values are, that only they can define who in this place cares about Australia, its land and its people, that the flag is the symbol of the values they are defining for us and that anybody who defaces the flag should be jailed. Personally I do not want my Australian values dictated to me by the shooters party, and we will come back in a second to whether in fact it has defined values for us in a way that we would all agree with and find unifying. The second set of problems is that the bill in its drafting is this kind of hot mess of errors, constitutional problems and overreach. I do not know if the overreach is unintended or intended, but we will see in a minute.

The bill creates an offence for a person over the age of 18 to intentionally or recklessly dishonour — that is the term — any of the three flags: the Australian flag, the red ensign and the Aboriginal flag. Dishonour is broadly defined — that is quite important — but includes burning, damaging, defacing or desecrating. Fines of \$6000 or two years improvement — —

**Mr Bourman** — Imprisonment.

**Mr BARBER** — Imprisonment — thank you. Even if the bill had been written to address only its central purpose, which is to outlaw conduct that sections of the community would find offensive, or to suppress those offensive views, and to outlaw conduct that some people would consider to be unpatriotic — and others of course would argue it is a form of patriotism to defend the values rather than defending the flag itself — and even if the bill only outlawed flag burning and not other forms of reckless accidental damage or the artistic use of the flags, it would still create those constitutional and other errors.

You need to understand that there is no definition of ‘flag’ in the bill that defines a flag as a piece of cloth of certain dimensions with a certain symbol on it. It references through to the flag design, which is defined in the commonwealth Flags Act 1953, but then does not operate on flags. To put it simply, if that flag design exists in other forms — we have all seen it produced in many other forms, including stamped on things and so forth — all of those things are caught up within this bill.

Just starting with what a few other people, though, have said on the topic, my favourite was from the Institute of Public Affairs (IPA), and I know its views — —

**Mr Finn** — They’re my favourite too.

**Mr BARBER** — The IPA is one of Mr Finn's favourites, and I know the IPA's views hold great sway with the Liberal Party, so let us see what the Institute of Public Affairs had to say:

To forbid flag burning is to forbid you from disposing of your property in ways that offend others.

This is fair dinkum. It is right here on the IPA website.

**Mr Finn** — Who wrote it?

**Mr BARBER** — It says it is by Morgan Begg of freedomwatch.ipa.org.au.

**Mr Finn** — When was it written?

**Mr BARBER** — On 10 December 2015, in fact in response to a report in the *Herald Sun* about Mr Young's bill, if that is of assistance to Mr Finn. The IPA says:

Burning the Australian flag is undoubtedly a despicable act. But even a despicable act doesn't warrant the abrogation of property rights.

The website goes on to quote Andrew Cohen from the Foundation for Economic Freedom:

To forbid flag burning is to forbid you from disposing of your property in ways that offend others. But property rights protect freedom of action for which one need not solicit the permission of others. A right to your flag —

there is an emphasis on the words 'your flag' in this blog —

guarantees a right to burn it, stomp on it, spit on it or turn it into underwear if you so choose. Your flag is your property. If someone does not like what you do with your property, he should not lock you up; he should persuade you to change your ways or he should have nothing to do with you.

I cannot actually say that I agree with what the IPA is saying here. I think it has the idea fundamentally wrong, but I can understand that the IPA's view of freedom pretty much starts and finishes with the idea of property rights, so there is a kind of logical consistency to what it is saying here. Personally I think the IPA is a bunch of weirdos, and that is the weirdest argument I have ever heard put forward as to why you would oppose this law. It is just that I know that the Institute of Public Affairs has a huge sway over the ideas and the policymaking of the Liberal Party. In fact every time I turn around another IPA staffer has been recruited to become a Liberal Party MP. So much for the IPA; I just raised that as a bit of information. Personally that is not an argument I want to put forward, but I thought the Liberal Party ought to understand it.

Another prominent libertarian, though — former Prime Minister John Howard — said in relation to a similar bill:

I don't think we achieve anything by making it a criminal offence. We only turn yahoo behaviour into martyrdom.

On the subject of liberty or freedom, which most people agree is an Australian value — personally I think it is a universal human value, a human right —

**Mr Bourman** — Unless you're a shooter.

**Mr BARBER** — We will come back to the concept of shooters rights in a minute, because I do hear the word 'rights' a lot from shooters — 'I have the right to hunt. I have the right to fish'. Some of them say, 'The God-given right to hunt'. I do not think rights come from God. If this were the US there would be both a constitutionally protected right to own a gun and another one to have freedom of speech, and if it were the US there is no way that this bill would ever in a million years survive constitutional challenge, but that is another sort of side issue, even if it does — or perhaps it does not — help the shooters party understand which particular side of the rights equation it wants to operate on.

On the subject of freedom and liberty, there is a submission from Liberty Victoria, and I think it is worth considering some of the points that it puts forward. Under the question of freedom of expression it notes that that is a right that appears within the Victorian Charter of Human Rights and Responsibilities. In fact the exact wording is that every Victorian has the right to freedom of expression in a 'medium chosen by him or her'. It is Liberty's view that burning a flag or defacing a flag would clearly fall within that intended protection of freedom of expression. It is argued in the material supplied with the bill that it does not limit freedom of expression but merely limits specific conduct and that Victorians who wish to debate issues such as nationalism or racism may express their views through means other than by dishonouring the Australian flag. But as we have just heard, the charter protects both the right to speak and the choice of medium by which that freedom of speech is expressed.

I quote Liberty Victoria:

The means by which a message is conveyed is often a part of the message itself. This is particularly the case when considering the provocative act of burning the Australian flag. Choosing to burn a flag in public communicates a degree of disdain and contempt for the institutions and values the flag represents. A law that prohibits burning a flag is, in effect, prohibiting that message.

... Common arguments in favour of laws prohibiting desecration of the flag are that the act is offensive to returned servicemen and Australians who revere the flag. Fundamentally these are arguments that the form of political expression, dishonouring the flag, should be prohibited because the message it conveys is disagreeable.

... Liberty accepts —

and I accept —

that many Victorians hold symbols such as the Australian flag in esteem, and they find the desecration of the flag deeply offensive. Other Victorians revere religious symbols and would find the desecration of those symbols offensive —

burning Bibles, perhaps, or Korans and so forth.

The bill identifies one type of symbol, national flags, for protection (and even then only four flags).

In fact when we talk about the detail of the bill we will find that those four flags are not protected by Mr Young's bill due to some errors in drafting.

I think this is the key point that Liberty makes:

As stated earlier this debate arises in a context where the Australian flag has been burnt at anti-racism demonstrations.

Mr Young told us that was part of the impetus, and interestingly a woman was charged for burning a flag, under another provision of law, at that rally. Liberty goes on to say:

These rallies, however, have been counterdemonstrations to anti-Islam protests organised by far-right nationalist groups Reclaim Australia and the United Patriots Front. The nationalist groups rely on the flag to convey a message of intolerance; the anti-racists burn it in response. Many Australians would find both uses of the flag odious. The bill would allow the nationalists to use the flag as a symbol —

and, I would add, of the particular view that they are putting forward —

but prohibits the message conveyed by the anti-racists. The bill, in effect, picks a side.

That, I think, is a fairly big problem if we are debating rights and freedom of speech.

**Mr Davis** — You can like the flag and not be a racist.

**Mr BARBER** — Absolutely, Mr Davis; you are absolutely right. But what Liberty is pointing out is that in the demonstration that appears to have been the impetus for this bill — according to Mr Young — the people waving the flag were in fact anti-Islam and the people burning the flag were anti-anti-Islam. That is why Liberty argues at the final event that the bill picks a side. It also says that it thinks most people who watch

those demonstrations would have found both uses of the flag odious. Perhaps members think that when people see those demonstrations on TV everybody is barracking for one side, but I think when normal Australians see those demonstrations going on, as they were in Bendigo, they in fact are unhappy about the conduct of both parties that led to that demonstration and perhaps think that the whole event — the whole demo with all the fist waving, the yelling, the anger and all the rest of it — is itself against Australian values. Personally, that is what I think.

**Mr Davis** — We both think that.

**Mr BARBER** — Okay. I personally think most people in Bendigo are completely turned off by the entire spectacle, and therefore, as Liberty is arguing, to come in and ban part of the conduct of one side of the ugly spectacle is in fact picking a side.

Mr Young's intent for the legislation is clear from his own use of the flag. As I said, it is not about a flag that is a piece of cloth; Mr Young's bill defines the flag according to the symbol, the representation — the shape, the stars, the Union Jack, the colour and the rest of it. On his Facebook page images of the flag are overwritten with aggressive and divisive text. In fact one image of the flag is defaced with text that attacks the Australian of the Year. Here it is: 'Daniel Young MP shared Aussie PRIDE World-wide's photo' on '31 January at 21:19'. The photo from Aussie PRIDE World-wide is in fact a representation of the Australian flag with writing over it. That has in fact defaced the flag. Mr Young has breached his own legislation with this Facebook post and the way the flag has been used.

**Ms Shing** — Didn't you put the Greens logo on the Indigenous flag and post it on Facebook?

**Mr BARBER** — Well, in fact, no. In this case the words are written right over the top of the flag:

Maybe next year we could have — —

*Honourable members interjecting.*

**Mr BARBER** — Let me just read what it says. In this white lettering that defaces the Australian flag, it says:

Maybe next year we could have a Australian of the year that actually likes the country the people who live in it and what it stands for.

I am not sure which Australian of the Year Aussie PRIDE World-wide or Mr Daniel Young was referring to. Was it the Australian of the Year announced on

26 January this year, who I believe is the former army officer who has spoken out against violence against women, or has this Facebook tile been floating around a bit longer and is referring to someone a bit earlier? I do not know.

Suffice it to say we have got two problems here. One is that this post breaches Mr Young's own bill. Secondly, it bags out the Australian of the Year, saying that that person — I am not sure if it is the current or the previous one — does not actually like the country, and does not like the people who live in it or what it stands for. I think the Australian of the Year we currently have as well as the previous one very much do stand for Australian values and for basic, common human values.

So I think this is actually a very good example right here of the two problems with the bill, the first being that all sorts of things can be caught by the way Mr Young has drafted his bill and the second being that the people who wave Australian flags rather than the people who burn or deface them are not necessarily the ones to dictate to the rest of us what those Australian values are. Here someone has managed to do both; they have managed to both deface the Australian flag and put forward a view of Australian values that I personally do not agree with and will never agree with.

There is also another defaced flag on Mr Young's Facebook page. It is a representation of a flag flying, and superimposed over the flag — not attached below the flag but right over the top of the flag — are the words:

Please share if you want the Australian government to start putting 10 000 homeless Australians before refugees!

Again, I think that within the peaceful and prosperous nation that is Australia there is plenty of room to agree or disagree with that statement. The point is that this is an example of someone defacing the Australian flag to make a particular political point, and it is Mr Young doing it on his own Facebook page.

There is a third image that does not actually appear to deface the flag but does say:

This is Australia. If you don't like our flag we don't like you. Share if you would fight for this flag.

It is true that in other countries there are laws prohibiting not only the burning of their own national flag but the burning of other nations' flags. That is not what Mr Young is doing here; he is not prohibiting the burning or defacing of other countries' flags within Australia. Yet there are other countries that have brought in such laws. You might turn on the TV and see people in another country burning the Australian

flag because they hate Australia or they hate something we have done or they hate what we stand for.

Interestingly that is not being prohibited here. We are not protecting other people's national flags. We are not protecting what the people in Denmark reckon are their national values or what their flag represents to them — all their trials and tribulations, perhaps throwing off an invading force and all the rest of it. We are not protecting them here, but we are protecting our flag and not really expecting them to do the same for us.

The second-reading speech is a bit light on for material that might be used to interpret the intent of the very broad definitions contained within the bill. Mr Young intends the legislation to apply to any physical manifestation of the flag. It could exclude online representations of the flag, but he does not say so. So the effect of the bill on online commentary is not clear.

In the speech Mr Young specifies that wearing the flag would be allowed, consistent with Liberty Victoria's analysis of the bill in the context of the use of the flag in demonstrations, or for that matter cutting up a Australian flag and turning it into a pair of underpants. That appears to still be allowed.

Mr Young's second-reading speech provides the only description of Australian values. It is a nice title and purpose of the bill that Mr Young has here. It is actually called the Upholding Australian Values (Protecting Our Flags) Bill 2015, yet it does not legislate what Australian values are; it just says burning a flag is not one of them. But in that we note that Mr Young describes the values as being diverse. He said:

Being Australian means different things to different people.

And he said:

Our values may differ ...

He says that easy-going expressions such as 'No worries', 'She'll be right' and 'Take it easy' are an important part of our identity. In that context the intention of the bill to outlaw conduct which sections of the community would find offensive is, I have to say, perplexing. It does not explain how outlawing an offence against some sections of the community or even at all is an Australian value.

There are existing commonwealth protocols for the use of our flags. Mr Young is welcome to abide by them. But his current failure to do so is protected by the implied freedom of political expression established by the High Court and by section 15 of the Victorian Charter of Human Rights and Responsibilities Act 2006. The statement of compatibility spends a lot of

time talking about how freedom of speech has been detailed at the federal level, but unless Mr Young thinks that his bill might breach those federal constitutional rulings, it is not clear exactly what use that material is to us. Flag burning seems to be Mr Young's primary concern, and, as I said, recently in Bendigo a woman was, under another provision, actually fined for that offence.

A very Australian response to flag burning was demonstrated after the Cronulla riots, when the New South Wales RSL president, Don Rowe, reached out to the young man who burned the flag at the Brighton Le Sands RSL. Mr Rowe accepted the young man's apology and offered to have him be a flag-bearer at the next Anzac Day march. The young man said it changed his perspective on life. Unfortunately, though, he was not able to do that because the RSL believed that if that young man was given the opportunity to change his mind and change his ways and actually participate in a RSL march that there was going to be a massive and perhaps even violent reaction from people. Therefore he did not get to do it.

The overreach of the bill is such that any intentional or reckless damaging of or defacing of a flag or the image of a flag by an adult may be captured not just by flag burning and not only in the context of protests. Quite simply, Acting President, if I was wearing an Australian flag tie and I spilt beetroot on it, I could be found to be in breach of this bill, such is the way Mr Young has drafted it. If we were having an Australia Day picnic on an Australian flag blanket or beach towel — we have seen plenty of those — and I sat on a Tim Tam or spilt the pavlova, which can happen, then someone could jump on me and say that I have breached the act. The Victorian Liberal Party logo, which has an Australian flag in one corner of it, has actually defaced the flag by using it in that way.

The bill protects the Australian flag, the Australian red ensign and the Victorian flag. Well, unfortunately we have not really got a strong legislative provision that defines the Victorian flag, and so basically with this bill Mr Young attempts to reproclaim the Victorian flag in his legislation. But the description he has used is insufficient and certainly does not achieve what the Flags Act 1953 does, and therefore that creates a further problem. The bill attempts to protect the Aboriginal flag but leaves out the Torres Strait Islander flag. The two are routinely flown together as a matter of protocol.

When I say 'attempts to protect the Aboriginal flag', there is a bit of a legal issue there. I think the inclusion of the Aboriginal flag is a bit problematic. There is no

indication that Mr Young has consulted with Aboriginal stakeholders or with the copyright owner of the flag or Mr Thomas's family about the restrictions and penalties that Aboriginal people would face for the use of their own flag. We should note that any defacement of the flag in a private setting — in your home at the dining room table — would be just as much an offence as burning one in public as part of a demonstration. The Aboriginal flag is frequently used in art. The bill does not contain any exemptions for the use of the flag as part of artistic expression, although in America artistic public speech would probably be considered to be a constitutionally protected form of speech.

Mr Young's bill does reference a particular proclamation of the Aboriginal flag, but he got the wrong one. The original proclamation of the Aboriginal flag was time limited and therefore expired, and it had to be reproclaimed with a second proclamation. Mr Young's bill refers to the first proclamation. Therefore the Aboriginal flag would currently be unprotected if this bill were to pass the Parliament.

The statement of compatibility makes it clear that the penalties are intended to apply to the use of the flag in any context, whether the offender was also expressing a political or other view at the same time or was simply just taking a pair of scissors and a texta and cutting up or drawing on an Australian flag in their own living room. I think it is well recognised that there is kind of a dividing line between public and private behaviour when it comes to some of these human rights issues. Those are highly problematical provisions, as I have spent a bit of time talking about.

I return to where I started, and that is the particular question of Australian values and what it is that Mr Young wants to define as Australian values and then embody in the form of the flag. He talks about a whole range of issues that he believes are Australian values. I think if any of us wanted to start making a long, long list, we would very quickly add extra things, which points to the problem of defining Australian values and defining them as the flag — a piece of symbolism in the form of cloth.

Mentioning the Anzacs, though, got my attention. Mr Young and I were at the most recent Remembrance Day ceremony at the Shrine of Remembrance. I think both of us were very moved by the emotion of the event. It is something that I have been doing regularly for a very long time, in fact ever since I was mayor. Recently New Zealand released its personnel records from World War I, and I was able to access for the first

time my great-grandfather's war record. It is largely a personnel file and a medical file stuck together.

**Mr Davis** — Are you a New Zealander?

**Mr BARBER** — Members know I am a Kiwi. By reading the strange little scribbly notations about where he was on particular days and at particular times and then comparing those to the military histories, I was almost able in my mind to walk in his shoes. It was quite an amazing and for me very moving experience with a few pieces of paper in my hand.

He was part of the 13th reinforcement from Auckland that went to join the New Zealand contingent in World War I. The first group of guys sent off to war in the first units that were established were of course fine physical specimens. They are described as walking down to the docks, 6 feet 2 inches, broad shouldered and the rest of it. Of course there was a terrible toll taken during the early parts of World War I such that by the time the 13th reinforcement of that unit was being made, which was when my great-grandfather got involved, they would pretty much take anybody who signed up.

He was quite a short bloke: 5 feet 2 inches, I think, at the time. He was 39 years old when he went off to war. All his children had been born by that stage, including my grandmother, so there was no question that I was not going to exist, and in fact he survived it and came back. But the first thing they allocated him to when he arrived was the tunnels, he being kind of a short guy I guess. The war was so stalled at that time that they started actually digging tunnels towards each other underneath the trench lines and then, when they were ready, blowing them up. In fact they would listen carefully with stethoscopes to try to hear the other side digging.

But, being a short guy, and as it turned out having a bad set of knees as well, they put my great-grandfather in the tunnels first up. I think, due to his bad knees, he could not march. They just simply marched all across Europe to get to where they were going to fight. That explains the family legend that he was a motorcycle messenger, because I think at a certain point he could not walk anymore.

Then he was at the First Battle of Passchendaele. Members might understand that Passchendaele was one of the most bloody and ultimately fruitless battles of World War I. The first day on which he was involved went off more or less to plan: a creeping barrage, followed by a storming of the trenches. He was listed as missing in action that night, which means in the chaos of post-battle no-one, presumably, could find him. In

fairly short order, with life in the trenches, he in fact got one of the trench diseases — I have got his entire medical record — and he was actually sent back to Australia fairly quickly.

I am a member of the Greens party. We believe in non-violence as a way of resolving society's problems. I have had over many, many years the opportunity to reflect on my view of war, of the roles of nations in it, of how we can prevent it. But I have to say that having read my grandfather's war record and having gone through the exercise of walking literally in his shoes, which one day I will do when I have time and a chance to visit the battlefields of Brussels, it has certainly strengthened and refined my view of war. I thought I understood what war was all about, but I have to say, discovering my Anzac ancestor and trying to understand what he would have seen has for me completed my understanding of why we are here and of the value of non-violence and avoiding at all costs the resort to war and violence as a method of solving our problems, whether it be a disagreement about a mosque in Bendigo or the wars that are being fought out and continue to be fought out nation versus nation. To me that is a fundamental Australian value. But I recognise that perhaps not every member completely agrees with me on that.

I would love it if there were some legislative measure that we could bring in here today and pass that would, with a few lines of law, unite us as Australians around an agreed set of values, which I believe are universal values, not simply Australian values. I would absolutely love it if we could vote for a piece of legislation that would create that ongoing enduring harmony and the prosperity that would inevitably follow. But it is not that simple.

While I am just as proud as Mr Young is when we stand at the Shrine of Remembrance and commemorate the Anzac spirit — and we do not need to argue about what the Anzac spirit is because it is carved in the stone of the shrine itself, fortitude and sacrifice — and I am in total agreement with Mr Young about the values that we need to be striving for and what that day and what that shrine means with its flag, with its eternal flame, with its memorials and in fact with its very important and informative museum now in the basement of the shrine, unfortunately we do not agree on this bill as a way of achieving it.

I do not believe this bill will take us forward to the perhaps shared vision that Mr Young and I have. In fact I think there is a very real risk that it would start to take us backwards, take us a little bit further from those

values of freedom and harmony. For that reason, the Greens will not be supporting the bill.

**Mr FINN** (Western Metropolitan) — I begin by saying that I am absolutely delighted to be speaking on the Upholding Australian Values (Protecting Our Flags) Bill 2015. I commend the introducer of the bill, Mr Daniel Young, for having the foresight to put this bill forward. I think it is a very valuable piece of legislation, and legislation that he should be very proud of indeed. I am sure he, as the father of a young child, will be able to tell that young child as that young child grows what he has done in this house today, and indeed his grandchildren and possibly his great-grandchildren. That will be something that he can wear as a badge of honour for the rest of his life, and I commend him for this bill today.

I have been a big fan of the flag for a very, very long time. I have been a member of the Australian National Flag Association since the 1980s, since I was very, very young. I have to say, like my friend and colleague Mrs Peulich, that I love the flag. It is disappointing to hear the Greens get up here and do what Mr Barber did — nitpick — on such an important issue, but that is what we have come to expect from the Greens. That is just the way it is. We know that if anybody is going to get up and sling off at Australian values, sling off at our flag, and sling off at anybody who supports the flag or our values, it will be the Greens, and they have not let us down today, not one little bit.

I remember some years ago driving down Royal Parade in Parkville, which I have to say I think is Melbourne's premium boulevard. Without upsetting any supporters of St Kilda Road, I think Royal Parade is indeed, even given the fact that it has the Carlton Football Club associated with it, still Melbourne's premium boulevard. I recall it was a sunny day, a beautiful day in fact, and I looked up through the trees. There was a bit of a breeze blowing, and there at the end of the boulevard, at the end of Royal Parade, at the Haymarket intersection, there was the Australian flag in all its glory. I thought to myself, 'What a magnificent sight'. I thought to myself that there were surely very few sites better than that flag that I saw that day, and indeed not just the flag itself, but what it represents.

We heard about what the flag is made up of — that it represents the ocean, the union flag and the Southern Cross and the stars and all that sort of mechanical material. But the flag to me represents freedom; it represents opportunity; it represents a way of life that so many of our families, however many generations ago, came here to make the most of — to create in fact, but

also make the most of. I see that flag as something that we should all be very, very proud of, and something that we should not under any circumstances be treating with contempt or disdain.

I recall the first time I visited Washington, DC, some years ago. I had just flown from London so it was a fair haul, and my wife and I landed at the Washington, DC, airport. I looked out the window, and the first thing I saw was the US flag. The first thing I saw, in all its fulsomeness, was the flag of the United States of America. I thought to myself, 'That tells me all I need to know', because as we know America is a country that is so incredibly proud of its flag. I think that is something that we could learn from. That is something that we should take up. We should in fact fly our flag more than we do. I would like to see the Australian flag flown from every building — not just public buildings but every private building as well. I think that would be a great sight, most certainly, but it would also be a great appreciation of our flag and what it stands for. I urge the Australian community to fly that flag far more often than we do.

The number of empty flagpoles that you see around the place, including I have to say on this building, is unsatisfactory. I think that if there is an empty flagpole, we should stick an Australian flag on it. If there have to be 6 or 10 — or however many — Australian flags flying from the one building, so be it, and that includes this building. That may be something, Acting President Morris, that you might like to take up with the President at some stage; as I understand it, he is responsible along with the Speaker for the flag-flying activities of this building. I understand it is his responsibility. I could be wrong — I will check with the Clerk.

One of the most important groups of people that we need to respect in this debate is of course our diggers. These are people who have fought — many of whom have died, many of whom have been injured — fighting for our freedom under our flag. One of the great legacies, probably the greatest legacy, of Australia is that wherever freedom has been under attack in the world, Australia has been there to defend it. Whether it be in World War I, World War II, Korea, Vietnam, the Middle East — you name it — Australia has been there. And Australia has been there with that flag, our flag, flying above our soldiers, flying above our diggers. That is something that is such a precious, precious part of the Australian heritage and indeed the Australian values that Mr Young speaks of.

I cannot help in the very short period of time that I have left but also mention one group of people that I find

absolutely adore our flag, and that is migrants. I go to a lot of citizenship ceremonies. In the western suburbs, as you would imagine, there are a lot of people who have come to our country and who want to become Australian citizens — how totally understandable that is. When given their flag at their citizenship ceremony, they clutch it as if they are never going to let go of it again. Many times I have seen people from Somalia, South America, Europe — wherever they are from — clutching their flag and beaming with joy that they are now Australians. It is something that warms the heart and it is something that a lot of people do not take into consideration in these things, but it is something that I think we all should take into consideration — that the people that have come here have come here for the very reasons that I have spoken of and for the very reasons that our flag is so important.

The love of the flag is so strong in Australia that even those who would shred our constitution and even those who want to destroy our Westminster system have said — and I was delighted to hear Mr Leane earlier today talking about his love of the Westminster system, and that surprised me, I have to say, as I thought he was a republican, but the republicans themselves have said — that even if Australia becomes a republic, they will keep the flag. Now, I have to say I do not believe that for a minute. Not for even half a second do I believe that, because in my experience most of them loathe the flag. The fact of the matter is that they know that if they go against the flag, they will lose popular support for their cause — or what little popular support there is left for their cause.

This bill is important because any attack on the flag is an attack on Australia. Any attack on our flag is an attack on our nation and the people of this nation. I am a great believer in freedom of speech. As members will know, I have risen on many occasions in this house to speak about the importance of freedom of speech, but I do not believe that we should have the freedom to attack this nation. I do not believe that we should have the freedom to attack our flag in the way that we so often see, and that is why this bill is so important. That is why what Mr Young brings to this Parliament today is something that is so deserving of our support.

Once again I congratulate Mr Young on bringing this bill forward. I urge all members of the house — even the Greens, in the unlikely event that they wish to rethink their position — to support this bill, to support our flag, to support our nation and to show for all the world to see that we do love Australia.

**Ms PATTEN** (Northern Metropolitan) — I too will be brief in making some comments on the Upholding

Australian Values (Protecting Our Flags) Bill 2015. From the outset, somewhat surprisingly, I have to disagree with Mr Finn on this issue. I was nodding for some parts of Mr Finn's contribution, but I do not support this bill. I believe that it is coming from a good place. I think it is coming from a sense of patriotism and a sense of love for this country. I, too, love Australia. I am one of the most patriotic people both abroad and in this country, as I think most of us are in this place, because we want to do something good for this country and, as Australians, we represent Australians.

But my values in Australia are about the freedoms that we have, and I feel that this bill is going in completely the opposite direction to the freedoms and values that I uphold. This is about squashing our freedoms. In his second-reading speech Mr Young gave us a beautiful poem, *Our Flag*. Just to correct *Hansard* for him, I did a quick Google search and the name of the poet is Robin Northover. I have to say that in reading it again and thinking of Robin Northover — well, not thinking of him — it seemed to me to be a colonial wet dream.

I was also a little disappointed in thinking of yesterday — yesterday being International Women's Day — that in his speech Mr Young said that the epitome of Australian values and of the Australian identity was the Australian working-class man. International Women's Day has gone, but I believe the epitome of the Australian character is not just the working-class man.

The bill makes it an offence to dishonour certain Australian flags. I think it was possibly an oversight, but it is certainly a disappointment that the Torres Strait Islander flag was not included amongst them. I think it was in the Scrutiny of Acts and Regulations Committee (SARC) report that concern was expressed that this established a level of discrimination against people of a Torres Strait Islander background while protecting those with an Aboriginal background — that is, taking on Mr Barber's comments, if people from an Aboriginal background want to be protected in this way. I wonder whether they have been asked.

SARC also looked at a couple of legal issues, one being the constitutional matter of freedom of speech. We know that in the 1997 case of *Lange v. Australian Broadcasting Corporation* those two arguments were set out, and Mr Young touched on this in his second-reading speech. To not be protected by our right to freedom of political communication, you have to pass two tests. The first test is: does the law burden political communication? The second test is: is the law appropriate and adapted to an end that is consistent with

the system of representative and responsible government established by the constitution? If we can answer yes to step 1 and no to step 2, then this piece of legislation is invalid under the constitution. I would suggest that it is.

This is a wonderful, powerful symbol of Australia, its institutions and its history. As Liberty Victoria points out, the freedom to criticise these institutions is an essential part of our freedom, and to criticise these institutions is an essential part of political communication. So if you ask: does the law burden political communication? Yes, it does, because it prevents us from criticising one of our essential institutions, that being the flag.

With regard to the second test, this bill is incredibly broad, so to say 'dishonour the flag' means it must go too far that it is not appropriate and adapted to an end that is consistent with the system of representative and responsible government. It is absolutely too broad. To protect people from being offended by a flag being dishonoured, if we were to take that as being adequate and if we were to protect people from being offended by seeing a flag dishonoured, then we would probably ban Mardi Gras because there are many people who are offended by Mardi Gras. We would say that that also is a freedom of political communication. So I suggest that the bill fails the second test.

SARC also went on to question whether the bill breaches constitutional law. Section 6 of the federal Flags Act 1953 provides that the Governor-General may in fact authorise people to deface the flag or ensign in a specified manner. So this bill is overridden by section 6 of the Flags Act, and I think under section 109 of the constitution that would mean that there was an inconsistent interpretation. Of course we could take the matter to court and have a very expensive case about this.

I think there are legal arguments to say that this bill is invalid and should not be passed, but there is also the broadness of it — saying that we cannot dishonour the flag or deface the flag. In his second-reading speech Mr Young tried to clarify this by saying that things like wearing the flag would not be dishonouring the flag. Is making the flag into a mankini dishonouring it? Possibly. Who is wearing it may be a factor in deciding whether a mankini dishonours the Australian flag. I understand that the bikini may be considered quite okay.

My other issue with the bill is that we are protecting just these few flags. We are not protecting other countries' flags. I was quite drawn to Denmark's

position on dishonouring the flag. The Danes say that you cannot dishonour flags from any foreign countries. You must not dishonour a single flag. The only flag you can dishonour in Denmark is the Danish flag, because they say that is political communication. That is the idea that, 'We respect your political communication and you can criticise your own country, but you are not to dishonour another person's country'. The other countries that do prohibit the burning of the flag are North Korea, Iran, China and Cuba. I know Mr Finn has spoken broadly about North Korea, so I am not sure that this is a list we want to join.

I quickly note that in Brazil using the flag as a tablecloth is regarded as a desecration of the flag, so I am sorry, Mr Barber, regardless of the pavlova over in Brazil you would have been dishonouring the flag.

To me, upholding our values is upholding our freedoms — our right to criticise, our right to question our governments and our right to question our institutions. Part of that is our right to possibly dishonour our flag. I certainly have a lot of loyalty to this country. I have a lot of loyalty to the flag. I come from a long line of military people.

In finishing, I think Liberty Victoria captured this beautifully in its submission on the bill:

If the Australian flag is a powerful and unifying symbol it will survive crude protests. If the Australian flag does symbolise a commitment to democratic principles, then those values should apply to protect those would 'dishonour' the flag.

As I say, I think this bill was made with the best intentions, but I do not believe it should be supported.

**Mr JENNINGS** (Special Minister of State) — I join this debate by acknowledging that, when Mr Young gave the second-reading speech on this piece of legislation, I was in the chamber. I listened intently, and I waited for an inadvertent slip in the way in which he outlined his rationale and logic and the intent of what he was trying to achieve through this piece of legislation. I did not detect a slip, so I start by volunteering that to Mr Young, to his party and to the people he is representing in this debate. He has brought to the Parliament a very considered piece of legislation. I thought the way he presented his arguments in favour of this legislation were very respectful and very mindful of the way in which we as a Parliament and a community may cherish and identify with national symbols and the culture that we hope will permeate our community in a harmonious and respectful way. I think Mr Young very adequately and appropriately outlined his commitment to his cause in the way he prosecuted his case.

From that time until now government members have considered the issues very carefully and the way in which we would respond to this piece of legislation both in terms of how we would respond to a vote and how we would consider the public policy implications that lie under it, and we appreciate the spirit in which it was brought to the Parliament. There are some in our community, not only in this country but right around the world, who use flags for quite jingoistic purposes. They do it to enshroud themselves in a dominant culture that they use to the exclusion of others. That is not the spirit in which Mr Young has brought this legislation to the house. I do not believe that that is his intent or the way he expresses his political vantage point.

I think Mr Young has tapped into a vein of respect and regard. He has done that in a variety of ways, including by identifying his strong connection to the national flag and also by trying to work his way through cultural respect matters in relation to identifying the Aboriginal flag as being included in the scope and provisions of the bill and encouraging respect for his state in relation to the state flag and in relation to another ensign that he believes has great traditional connection to this state and nation. The way in which he described his personal connection and his community's connection to the values that he sees are represented by these flags is totally appropriate.

What I have to volunteer on behalf of the government and on behalf of significant parts of our very culturally diverse community in Victoria is that the traditional background of this community and this nation quite often disputes that sense of identification. That is not to say there is a dispute that would lead to conflict, but there is a disputed view about the historical value of some of these symbols of our nationhood and our statehood.

When I was listening to Mr Young's second-reading speech, he identified that whilst he is very proud of the Australian flag and can see its virtues, he does not exclude the possibility that over time our community may review and reflect on the way in which our nation's tradition and the symbolic representation of our nation may change. He was politically astute and wise enough to recognise that there are ongoing public discussions about the way in which this nation should best be reflected through its flag and through its symbols. I think that was a very mature and appropriate consideration.

I also know — and I do not think it was his intention, but it could be the effect — that the limiting to four of the number of flags that have been identified within the

scope of this piece of legislation may result in people who come from diverse backgrounds across the world to call this place their home feeling some degree of exclusion from their original identity. Indeed I know that, despite the fact that there is an inclusion of the Aboriginal flag, some members of the Aboriginal community to this day dispute the general sovereignty of this nation and do not accept the validity of this constitution. So even with the spirit of inclusion that underpins Mr Young's contribution, this bill may not go all the way to satisfy the cultural or traditional expectations of members of our community. Some people may feel excluded, notwithstanding Mr Young's best endeavours to make them feel included. The government has to be mindful of that.

The government has to think about the consequences — what are we actually saying, and are certain flags more valuable than other flags or symbols? — in the way in which it couches pieces of legislation. In this debate Ms Patten preceded me and talked about the interesting way in which this issue is dealt with in Denmark, which reverses the logic of Mr Young's piece of legislation to say, 'You can treat our national flag with some degree of disrespect in the nature of political contest, conflict or commentary within our nation, but don't disrespect anyone else's flag'. Ultimately between those pieces of logic there is actually a linking theme of respect and regard. That is really what I would hope that we would tap into. Whether we start from the premise of being most respectful and protective of our own or respectful and protective and acting with regard for others, hopefully there will be a meeting of minds in the way in which our culture and community develops and we maintain harmonious relationships across the different starting points for how we approach law in relation to its protection of national symbols and national pride.

The government would hope to be seen to be thoughtful about these issues. We too have been concerned about whether the jurisdiction of Victorian legislation would fall foul of either commonwealth responsibility or constitutional issues. The government is mindful of the High Court's consideration in cases such as *Lange* and *McCloy*. The court found that such restrictions would mean that a limitation would be applied to freedom of political communication. That concept may be at the heart of this legislation, but it would mean that it would fall foul of our constitution. Although the United States constitution is very different from our own, similar findings have been made there in relation to political association. Freedom of expression, as a right, has been a dominant determinant in the United States Supreme Court, and the High Court of Australia has acted in a similar way within this nation. One of the concerns we

have is that this legislation may fall foul of the constitution and may be inconsistent with the scope and responsibility of the commonwealth Flags Act 1953.

This is not one of our major concerns about the bill, but the definition of a flag becomes perplexing when the form of a flag could be something that flies from a flagpole, which is illustrated by Mr Finn's belief that an unfilled flagpole is an offence and that it should always be filled with a fluttering flag. That is only one form of the way in which a flag may be represented. It may also be represented in a variety of other ways. Some of these may be deemed by the member who has introduced this legislation as more appropriate than others. Flags can be printed on T-shirts or other clothing, and they can be included on memorabilia or knick-knacks. The further you go down that stream the more concerned you may become about such objects being crass commercialisation or crass in the sense of not giving respect to the original intention of a symbol, which is to rally a sense of pride and identification. So the representation of national symbols may be abused for commercial reasons through a takeaway or disposable mentality. I am sure Mr Young would be concerned about that.

The trail I have just described makes it difficult to work out where the protection for a flag starts and ends. Then, depending on the ultimate use of the product, the test of whether the flag has been dishonoured becomes a test of when you have crossed the line and broken the law. If a piece of memorabilia or a knick-knack that contains a representation of a flag is disposed of in a casual fashion, there is some argument that it could mean you are dishonouring the flag by that treatment. I saw Mr Young wince as I mentioned certain items of clothing that could contain a representation of a flag. Some of those items of clothing may be totally appropriate, totally discreet and totally respectful. However, some of them may be superficial and, in some people's minds, degrading in their own right. So there is the issue of the form in which the flag is presented.

There is also the issue of whether the flag is being used in a provocative or insulting way. Whilst burning, dishonouring or incorrectly disposing of a flag could be something that comes within the scope of the bill, some sections of the community would be concerned about the flag being dishonoured by it being almost used as an intimidatory weapon, which underpins conflict. People who are interested in creating conflict in the community may enshroud themselves in the flag, doing this in an inciting way. These people may dishonour the flag in the government's terms by using it in an inciting

fashion — not by burning it but by using it in a provocative and confronting way.

The government's interest is in looking at the ways in which an act of incitement and conflict, whether by desecrating, dishonouring or abusing the flag in some shape or form, may be taken out of the dimension of how a flag is used and regarded within our community. We appreciate that there may be some consideration that we should make in terms of whether this is an issue that aggravates the community as distinct from harmonising it. That is something we will reflect on.

The last issue that is difficult for the government to deal with in terms of this legislation is the difference between what might occur in a public as opposed to a private domain, and how you could appropriately scope that out within a piece of legislation such as this. Again perhaps this issue is not insurmountable, but it is an issue that we identify.

In summary, hopefully from my contribution the government has demonstrated that it has been thoughtful in its response to the intention of Mr Young's legislation. We believe that the bill has been introduced in the name of inclusion and harmony but that it may inadvertently lead to other downstream consequences that the government has to be mindful of, including falling foul of commonwealth or constitutional issues. The legislation may be difficult to implement for a variety of reasons. The government is unable to support this legislation, although it is happy to look at policy considerations that may flow from it. In the spirit of adding to the degree of respect and engagement across our community, we are open to using this as a foundation for additional thinking that may support greater harmony in the Victorian and national communities rather than destroying that harmony.

With those thoughts, I indicate to the chamber that the government will not be supporting this legislation.

**Debate adjourned on motion of Mr BOURMAN (Eastern Victoria).**

**Debate adjourned until next day.**

## ELEVATED RAIL PROPOSAL

**Debate resumed from 24 February; motion of Mr DAVIS (Southern Metropolitan):**

That this house —

(1) notes that —

- (a) Premier Daniel Andrews announced on Sunday, 7 February 2016, that the government was proceeding with a rail-over-road 'sky rail' for almost 9 kilometres of the rail corridor between Caulfield and Dandenong as part of the government's commitment to remove level crossings;
  - (b) this announcement was at variance with the community's understanding of the government's election commitment and the community has not been properly consulted since the election;
  - (c) while this house supports the removal of level crossings, the government has no mandate to remove level crossings with an extended elevated railway option given its visual impacts, potential noise impacts and the lack of community support; and
- (2) calls on the Andrews government to —
- (a) listen to the community;
  - (b) complete a full environment effects statement;
  - (c) ensure key planning powers remain with local councils given the impact of these proposals on adjacent public and private land and the need to integrate other local planning objectives; and
  - (d) pursue an alternative model consistent with its election promise which sees rail put under road.

**Mr MELHEM** (Western Metropolitan) — I rise to speak on the motion which has been moved by Mr Davis in relation to the Andrews government's sky rail proposal. Going through the motion, I am trying to work out where opposition members are coming from. On the one hand they want to have progress, and they announced before the last election that they would remove some of the railway crossings between Caulfield and Dandenong. But now they have lost the election, and the Andrews Labor government has been elected to office. It has its own proposal, which is far better than the proposal advanced by the former government, now opposition — basically it will remove all the railway crossings between the city and Cranbourne — and instead of working with the government and commending the Andrews Labor government on the initiative, opposition members are simply looking at playing politics about whether it is a sky rail, underground, open trench et cetera.

When the proposal was put it was talking about basically eliminating all the crossings and alleviating all the traffic chaos, which actually puts lives at risk, because many lives have been lost on various level crossings in Victoria over the years. When we came to government and we said we were going to start removing the 50 level crossings — and the sale of the port of Melbourne is to fund that — we meant it. We

have actually started implementing what we said to Victorians prior to the election we were going to do. The same cannot be said about the previous government. It talked about things for four years, and now it is trying to find every excuse to basically stop us from doing what we said we were going to do. That is why we are getting rid of all nine level crossings from Caulfield to Dandenong.

The proposed design also includes five rebuilt stations and new open space and parks, which has been released for consultation. There was always going to be a debate about what the best model is and what the best approach is, and after a fair bit of work by the Level Crossing Removal Authority and various engineering firms on various designs and feedback from communities and various organisations, what has been proposed is an innovative new elevated rail design which has been short-listed by the construction company after a competitive tender process.

My understanding of the proposal is that it includes a series of three modern, sleek, elevated sections of track which will free up traffic and remove the barriers between communities. We will be able to build the whole project, from Caulfield to Dandenong, basically without any interruption, or very minimal interruption, to commuters, to traders and to the community. I think that is very important. People lose sight of the fact that when you are removing a level crossing on a live road — and these are live roads, which is why we are removing the level crossings — you are reducing speed limits and in some areas have to shut roads for weekends. It is going to be a huge disruption to commuters and to residents during the course of the construction.

That is one of the areas we assessed. Obviously you look at cost, at what impact it is going to have during construction, at what impact it is going to have after construction and at how it is going to run. You evaluate all these sorts of things, and then you come up with what is the most economical and environmentally friendly, what is best for the community and what is the best productivity you can get out of it. All these options were considered as part of the proposal.

The open space proposal would transfer the rail corridor into over 6 kilometres of linear park, creating an equivalent of 11 MCGs in new open space, community facilities, parks, playgrounds and car parking. As I said earlier, that will mean no more level crossings, new stations, new parks and facilities, less noise and disruption — I will come back to that in a minute — and more car parking facilities, and thousands of jobs will be created.

The issues were considered, and the reason why the elevated sky rail, as some people like to say, was used is that it is the most efficient way of delivering the project with a reasonable cost, with less disruption and with a lot of time being saved to deliver it. It also meant, particularly on this particular line — where there are a lot of infrastructure facilities like gas mains and various others — that infrastructure facilities will not have to be relocated. That was one of the issues when the options were looked at. It meant it would have taken more and more time and would have cost more money and caused more disruption to traders and to the community in general. That is why the sky rail was actually chosen for that.

**Ms Crozier** — You didn't take sky rail to the election.

**Mr MELHEM** — Well, you did not take east–west link to the election, did you? You did not.

**Ms Crozier** — You supported it when you were an AWU member.

**Mr MELHEM** — I wanted you to do something. The reason I said, 'Go and do something', was that you were not doing anything, and for four years you did not do much. We actually took it to the election. We went to the election with a plan.

**Ms Crozier** — Not with sky rail. There was no mention of that.

**Mr MELHEM** — Well, okay. The next thing we are going to go with — —

**Ms Crozier** interjected.

**Mr MELHEM** — We said we were going to remove these level crossings, which we are doing. We are doing that. But do you know what?

*Honourable members interjecting.*

**The ACTING PRESIDENT (Mr Morris)** — Order! At this point I will invite members to remain quiet in their places. I am trying to hear Mr Melhem's contribution, and it is quite difficult to do that at this point.

**Mr MELHEM** — Thank you, Acting President. The government is actually more than happy to be judged on that project at the next election. And guess what? The project will be completed, and Victorians and people in the suburbs affected by it will pass judgement. We are happy; we are prepared to actually stand on our record. At least we will be able to go to the

next election in 2018 and say, 'We have delivered that project. What do you think?'. If they think it was a good project, obviously they will vote for the government to get back in. If they do not think it was a good project, I am sure they will punish us.

We are prepared to take that responsibility, unlike people on the other side, who were not prepared to accept the verdict, who were gutless and said, 'The voters are going to reject us, so we had better sign the contract and commit the state to millions of dollars in costs'. Well, guess what? They did not do anything for four years. At least at the next election we will be able to say that we said we were going to build and we are building a new rail system between Caulfield and Dandenong and have removed all these railway crossings. Yes, it is a sky rail, but we will be able to say we delivered it before 2018. Then voters in that part of the world will pass their judgement.

**Ms Crozier** — They sure will.

**Mr MELHEM** — Absolutely, and we are not scared of that; we respect their judgement. The design also will remove some barriers between communities, because at the moment the rail is on the ground and it is going to be elevated. We will connect communities and create 225 000 square metres of new open space for community facilities. I think that is very important. Noise is another issue, and the opposition has run a campaign saying it is going to be noisy. The experts — and I would rather listen to the experts than listen to what the opposition is saying — are saying it will actually create less noise in comparison with the current rail system we have in place. Again there will be a lot of new trees and vegetation there, and I am sure people will enjoy that.

The design will also include measure such as, as I said, noise walls and visual walls to help protect community amenity. The opposition is trying to run a scare campaign and a smear campaign. It is basically saying, 'Your privacy is gone; the world is going to end', but these measures will get rid of the annoying and frequent loud noise from the activation of boom gates. We forget about that. Trains will no longer be blasting their horns as they pass through level crossings. That will be eliminated. The people now living near those level crossings will be happy. They will not hear the horns again, and they will not hear the boom gates going 'Ding, ding, ding'. All those noises will not be there, so that is an improvement. It will definitely reduce noise at the street level.

**Ms Crozier** — You did not take it to the election. That is the issue.

**Mr MELHEM** — We did.

*Honourable members interjecting.*

**Mr MELHEM** — As I said, we are happy to deliver the project and face the electorate in 2018. It is not like the project is going to finish after the next election. We are going to go to the next election and say, 'We said we were going to do a project. You can actually see it, you can feel it, you can hear it, you can touch it, you can use it; what do you think?'

**Ms Crozier** — How silly.

**Mr MELHEM** — No, it is not. It is not at all.

Another benefit of that particular design is it will create a new bicycle and pedestrian path, and I think it is very important to create that. The level crossing removal project from Caulfield to Dandenong will rebuild five stations and will provide people with 17 kilometres of shared paths for commuters, recreational cyclists and pedestrians. Over 12 kilometres of shared path will be built and joined with existing paths to create a continuous route from Caulfield to the EastLink trail. I think that is a great thing. That is another benefit.

**Ms Crozier** — It is not meant for your constituents.

**Mr MELHEM** — I wish I could do that. I would not mind sky rail in my electorate, let me tell you. The more public transport there is the better. Let us have it. Bring it on. We are not afraid of actually talking to people, consulting with people, making decisions and implementing them. The only thing members opposite did when they were in power was talk about things, but they never did a thing.

I will talk about some of the experts I referred to earlier who think what the government is doing the right thing. Dr John Stone of Melbourne University said:

We can see major benefits of connecting public transport between buses and trains, expanding open space, opportunities for people cycling and walking.

There are many ways which elevated rail improves the options for public transport across Melbourne.

You can actually do better with noise [reduction] from an elevated rail done properly, rather than putting the rail in a trench where the trench actually amplifies the noise.

Another endorsement is from Brian Negus of the RACV on 4 March. He said:

Elevated rail is used successfully around the world and can be delivered with less disruption, generate less noise and create new spaces underneath to deliver better public facilities for the community. Railway under the road solutions can be very

costly and require long construction periods causing significant disruption to the community. They can also result in large trenches through the suburbs. Sky rail doesn't do that and that's why it should be supported.

That is the head of the RACV, and I am sure it has got heaps of members in that part of the world.

Another one is from Chris Lowe from Bus Association Victoria:

As Melbourne's population grows, we need to embrace new methods that increase the city's productivity and improve our quality of life in an expedited manner. Sky rail is one such initiative. The reduction of rail and road travel times and the freeing up of the land for other uses including cycling, walking and jogging will be good for the economy and for our wellbeing.

These are very eminent people who came out in support of the proposition put by this government that it is looking at implementing. The Victorian Chamber of Commerce and Industry has come out and also endorsed the proposed elevated rail system. You have to talk to the experts, talk to the people with know-how and talk to people who have been given responsibilities.

The level crossing authority was given a brief to look out for basically what would be the best value for money, be the best for the environment, have the least impact on the community, improve productivity and efficiency for the economy and be the most efficient way forward without disrupting traffic or increasing travel time so that people can still take their kids to school on time and people can still go to work on time. It took all these matters into account in doing a proper evaluation as an independent evaluator, and this is what it has come up with. For example, the Office of the Victorian Government Architect also looked at that proposition. It is not a government spin doctor, it is an independent body, and it came out in support. I think that people need to listen to it.

Yes, we need to consult with people, and we are doing that. We have done that and we will continue to do that. I have full respect for and an understanding of the residents who are directly affected by this. They should be our focus, absolutely — no apology. There is an obligation on us to make sure that we sit down with them, talk to them, listen to their concerns and address their issues. I am not interested in political campaigns. I am not interested in someone living 5 kilometres away. I am not interested in someone living 2 kilometres away. To the people who are directly affected, yes, the government has an obligation. Any government has an obligation to sit down and talk to them to address their issues, whether it be noise, pollution, visual impacts or compensation — any of that stuff, whatever. We need to sit down with the affected people. My understanding

is that that is occurring and will continue to occur until we address these concerns. Are we going to make everyone 100 per cent happy? No, we will not.

**Mr Ramsay** interjected.

**Mr MELHEM** — Mr Ramsay can talk when he is in his seat. Come on, he should move into his seat, then he can talk.

**Mr Mulino** — Don't invite him.

**Mr MELHEM** — No, he might like that. So they are the people we should be talking to, and we should be listening to their concerns. I am not interested in politically motivated campaigns basically trying to hijack the concerns which might involve the residents who are directly affected. My understanding from talking to my colleagues in the area affected is that we are talking — I think, though I could be wrong — of around 200 houses that might be affected by that project. I think we should do what I said earlier: talk to those residents.

I will finish off by saying this: we have two choices. We can either sit down and start talking about things until the cows come home — basically we can say, 'Are we going to do things, are we going to debate things and are we going to do things in the never-never?' — or we can actually get on with it and start doing them. That is the difference between this government — the Andrews Labor government — and the former government. We actually went to the election seeking a clear mandate: we were going to remove 50 level crossings from the Victorian system. We are making inroads. We have removed a few already, and we have started construction on the few to go. By 2018 we will have achieved more than we said we would in this cycle, and by the next cycle, which is the next election, we will have removed 50 level crossings.

That is the difference between us — we say we are going to do something and we do it; members opposite just talk about it. We just do it. It is a bit like — I am glad I am remembering some of these things — Flinders Street station. The only thing members opposite could do was run a painting competition. They spent \$1 million coming up with a painting of Flinders Street station. How were they going to renovate it? Guess what? We are doing it. We are going to spend real money to actually redevelop Flinders Street station. What did members opposite do? They had a colouring competition and gave someone \$1 million! Where was he from? That is what they did — they ran a colouring competition. I was listening to Mr Leane's contribution

earlier about the east–west link business case. It is about six pages of nice coloured pictures of trams — there was no real business case. Fair dinkum.

With these comments I call on opposition members to come to their senses and, if they have real issues about this project, to sit down with us and we will talk to them about it. We are happy to talk to local members about it if they have real issues. Our members raised some real issues and we worked through them, so if members opposite have some real issues about this project, let us sit down and talk about them — but if they just want to be spoilers, we are not interested. They should stop being spoilers. They are saying no just for the sake of saying no — 'No, it's not our idea, we didn't do it, so we don't like it and it's not good'. They are spitting the dummy. If they have real issues, they should come and talk to us. We will talk to them — we will talk to Mr Ramsay about it any day. I am also happy to discuss Ms Crozier's issues. We are happy to talk to them about it if they give us real issues.

**Mr Ramsay** — You haven't talked to anyone else about it.

**Mr MELHEM** — We have not talked to Mr Ramsay because he is not relevant to it.

With these comments, obviously I will be voting against the motion.

**An honourable member** — Are you sure?

**Mr MELHEM** — I am absolutely sure, because I think when this project is actually delivered before 2018 and we go to the electorates in that part of the world constituents will be proud of what we have achieved for them and will say, 'Thank you for delivering us a world-class train system, a world-class train station and world-class open spaces for us to ride our bikes in and enjoy'. Guess what? We are happy to be judged on it.

**Mrs PEULICH** (South Eastern Metropolitan) — I am very pleased to have the opportunity to speak on this motion. I thank Mr Davis for bringing it to the house because in his area we get an absolute, up-front, close and personal understanding of what Labor means when it talks about consultation. Consultation in Labor's book is basically a form of managing dissent. It is a ruse on the public. It is a figment of some very expensive public relations (PR) machinations undertaken on Labor's behalf by the Level Crossing Removal Authority.

Mr Melhem said the Labor Party has a choice: either build it or do not build it. It certainly does. Build sky rail, and Labor is looking at political defeat. It is looking at political slaughter. Mr Melhem's contribution on this sky rail motion shows how out of touch the Labor Party is. He should get his head out of the sand or any other place he might have it cosily tucked away, because apart from the dissent that has been brewing — the anger and fury at this proposal which has emerged out of nowhere, certainly since the election, not before it, predominantly in Mr Davis's electorate but along the Caulfield–Dandenong corridor into mine as well — there is also an emerging concern, fury and anger at what this will mean for the bayside suburbs along the Frankston line.

I have had the opportunity to attend a number of consultations, and let me tell members opposite: if they think the community is not concerned, they have got another thing coming. They have got an express train of defeat from Frankston through to Mordialloc, for starters. They will not turn the Bayside Riviera — what should be the tourist attraction of Melbourne, the most livable city in the world — into a Los Angeles. They will not. I will make this prediction: the Labor Party will dump the sky rail proposal for the Frankston line, because if it does not, it is looking at political oblivion.

Mr Melhem claimed that the Labor Party has a mandate. The Labor Party has no mandate. The very slender margins by which it stole the election in a number of key seats, assisted by the siphoning of funds out of parliamentary budgets, and the slender margins by which it won seats on the Frankston line — Frankston, Carrum, Mordialloc and Bentleigh — show that it indeed does not have a mandate, and certainly not for this.

I think many people in the Labor Party are concerned about sky rail, and they are absolutely furious because this project did not go to cabinet. Had it gone to cabinet, I am sure that common sense would have prevailed. I am sure that the Minister for Planning, Richard Wynne, would have pointed out that all the work of previous Labor governments and successive coalition governments in terms of urban densification, especially around transport hubs — the encouragement to build medium-density and high-density apartments around activity centres — will be destroyed or decimated by elevated rail or sky rail crossing separations, not just devastating amenity but costing millions and millions of dollars in lost property values.

Labor will have every limb torn off its body if it proceeds with sky rail along the Frankston line. It will have every limb torn off its body if it proceeds with the

Frankston line sky rail elevation. In my communities — and I have attended a number of those consultations — at best there may be a 75-25 division in public opinion on sky rail, with 75 being opposed, and probably a more realistic assessment is about an 80-20 split in public opinion.

If members opposite do not take my word for it, they should have a look at Facebook, at the net and at all the community organisations that have formed together, that have coalesced across the political ideologies, united by their opposition to sky rail. That angst will grow. It will grow and haunt Labor to the election. If Labor proceeds with sky rail along the Caulfield–Dandenong corridor, those communities will see what could happen to them if they place their faith in the Labor Party yet again.

The debate about how to achieve level crossing removals should have occurred before the election, not after the election. The farce of the consultation process that has been put in place can be seen in the latest *Caulfield to Dandenong Level Crossing Removal Update*. It is very much a PR document — government-funded propaganda. It talks about how to achieve less congestion and better communities. I, for one, am a great supporter of reduced congestion. There are a number of road projects that are long overdue for the south-east, which I mentioned yet again today.

The level crossing separations along the Frankston line would have been more easily managed if indeed the Mornington Peninsula Freeway north extension had been, first of all, built to provide commuters with an alternative route so that when interruptions do occur the entire south-east does not come to a standstill.

Let us now have a look at the document. It says:

This design —

that is, the sky rail design —

works best.

This is what we are currently consulting on. The Premier made it crystal clear in an interview with Neil Mitchell. A very embarrassing clip that totally discredits the Premier shows that irrespective of what the community thinks this will proceed. I would imagine that the community — which is very organised with some well-credentialed and extremely well-connected people who are not all Liberal voters, let me tell you — is not going to take this lying down.

We understand exactly what has happened. I quote from page 3 of this document:

This design works best.

Construction companies and their engineers were asked to come up with the best solution for removing these level crossings. More than 1500 pieces of feedback and over 100 hours of community consultation sessions have helped inform the proposal. After careful evaluation through a competitive tender process, an innovative approach to transform the rail corridor into community open space was chosen.

I have had a look at a number of those consultations and at the yellow stickers, which were encouraged as a way for people to register their views. How that is processed in terms of a social research piece of methodology needs to be closely monitored, but I have taken photographs of them, and without fail the overwhelming view is: no sky rail. The most common concern is the visual bulk and the division of a community that will be achieved as a result of the elevated sky rail, so the claim that:

The rail corridor will no longer act as a physical barrier dividing communities — instead it will encourage unrestricted and free-flowing movement under the elevated structures from one side to the other —

is an absolute furphy.

We even know, for example, that these elevated structures are being removed from New York, where they have been for preceding decades. Those elevated structures are now seen as obsolete.

One could argue in favour of sky rail if there were greenfield spaces and if there were not an attempt to retrofit existing residential and commercially built-up urban areas, but the government is trying to impose something on fairly urbanised residential and commercial areas. At the moment it might be that we are looking at apartments three or four storeys high or even higher, and then suddenly we have sky rail in front of us. Let me tell the house that every person's home is their castle, and those affected are not going to take this lying down. To say that this is going to be an integration of communities is to be clearly out of touch with community sentiment.

The document goes on to say:

The proposed design will result in an overall decrease in noise compared to the current rail line.

I have asked for those noise impact statements to be released. It is argued that those houses that are directly in line with sky rail may experience less noise as a result of its elevation. But because you elevate the sky rail, that noise, without the barriers of walls and trees, will be heard much further afield. So I think it is

imperative if we are going to have a genuine consultation — and I do not believe that this is a genuine consultation for one minute — that those noise impact studies be released, because all of the engineers I have spoken to certainly do not believe the spin.

The document also talks about how we will somehow see new local community spaces, and there is a photograph of a beautiful park with five dogs jumping for joy. This does not look like a linear park underneath a sky rail construction. What we do not read here is that the responsibility for the maintenance of these so-called parks — spaces probably depleted of sunshine — will have to be with the local councils. It will be their responsibility to pay for it in the context of rate capping. I can tell members that they are not too happy. It is certainly a misrepresentation to suggest that somehow these wonderful parks are going to be created as a result and that there will be '11 MCGs of new open space in the community'. There will be very slender slivers underneath the sky rail rather than the rosy picture that is being portrayed by this piece of propaganda.

On its last page this bit of propaganda says:

Whatever you're interested in commenting on, we're interested in hearing from you.

Clearly not, because the method of grade separation has already been decided.

A number of these proposals are in my electorate. At the moment we have those people who live on the Frankston line up in arms. Imagine driving down Nepean Highway today as you go through South Eastern Metropolitan Region, through Cheltenham, Mentone, Parkdale, Mordialloc, Aspendale, Edithvale, Chelsea, Bonbeach, Carrum, Seaford and into Frankston. For most of the journey you have the Frankston line on your left and good glimpses of the bay on your right between sunny bayside shops and houses. The vision is for us to develop a bayside riviera with cafes, galleries and a greater synergy of tree planting between the different councils. Let us make this an even nicer tourist destination. We are in the most livable city in the world, and this absolutely ought to be an attraction for tourists.

Instead, what we are going to do is have sky rail. Imagine living in those suburbs. As it is the rail line is a reasonable divide to cross, but you can still see the bay and it is part of the lifestyle. Imagine the journey with a 10 to 15-metre-high sky rail on your left. It will be large and will cast a shadow on those once sunny bayside shops and houses. Goodness knows what will be

happening in the shadowy areas under the rail or on the huge canvas for graffiti vandals.

If you live east of the line, the visual barrier the train line presents between you and the beach is enormous. If you had a view, you have lost it. The sun sets earlier now, very noticeably so in winter, because the horizon is up to 15 metres higher. The noise once trapped by the first row of buildings is now projected right over the suburb. If you are in the first couple of rows of houses, your backyard is no longer a private oasis. There was a great cartoon in the paper showing Premier Andrews riding on the sky rail and having a good glimpse of a woman sunbaking in her backyard. This will become a reality. All sorts of train travellers will be able to see what is going on in your backyard.

There is talk of razor wire to keep vandals away, giving it a real Berlin Wall feeling. If you bought an apartment east of the line, your views are now of the rail line. This is the bayside reality of sky rail. This is not what we want. We want the bayside riviera, not Labor's sky rail.

Similar issues exist along the Dandenong and Cranbourne lines in my electorate. There is also Clayton Road, Clayton. I placed Clayton Road, Clayton, on the agenda. It was sixth on the safety audit that was undertaken of level crossings. It was a huge problem because of the proximity of the Monash Medical Centre, and I was sick and tired of hearing of the problems of ambulances being caught up behind boom gates. We support level crossing removals. We did so successfully in Springvale; we undergrounded it. That ought to be the benchmark. The south-east deserves nothing less than an undergrounding of its level crossings. Indeed this is what ought to happen in Clayton Road as well, and if it costs more money, then look at a schedule of rolling out the level crossings over a longer period of time. Remove those that are the most dangerous or the ones which lead to the greatest congestion.

Centre Road, Clayton, also needs to be done. You cannot build level crossings and have them elevated on one section of the road and not on others because they will not accommodate freight. If you have a look at the freight guidelines, you will see there are prescriptions as to the gradients and the length required. So clearly what we are looking at is an elevated rail line all along the way.

At Corrigan Road, Noble Park, there are very substantial concerns, as well as around Heatherton Road, Noble Park, which has recently had a substantial investment by the City of Greater Dandenong with the development of Ross Reserve. All of that will be

decimated. That community has certainly not had an opportunity to have its say, and it is very concerned.

There is also Chandler Road, Noble Park, South Gippsland Highway in Dandenong, Hallam Road, Hallam, and Abbotts Road, Dandenong South. The business community around Abbotts Road is in an absolute uproar. At Thompsons Road, Lyndhurst, we are still waiting for the Thompsons Road duplication. The government should get on with delivering some of that infrastructure, which is not contentious.

Many of these areas already know they are getting sky rail, and they certainly do not like it. They will hold Labor to account and will toss it out of office, which is what it deserves.

They are protesting and they are speaking up, and the Labor heavies are being called in to spruik it and try to manage the dissent. They expected rail underground, as I said, just like the coalition did everywhere, not the Labor solution of putting it in the air. On the Frankston line we are talking about Charman Road in Cheltenham, but the government has excluded mentioning the crossing nearby at Park Road. Both need to be done. All of those railway stations will need to be rebuilt in order to fit in with the sky rail elevation. I am not sure whether that is going to be factored into the cost. On the Frankston line we are also talking about Balcombe Road in Mentone, Edithvale Road in Edithvale, Station Street in Bonbeach, Station Street in Carrum, Eel Race Road in Carrum, Seaford Road in Seaford and Skye Road in Frankston.

Let us think back prior to the election, prior to the electoral rorts, prior to the campaign funded by the Construction, Forestry, Mining and Energy Union and the money gained by various dubious means, prior to Labor members dressing up as fireys and ambos and prior to all the other dodgy foundations upon which the Labor government's election win was based. We were looking at a range of level crossing removals, and we said that we would remove 40 that were practical and necessary. Labor thought it would do a little bit better and said it would do 50. It chose a number of impractical ones, mainly based on where it wanted the votes. What we understood that Labor did not was that trains are not good at going up and down slopes. In round terms they need 800 metres for the train to go up, 400 metres of flat area for the station and 800 metres to go down. A classic example was in Cheltenham, where Labor said it would do Charman Road. We said you cannot raise or lower the road there, so you must raise or lower the rail. The space required for incline and decline means that you have to build a new station and

do Park Road too. Labor refused to say how it would do it.

Nowhere in Labor's election material does it talk about elevating rail lines. People just expected the high-quality works, where the rail goes under the road as we did at Springvale Road and Mitcham Road, as well as other crossings. In the Labor Party's *Project 10 000* election platform documentation, Mr Andrews said, and I quote:

In many cases, the most effective way to remove the traffic bottleneck at a level crossing is to redirect the rail line underground beneath the intersection. This approach is often the best way to maintain an appropriate level of amenity surrounding residents and businesses.

This really shows that Mr Andrews was not up-front with the electorate, that indeed he does not have a mandate to proceed with the sky rail method of rail separation and that he ought to be listening to the community. Notice his sleight of hand.

The simple fact of the matter is that raising rail lines is not popular. It will not be popular electorally, and indeed it will ruin the amenity of our suburbs. Yes, you may have less digging by elevating the rail line, less relocation of services, smaller bridges and fewer engineering challenges, but boy is it ugly. Given of course the situation of inclines and declines, if you do the maths for the three proposed crossings in Bonbeach and Carrum, it is evident that the rail line must be elevated or sunk for the whole distance from Mordialloc to Frankston, and indeed this is not something that is going to be very popular.

Yes, people are saying there are water table issues, but if you can build houses on water, you can certainly deal with water table issues along the Frankston line. A sky rail elevated 10 to 15 metres is not something that ought to be a part of the consultation. It ought to be simply scrubbed out, with other methods of grade separation made part of the debate. The beautiful bayside area, of course, is something that we are offering. Labor is offering the big ugly divide. With a bit more thought and more careful selection of the crossings to be removed, there could have been much less impact.

The community know it because the petitions are rolling in. Mr Davis has already tabled petitions with 5000 signatures. I will be tabling petitions with several hundred names tomorrow, and many more hundreds are coming in. There are Facebook pages out there, online petitions and so on. From all of these sources and community feedback it is evident that the community are certainly not supportive. They are concerned about the loss of amenity and the detrimental

impacts on the livability of our suburbs. They are outraged by the visual bulk, which is a blight on our landscape that will overlook and overshadow backyards, homes and businesses. There will be greater noise and disturbance as a result of the 24-hour freight movements, and potential hotspots will attract crime and graffiti. These are not things the community want. That is why so many people are turning up at these meetings, why there is so much angst and why the government is really elevating the spin and the selling.

In particular I would like to draw attention to the comments of the member for Mordialloc in the Legislative Assembly which were reported in the *Age*. He knows what community heat and dissent is all about. He has witnessed it in his community, and he is worried about it. He is worried about his former employer, Mark Dreyfus, facing a federal election in the seat of Isaacs, which he holds with a margin of 3.6 per cent. Mr Richardson sees himself and Mr Dreyfus both losing their seats over this.

Mr Dreyfus has courageously said he is less concerned and that he strongly backs the proposal. Now this will be his downfall. But Mr Richardson has attended some of the local meetings, and he has always left each one of those looking very worried, and he ought to be because the community are furious. The community do not want sky rail. They certainly do not want their heritage stations destroyed. They want first-class outcomes and not Labor's sky rail option.

Then there is the question of process and probity. We know that the sky rail has been the Premier's captain's call, with no cabinet process. I know that members of the cabinet are furious. Mr Wynne ought to be furious because of the impact; the decimation of all of his planning objectives by this is astronomical. According to the *Australian*, and I quote:

Disunity has flared within Daniel Andrews's government amid revelations the sensitive decision to elevate a rail line to save costs on level crossing removals did not go to cabinet ...

I further quote:

'... A lot of things don't go to cabinet when they should', one MP said, accusing Mr Andrews of a lack of consultation beyond his private office and an inner circle of factionally aligned ministers.

Clearly it is all the lefties who are in the tent, and all of those who are outside the tent will suffer the consequences and be expected to be the fall guys.

The Premier has entered into an agreement for the sky rail project with CPB Contractors and Lendlease to offset that company's losses on the east-west link. It

needed a project. The Premier had one. There was a shoddy option available, so he married the two up. There has been absolutely no consultation with any bodies like Infrastructure Victoria, which the Premier took great pride in setting up. The sky rail project has all the hallmarks of another disastrous desalination plant.

There are certainly other complications with the sky rail, and these are coming to light. For example, it cannot be built directly above the existing lines, and there is an uncertainty about the width of the sky rail given that we will need additional lines. There are safety concerns for workers working above existing infrastructure, and electrical wires will need to be kept live so the existing tracks can be used during sky rail construction.

Ugly pylons cannot be put on the tracks that need to operate during the build, and there is no space for them between the existing lines. That all means that sky rail bridges and pylons have to be built outside the existing rail footprint, and the reserves are not that wide. That means that car parking, footpaths, trees, roads and all sorts of other things are going to have to make way for the new taller, wider sky rail. The poor residents living right on the rail line, including a former member for Carrum, Jenny Lindell, will have trains even closer to their properties, giving commuters an even better view of their backyards. Sky rail is not what people voted for. They want the details, they want the documents that are relevant, for which we have called on numerous occasions, whether it be through constituency questions, through questions without notice or through the debate on this motion.

In summary, as I said, as you drive down the Nepean Highway today imagine the impact on the vista with sky rail in Labor's future. Similar issues exist of course of shadowing along the Dandenong and Cranbourne lines, and also in my electorate. Many of these areas already know they are getting sky rail, and they certainly do not like it. Nowhere in Labor's election material does it talk about elevated rail lines, and people just expected that there would be high-quality work where the rail goes under the road, like we did at Springvale Road and as we are doing with the Bentleigh level crossing grade separation, which is well advanced, and with the Ormond level crossing. They are done at a high standard, a benchmark that ought to be the standard rather than these shoddy proposals dreamed up by the Premier without taking his cabinet into his confidence, and of course throwing many of his marginal seat MPs under the political truck.

If you do the maths on the three proposed crossings in Bonbeach and Carrum, it is evident that that rail line must be elevated or sunk for the whole distance from Mordialloc to Frankston. What impact that will also have on, for example, the Frankston railway station redevelopment and the Southland railway station development, I do not know, and we certainly cannot get the answers. As I said before, with a bit more thought and perhaps with a longer time period, and also with the building of other infrastructure such as the Mornington Peninsula Freeway extension, there could have been much less impact. We would have been able to build the infrastructure our community deserves, building on its natural beauty and its assets and building for the future and not just some short-term, convenient arrangement that does not stack up from any policy angle.

People are angry; hundreds of them, thousands of them, are mobilising; and this is only the start. There certainly has been, as I said, a lot of angst, and some of the comments that I have been able to photograph during the consultations include, and I will just find these very quickly:

Rather continue with level crossings than sky rail.

Bayside suburbs no place for concrete ugly sky rail 9 metres high.

High water table no excuse.

No sky rail.

Go underground.

Underground rail is all around the world and successful.

Sky rail will destroy local amenity, attract undesirable behaviour, including graffiti and litter.

High water table, sandy soil, no excuse

There are tunnels under stations — —

**Mr Davis** — The soil hasn't changed since the election.

**Mrs PEULICH** — The soil has certainly not changed, Mr Davis, since the election:

There are tunnels under stations and railways already. They don't seep water ...

Would prefer no sky rail ...

Rail underground preferred option to keep the area looking like a seaside suburb, not the city.

Those comments have been replicated at all of the consultations that I have attended, and I will be attending as many as I can to hear the views of the

community. Can I invite members of the Labor Party to actually get out of their ivory towers, get out of their white cars, get out of their expensively refurbished offices and listen to the people, listen to the ordinary people, and hear what they say.

Regarding sky rail, let me tell government members that they will rue the day they decided on sky rail. I have a forecast. I believe there is no way they are going to build sky rail along the Frankston line. They will be decimated for decades to come. If the government proceeds with sky rail along the Caulfield to Dandenong corridor, we will have an example of what it has done to the community, how it has lied to communities, how it has deceived communities, how it has not valued the things that communities value, how it has manipulated them — with the confidentiality clauses that it has forced them to sign if they do become a part of the government's closed consultation groups — and the way it has disregarded community sentiment.

I know that politics is fickle, but when you make silly mistakes such as this, stupid mistakes, and you are prepared to destroy the amenity of our suburbs, attempting to retrofit existing residential and commercial areas with ugly sky rail, that is not going to work.

I would just like to close by quoting some of the comments that were made in relation to another project. We do not exactly know how many properties will be directly affected and how many will have to be acquired for the purposes of sky rail. Mr Andrews said on 21 August 2013 about property acquisitions:

There are people who are not losing their homes who will be forced to live in an LA-style concrete jungle, and there is no process for them either.

That is what he said on 21 August 2013. He was talking about the east–west link, but the same applies, of course, to sky rail.

Richard Wynne, on 3 September 2014, said, and I quote:

I am not prepared — I was not prepared in 2008 and I am not prepared now — to stand by quietly and allow the inner city to be ripped apart.

Could I invite Mr Wynne to be true to his word, to have a good talk with Mr Andrews — they are in the same faction — and to say, 'Common sense has to prevail'. Mr Wynne went on to say, and I quote:

We will never stand by silently and allow this government to rip the heart out of the inner city and displace decent people

who deserve to live in dignity in their community. We will never let that happen. This is a dud project. This government has no mandate for this project. This Premier has no mandate; he is unelected. I say: take it to the people and test it before the people.

Now, most of that applies, of course, to the sky rail project as well.

In addition to that, Jenny Mikakos, now the Minister for Families and Children, said, and I quote:

... hundreds of ... homes, which will not be compulsorily acquired and will not be compensated, will be adversely affected. There will be large communities that will be impacted in an adverse way by this proposal. We know that parks and surrounding areas will be severely impacted. We know that people who have bought apartments off the plan are now under considerable stress about whether they will be able to complete their acquisitions.

The same applies to sky rail. Of course Brian Tee, who we saw lose his seat in this chamber, said on 3 September 2013:

That is because the homes of a significant number of individuals will literally be destroyed by these projects; their lives will be turned upside down; and their communities, the areas and the people they see every day will no longer be there as these major projects are rolled out.

The same applies to sky rail. This will devastate the look of our cities. It will turn the bayside riviera, which is our vision for the future of the bayside suburbs in the south-east, into something worse than Los Angeles, and it will certainly devastate those existing urbanised residential and commercial areas that have been built around the activity centres, the activity hubs, which will suddenly have this massive sky rail through them. And of course we will have the unseemly consequence of sky rail underneath it: thin linear parks, probably full of litter and unkempt because councils will be handed over the responsibility of their maintenance, and in a world of CPI rate capping they will not have the funds to be able to maintain them. There probably will be people sleeping under those bridges and engaging in all sorts of activities that perhaps have been less visible. There will be graffiti and litter. That is the future that this Labor Party has for our community.

We have a different view of the future. We want to see the community and the appearance of our most livable city improved, not destroyed, which is what the Labor Party's sky rail plan will do. With those few words, I thank Mr Davis for bringing this motion to the house and thank him for the opportunity of being able to say a few words on behalf of my community.

**Mr MULINO** (Eastern Victoria) — I am very pleased to be able to rise today to speak on this motion

and to speak about a project that is of great significance I believe to the city as a whole, to people throughout the south-east and indeed to people in my electorate who live in Pakenham and those surrounding areas who will benefit greatly from this project.

Before speaking about some of the specific elements of the motion, I would like to just make a few contextual comments, which I think have a direct bearing on the motion. One is on the election result. I think it is really important to reflect back on the election result and what it was that the people of Victoria said at that election through the ballot box. Clearly level crossings were a priority. I think speakers from all sides of the chamber have made the observation that removing level crossings is something that all members, or just about all members, in this chamber see as important. But the election put forward a very specific program: that 50 of the most congested and dangerous level crossings were to be removed as part of a large asset recycling program.

It is always difficult after an election to talk about things like a mandate, because there are so many issues, there are so many cross-currents, and of course different people vote on different issues. But I think in this instance there were a couple of issues — level crossings was one of them — that were given particular prominence. Indeed I think when you look at polling both before the election and since the election on this specific issue it supports that interpretation, because there has been a very high level of support for removing level crossings throughout that period. Why is that the case? We have talked about this a lot over recent months, so I will not go into it in detail, but I think it is worth noting that it is due to things like population growth and the congestion it is causing; the fact that the boom gates at level crossings were going to be down for incredibly long periods of time, unsustainably long periods of time; the danger and the accidents that that was going to cause; and fundamentally the need to separate our transport systems increasingly. Our road and our rail systems need to be separated so that each can operate more effectively. That is an important piece of context.

There is a clear mandate for level crossing removal, and in fact if any issue at the election was given prominence and if any issue came out with clear support from the community, this was it. I think it is also worth talking about the nature of major projects. Major projects — and transport projects are a good example of this — inevitably create concern amongst some in the community. That does not mean that we should not proceed with major projects. What it means is that we need to work through those concerns, listen to those

concerns and get the best outcome for the community. The only way you can undertake a major infrastructure program with zero community concern is to have no projects. One might say the previous government tried that strategy for at least a large part of its term. But we acknowledge that there are some concerns among some people in the community. We need to work through those concerns; we need to listen to them. So to the extent that the motion says that the Andrews government should listen to the community, we say, 'Yes', and I will talk later on in my contribution about exactly how we are doing that and have been doing that.

I think it is worth saying that to the extent that this motion is motivated by a need to listen to the community, then on that score we agree. We should listen to the community; we are listening to the community. To the extent that this motion is motivated by a desire to knee-jerk respond and knee-jerk oppose anything done by the government, then I would not support it, as it is simply taking advantage of an opportunity to use those concerns for political means.

The third bit of context I would raise before I get onto the specifics of the motion is that with projects like this there are of course a range of options. This motion says that all level crossing should see rail put under road, and I simply do not agree that that is the right approach. To say that there is a one-size-fits-all solution for something as complicated as this in a brownfield situation I just do not think is right. When you look at some of the world's most livable cities, with some of the world's best transport and in particular public transport systems — when you look at cities like Berlin, Vancouver and London, and indeed cities like New York and Chicago, as have been referred to — you see that they adopt a range of approaches. So the notion that we should have one type of solution to what is a very complicated situation, where there is a wide range of built communities and a wide range of natural environmental areas, and say that every single level crossing should have the same solution is frankly ridiculous. It is about as far from best practice as you could get.

There are of course a range of solutions. There is rail under road, which can work in a number of situations, but there are some negatives to rail under road. That could include an inappropriate natural environment that it creates in some situations or a massive trench that divides communities. It is just not always going to be the best solution. I remember as a councillor myself in the City of Casey some years ago that of course we were well aware that Clyde Road needed to be fixed. Even back in that time a wide range of solutions were

under consideration, so this notion that there is a one-size-fits-all solution is frankly utterly ridiculous.

To get to the project itself, I will not go through it in detail, because I think we have talked about that in relation to this motion and a number of others, but clearly there are significant benefits from this project, including removing all nine of Melbourne's most congested level crossings on this line, one of the busiest rail lines in the country; creating a 42 per cent increase in capacity; and so on. In particular the benefits of having some of the rail elevated are that it is designed to allow trains to run during construction, which will be particularly important. It also allows for new community facilities to be created underneath the elevated rail, and it allows for future proofing.

I will finish up very shortly so as to allow the mover of the motion to make a final contribution. I did want to stress that there has been exhaustive community consultation. There have been trader workshops. There have been a number of community pop-up information stands. There have been interactive community feedback sessions, community billboards, community catch-up sessions, 140 trader survey responses, over 1500 pieces of community feedback and 310 000 newsletters distributed. There have been tender advisory panel sessions. There have been council briefings and CEO meetings, and as I referred to earlier, as an ex-councillor I understand that this is an issue that is a very high priority issue for councils. When I was a councillor at Casey the Clyde Road level crossing removal was something that had been under active consideration for quite a period of time.

There are many, many modes of consultation. I have been on the website myself frequently looking at various updates, looking at all of the different interactions with the community and looking at the fact that they are using cutting-edge technology such as locating different feedback on maps. It is, I believe, a very advanced and a very thorough form of communication. I believe the different newsletters that the previous speaker was so disparaging of are very informative. Yes, some of them have a few photographs in them, but, to be honest, the ones that I have printed out for the purposes of obtaining a bit of information for this contribution contained a lot of text and a lot more than I can get in in the time available. I could refer to material in just a couple of these newsletters, and it would make my contribution very lengthy indeed, which is probably not something people on any side of the house would wish.

I will finish by saying that fundamentally this is an extremely important project. There are few issues, if any, that had greater support at the election. Mandates are complicated things, but this issue did have a mandate and it has received strong polling support ever since. There are good reasons why this is such a priority. In light of that, we are proceeding and we are proceeding in a way that is sensitive to community concerns and that will achieve the best possible community outcome. While I support the notion that we listen, what I do not support in this motion is, frankly, the political motivation and a number of elements of it which would unduly constrain the government, such as pursuing a one-size-fits-all model, which is really inappropriate for such a complicated need.

**Mr DAVIS** (Southern Metropolitan) — I take my right of reply on this motion on the Andrews government's sky rail proposal. The motion makes a number of notes about the proposal but eventually calls on the government to listen to the community, and it has not been listening to date. It has gone forward with a model of sky rail before the consultation. It made the decision before the consultation took place. It is a sham consultation just like we have seen with the Windsor Hotel decision today.

The motion calls for a full and complete environment effects statement (EES). Without that we cannot be sure about the outcomes. The results will be disgraceful and shocking without that full EES. We need local councils to be involved and to have planning powers, and we need the government to pursue what it did have a mandate for — level crossing removal with a rail-under-road option, not the other way around. Steve Dimopoulos, the member for Oakleigh in the Assembly, made it clear before the election that he wanted rail under road.

**Motion agreed to.**

## STATEMENTS ON REPORTS AND PAPERS

### Department of Treasury and Finance: budget papers 2015–16

**Mr DAVIS** (Southern Metropolitan) — Today I want to comment on the state budget 2015–16 and in particular the planning sections of that budget — the funding that is allocated in the state budget to run the planning department. Today we have seen a disgraceful decision that follows through from the extraordinary sham consultation on the Windsor Hotel conducted by Justin Madden, a former Minister for Planning. Today

we have seen a decision made at the Victorian Civil and Administrative Tribunal, a decision which was made under the laws of the land but made following the disgraceful decisions of Justin Madden and the sham consultation he conducted on the Windsor Hotel, just over the road from this chamber, one of Melbourne's great icons, a great hotel and a fantastic piece of Melbourne's history.

The fact is that today's decision makes clear that the developer is going ahead with his proposal. He is going to tear the guts out of the Windsor. There is going to be nothing more than a facade left. You can see the tenders advertised in the paper today. It is clear the developer wants to go forward, and it is very clear that what is going to occur here is that staff will be laid off. My understanding is that staff have already been told that their future is over with the hotel and that in the next couple of months the hotel will effectively close. This is a terrible outcome for Victorian tourism, and I think the community will rue the day that Justin Madden made his decisions on this matter — he of the sham consultation. It was very clear that the whole process was cooked up from the start. It was very clear that if Justin Madden had not been the Labor planning minister at the time, we would have had a better outcome for Melbourne, for the Windsor and for Victoria.

The decision is certainly going to hit our tourism industry, as well as the enormously valuable heritage precinct. I think the community has a great love and affection for the Windsor Hotel. It is very clear that people have memories of the Windsor Hotel. They can remember the hotel from when they were a child or when memorable occasions — weddings and other occasions of great public note — have been held at the Windsor Hotel. The Windsor as we knew it will be no more. The guts will be ripped out of the Windsor, and the community will not have the hotel that we all have grown to love with such gusto.

It is a hotel that the community should have seen refurbished. It is a hotel that should have continued to make its impact. This is an example of the planning chaos that we are seeing around the state at the moment under the Minister for Planning, Richard Wynne. He has begun his so-called refresh of *Plan Melbourne*, and it is now much more than a simple refresh. It is very clear that this is a broadbrush sweep to clean out and change our planning system and to fundamentally rip much of our planning system to bits.

Neighbourhood residential zones are clearly going to be wound back across large areas of the city, and it is also very clear that areas like Mentone, where there have

been significant protections in place — the former planning minister, Matthew Guy, put a four-storey cap on developments in Mentone — are now being swept aside in a sleight of hand by the planning minister, a sleight of hand that will see tall towers, intense development and high-rise development in Mentone. Those in Southern Metropolitan Region — Ms Crozier and others in the chamber, who I am not going to name because they may not want to agree with me on this — I think understand the significance of protecting areas like Mentone.

What is clear today is that it is a day of sadness. It is a day when the Melbourne community will reflect on a great icon and the loss of that icon. How has the Labor government chastised the former planning minister? It has appointed him as deputy chair to a board, where his ongoing planning impact will continue — his mismanagement of the planning portfolio that began a very bad trend under *Melbourne 2030*, the damage that was done through that period between 2006 and 2010 — —

**The ACTING PRESIDENT (Mr Finn)** — Order! The member's time has expired.

**Auditor-General: *Public Safety on Victoria's Train System***

**Mr EIDEH** (Western Metropolitan) — I rise to speak on the Victorian Auditor-General's report *Public Safety On Victoria's Train System*, dated February 2016. Public transport is something that we on this side of the house consider to be of vital importance here in Victoria, which is why we continue to invest to keep our communities moving and to ensure that our infrastructure continues to meet demand.

Public transport services here in Victoria, in particular our train network, play an important role in connecting Victorians to a range of social and economic activities, including work, education and much-needed services. We see the train network being of importance during major public events, such as the AFL Grand Final. This is why it is so important that these services are reliable and that the patrons who use these services feel safe during the day and at night.

Public perceptions of safety on the train system can impede patronage, and as the report states:

Several studies have found that perceptions of safety have a greater influence on community behaviour than the actual crime rate.

These perceptions may be influenced by media reporting, personal opinions, poorly lit areas, vandalism

and graffiti. In 2014 approximately half of all criminal offences recorded on the train system occurred after 6.00 p.m.

With this audit the objective of the Victorian Auditor-General's Office was to determine the effectiveness of protective services officers (PSOs) deployed across Victoria's train system by assessing if PSOs have reduced crime on the metropolitan train system and improved public perceptions of safety of train travel, particularly at night; whether appropriate advice supports key decisions on the deployment of PSOs; and whether governance arrangements for personal security and safety initiatives across the train system support and leverage the work of PSOs.

Following the former government's commitment of \$212 million over four years to recruit 940 PSOs for deployment at 212 metropolitan railway stations every night from 6.00 p.m. until the last train, the report found overall that community perceptions of the safety of the metropolitan train system at night have improved since the start of the PSO program. However, the extent to which this can be attributed to the presence of PSOs is unknown.

In addition to this it is not possible to assess whether PSOs have had any real impact on crime rates on the metropolitan train system. The report also found that there is potential for PSOs to be used more effectively and efficiently. However, until Victoria Police improves its approach to monitoring the performance of the PSO program, it will not have the necessary evidence to inform the current government and future governments about the direction, deployment and utilisation of the unit.

The report indicates that whilst community perceptions of personal safety on the metropolitan train system have increased since early 2012, this increase cannot be directly related to the presence of PSOs. In regard to reducing crime and antisocial behaviour on trains during the evenings, there has not been any formal evaluation of whether the PSO program has had this intended impact.

Finally, I note issues relating to performance monitoring and Victoria Police, and I read directly from the report:

Key performance indicators established in 2013 were not underpinned by sufficient reliable data to enable the assessment of PSO performance and were selected primarily to minimise the cost and administrative burden of reporting. This data has proven insufficient to enable reporting, negating the efficiency Victoria Police was aiming to achieve.

The Victoria Auditor-General has made a number of important recommendations to the Department of Justice and Regulation, Public Transport Victoria and Victoria Police, and I hope they implement them in a timely manner. I commend this report to the house.

### **Department of Treasury and Finance: budget papers 2015–16**

**Ms LOVELL** (Northern Victoria) — I rise to speak today on the 2015–16 Victorian budget and in particular budget paper 4, *State Capital Program*, and the money that is allocated to Goulburn-Murray Rural Water Corporation. Importantly page 76 of the budget outlines funding for the connections project. The connections project, as we all know, is the renewal of the irrigation system in northern Victoria. This is the project that is not only renewing the infrastructure but also finding the savings in water to contribute towards the Murray-Darling Basin plan.

There is a great deal of concern in northern Victoria about water at the moment, in particular about the Murray-Darling Basin plan and about the connections project. We have got to a point where irrigators feel that if there is any more water taken out of our system, the system will be unviable and we may see a failure of that system. We would have brand-new infrastructure but not enough water to actually produce the food that is necessary to not only feed Australia but export to other lands.

The connections project has been quite frustrating. It has been through several different management processes. The Northern Victoria Irrigation Renewal Project was set up to manage it. It then went to Goulburn-Murray Water, and now the minister tells us that a new project control group has been appointed.

I had several of my city colleagues up last week to meet with some of the farmers in our region to hear about the challenges that they face. They were being educated on country issues. I would like to thank Legislative Assembly members Brad Battin, Neil Burgess and Neil Angus for coming up and listening to the concerns of my constituents. I think they had their eyes opened. They were not aware of just how hard it is for farmers on the land, and they were certainly not aware of the problems that are being created through the Murray-Darling Basin plan and through the connections work. Some of the things they were told by the farmers included that if two areas managed by Goulburn-Murray Water are in dispute, Goulburn-Murray Water will not pay the farmer or the contractor for the work that is being done on farms, so

all farm work just stops — the farm work on the irrigation infrastructure, that is.

This is making the connections program drag out, and it is also causing a great deal of hardship for the contractors, who have not been paid for their work. They also informed us that they believe administration is chewing up around 50 per cent of the \$2 billion.

The farmers have a lot of suggestions on how things can be improved to ensure that there is enough water left in the system and that they will be able to continue to irrigate and farm in a productive farming area. Firstly, they would like the carryover rules changed so that only productive users of water can carryover water and speculators will not be allowed to do so. They understand that there needs to be some concessions for the environment and for companies like Bega Cheese and SPC, which buy water to give to their suppliers. They would like to see the amount of environmental water that is stored in our irrigation storages have a cap on it so that it does not continually take up space in the storage area and mean that irrigators cannot access that water. Someone told us that they believe that the environment owns more than double the water in the Eildon Weir than the irrigators do.

Farmers also want the Auditor-General to investigate and review Goulburn-Murray Water, leading to a restructure. They would like to stop water from leaving the district. They would like to see the regulation of trading. They want certainty in the Goulburn-Valley Water connections project, and they want to equalise costs when it comes to running the system. They would particularly like to see the business case released for the connections program, which started out as the Northern Victoria Irrigation Renewal Project stage 2. The minister addressed a meeting in Echuca last week, and she said that the new plan would have to match that. I would like to thank Simon Ramsay for attending that meeting. If the new project has to match that business case, we need to see the business case so that we know what is happening in our region.

### **Auditor-General: *Grants to Non-Government Schools***

Ms PENNICUIK (Southern Metropolitan) — I rise to make a statement on the Auditor-General's report, tabled this morning, entitled *Grants to Non-Government Schools*. The report tells us that the state government provided \$624 million in recurrent grants to non-government schools in the audited year 2014. The majority of the funding — almost \$431 million — went to the Catholic Education Commission of Victoria (CECV) and the balance went

to smaller school systems and 171 non-systemic, non-government schools. The auditor found, in looking at how this money was actually spent, that:

... there is limited assurance that grants are used for their intended purpose or are achieving intended outcomes.

This is primarily due to weaknesses in funding agreements and ineffective oversight monitoring or management of funds by the department, and the fact that there is no requirement for non-government schools to demonstrate how taxpayers funds have been spent. This practice has persisted for years under both Labor and Liberal governments, which have done nothing to require more transparency and accountability from non-government schools about how public funds are spent.

The auditor also found:

There is significant variation in the management practices of the selection of non-government schools tested as part of this audit — overall, they lacked policies and procedures to demonstrate the effective use of state government grants. With some exceptions, they cannot adequately track and demonstrate how grant funds have been spent.

...

Most schools that received targeted funding for students with disabilities ... or grants under the support services program could not demonstrate that funds were used for their intended purpose.

There is a need to strengthen guidelines and funding agreements, and the associated accountability for the use of all grants to non-government schools. Both school-level accountability and controls, and DET's oversight and monitoring need strengthening.

...

The purpose and goals of the state recurrent grants are set out in the funding agreements ... however, there are no performance measures or monitoring and reporting requirements associated with these goals. Therefore DET is unable to determine if the grants are contributing to the achievement of its goals.

...

In some cases, DET relies on system authorities to administer and oversee grants made to schools. In effect, this means that the system authorities oversee themselves, because they receive the grant funding from DET, manage the allocation of grants to schools, and provide acquittals to DET on expenditure. DET has only assessed these acquittals from system authorities to ensure that expenditure matched the payments provided. DET does not oversee or monitor system authorities to assure itself that grants are used for their intended purpose or achieving the intended outcomes.

Most concerning, I think, is that CECV allocates the funding according to its own methodology, and the overall effect of the CECV distribution is that some

Catholic schools receive substantially more than they would receive under the debts allocation and some substantially less. The overall effect of the CECV methodology is to reduce the importance of that element, which is the student family background, in providing funds to individual schools. If you look at the outcome of this on page 30 of the report, you see under the heading 'Figure 3D' a chart which shows how the reallocation is made by CECV, according to its non-transparent methodology. The report says:

CECV reallocates SRG funding away from the lower socio-economic status schools —

in the Catholic system —

to schools with a higher socio-economic status. Overall, the highest socio-economic status schools —

in the Catholic sector —

with an SFO index below 0.1, gained an additional 75.14 per cent in student funding while the lowest socio-economic status schools, with an SFO index of greater than 0.4, lost between 11.35 per cent and 63.33 per cent of their funding.

One of the most concerning parts of this report is the effect of the redistribution of the funding: \$431 million of taxpayers money by the Catholic education commission, and the effect that it has on the distribution of funding amongst the Catholic schools.

### **Auditor-General: *Hospital Performance* — *Length of Stay***

**Mr MELHEM** (Western Metropolitan) — I rise to make a statement on the *Hospital Performance — Length of Stay* report by the Victorian Auditor-General, which was released in February 2016. The report is the second in a series of performance audits examining hospital efficiency and has again identified a number of opportunities for the Department of Health and Human Services (DHHS) and hospital management to collectively improve the way hospitals operate. There has been some observation by the Auditor-General in relation to that, who said that the audit:

... identified widespread variation in acute patient length of stay ... between many of Victoria's largest public hospitals. This indicates inefficiencies — lost opportunities to free up hospital beds, to treat more patients and to reduce significant unnecessary costs. Even after adjusting for patient characteristics and peer-grouping hospitals, almost 145 000 extra bed days could be made available and \$125 million per year could be directed to other services.

That is quoting from the report, and I think it is important that these regular audits highlight some of the inefficiencies, if you like, or show that you can always look for efficiency. I think we should always strive for

continuous improvement in various sectors, and it is always good to get another set of eyes to have a look at how the system is operating and what sorts of improvements can be made. That is the main focus of this report.

In his conclusion the Auditor-General talks about improvements to the benchmarking performance between various hospitals and how the DHHS funds programs that demonstrably improve length of stay but has not actively promoted them to all hospitals, which is another area that the Auditor-General found needs further improvement. Some of the findings in this report are that, using a relative stay index, which allows hospitals to be compared, there is a 29 per cent variation in length of stay between the 21 Victorian hospitals examined by this audit.

The report sets out a number of recommendations, and I am pleased to say that the Department of Health and Human Services has accepted the recommendations of this report and has started implementing them. The first two recommendations are:

1. That the Department of Health and Human Services regularly analyses its data and seeks reasons from hospitals for significant length of stay variation.
2. That public hospitals benchmark their length of stay performance and explain to the Department of Health and Human Services reasons for significant length of stay variation.

The list goes on and recommends a number of other improvements. It is pleasing to see that the department is working on these recommendations and implementing them.

However, I cannot let this go without mentioning that what makes this job harder for the department of health and the hospital system to cope and to improve on these targets is that obviously funding is very important, and it does not help when we have a federal coalition government that likes to simply continuously cut funding to the health system in Victoria. I talked about that in my members statement this morning, with the fresh additional \$73 million cut by the Turnbull government. We thought Tony Abbott was bad, but Prime Minister Malcolm Turnbull has continued the tradition by cutting further funding to Victoria. That does not help.

As this report shows, even though the Andrews Labor government has put an extra \$99 million into our health system to help fix the mess that the coalition left us in, as long as the Turnbull government continues the tradition of taking an axe to health our hospitals will

continue to suffer. I hope that the next report will show some improvement in length of stays and some further improvement in the ability of our hospital system to look after our patients.

### **Auditor-General: *East West Link Project***

**Mrs PEULICH** (South Eastern Metropolitan) — I wish to use this opportunity to make a statement on the report entitled *East West Link Project*, and I do so in the context of the recently released *Australian Infrastructure Plan*, a report put out this month by Infrastructure Australia, the chairman of which is the Honourable Mark Birrell, a former member of this chamber and a minister in the Kennett government. First of all, I commend that report. It is an outstanding, visionary report that is comprehensive, and we ought to be taking a lead out of that book across every sphere of activity.

I just want to remind people of some of the audit summary comments in the *East West Link Project* report, which was tabled by the Auditor-General in December 2015. The report states:

The east–west link (EWL) was to be an 18-kilometre cross-city road connecting the Eastern Freeway at Hoddle Street to CityLink, the port of Melbourne precinct and on to the Western Ring Road at Sunshine West, with a range of associated works.

The report goes on to say that it was to be:

... one of the largest transport infrastructure projects ever undertaken in Australia, and significant in terms of its impact, complexity and cost.

The summary talks about the genesis of the east–west link, which was:

... the 2008 report *Investing in Transport — East West Link Needs Assessment* by Sir Rodney Eddington, which recommended a new 18-kilometre cross-city road corridor to provide an alternative to the West Gate Bridge.

I know that that particular daily challenge is one that Acting President Finn is very passionate about — the congestion on the West Gate Bridge. The report continues:

During 2009, the then government developed a project proposal for what was known as the WestLink project.

That was subsequently superseded by the east–west link. The report continues:

The government considered a business case for EWL in April 2013 and decided to go ahead with the project, with the eastern section being commenced as stage 1 of the project. The government decided to deliver the eastern section as a public private partnership ...and following a competitive

tender process finalised a project contract with East West Connect ... to finance, design, construct, operate and maintain the road.

The contract was signed before the caretaker period ...

and the reason we have caretaker periods is that within that period you actually do not sign contracts. But this was signed before the caretaker period, and notwithstanding comments that have been made, the foolish suggestion that the caretaker period should be extended beyond the designated period would basically render any government ineffective.

The then opposition, which had been strongly supportive of east–west link — all of the luminaries, including Mr Melhem and former Premiers and so forth — then indicated that it would not proceed with the project and eventually ended up paying \$1.1 billion in compensation, basically to try to save four Labor inner metropolitan seats from the Greens. It succeeded by saving two and losing two. So it was a very expensive election campaign for the Labor Party, but unfortunately the costs were substantial to our state.

I think the commitment of the former government to the east–west link is reinforced by Infrastructure Australia's report and the identification of the east–west link as a high-priority initiative, an infrastructure priority, with a short time line. I quote from the attached priority list. It says:

The Australian Infrastructure Audit (April 2015) ... identified the east–west corridor to the north of Melbourne CBD as one of Melbourne's major congestion challenges. Vehicles travelling east–west between the Eastern Freeway and CityLink are forced to navigate the congested inner-city road network, or the heavily utilised M1 corridor to the south of the city. This results in congestion and delays on Melbourne's urban road network for both passenger and freight vehicles. The audit found that this corridor had the highest 2011 road congestion delay cost in Melbourne, with a delay cost of \$73 million. This is expected to worsen by 2031, with delay cost increasing to \$144 million.

The Eastern Freeway only extends as far as Hoddle Street on the edge of the CBD, channelling the large volume of vehicles heading into and out of the city onto residential streets in the inner north.

Clearly this initiative is intended:

... to improve the connection between the Eastern Freeway and CityLink.

I urge members to read the Infrastructure Australia report. I think the Greens would be very interested in that document. I think every legislator — every representative — should be reading that document and be taking a guide. We know how long projects — —

**The ACTING PRESIDENT (Mr Finn)** — Order! Mrs Peulich's time has expired.

**Auditor-General: *Public Safety on Victoria's Train System***

**Mr ELASMAR** (Northern Metropolitan) — I wish to speak to the Auditor-General's report *Public Safety on Victoria's Train System*, tabled on 24 February 2016. I read the report, and I have to admit I am somewhat puzzled by the frequent references to perceptions. Normally the Victorian Auditor-General's Office reports are transparently data orientated. I understand that it is difficult to quantify a lack of or increases to law-breaking on our public transport system in the absence of information. I do know that when I am travelling on a road and I see a police car I instinctively take my foot off the accelerator, so it would appear to me the presence of protective services officers (PSOs) would be a warning to anyone contemplating playing up. In reality they are definitely a positive deterrent to criminals, troublemakers or general offenders who abuse our nightly public transport users.

Without public transport services we would all see Melbourne and regional areas grind to a halt — no doubt about that. However, travelling on public transport at night can be more unsafe, particularly for women passengers. We know this, and so more PSOs were employed, trained and then stationed at hotspots. It is nonsense to say people should feel safe out and about regardless of the time or place. We all know this is a platitude. In an ideal world, yes, of course it would be true, but we do not live in an ideal world. We live in a teeming metropolis where caution is advised to everyone, regardless of sex. The proof of the pudding is raw data on increased public transport usage, and I look forward to the day when I can read statistics that bear out the effectiveness of allocating PSOs in strategic danger zones, thereby proving the resourcing and employment of more PSOs is impacting on increasing public transport usage.

The recommendations contained in the report refer to the collection of usable data and the implementation of a mechanism or framework so we can strategically plan future ongoing high-level effective security for our public transport users. One of the areas the report talks about is the public's perception or lack of recognition of protective services officers. Personally I do not think PSOs are invisible, but we need to take into account what the travelling public think. A public relations exercise targeted at informing them about the role of PSOs and their protective duties towards train and

transport users would be certainly beneficial. We live in increasingly perilous times, our population is growing rapidly and we need to be more aware of inherent dangers, especially at night. Our concern for the public's safety has been demonstrated by the Andrews Labor government's commitment to increasing the number of protective services officers. I recommend the report to the house.

**ADJOURNMENT**

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

That the house do now adjourn.

**Shepparton region projects**

**Ms LOVELL** (Northern Victoria) — My adjournment matter is for the attention of the Treasurer, and it is in regard to the significant boost to the state's budget from two funding streams. The first is the High Court ruling that returned to the state \$540 million that had been paid in compensation to the Tatts Group, and the second is the proceeds of the lease of the port of Melbourne. Both of these boosts to the state budget present the opportunity to fund projects in the Shepparton electorate and in particular the redevelopment of Goulburn Valley Health's Shepparton hospital. The action I seek from the Treasurer is that he ensure that much-needed projects in the Shepparton electorate are funded now that the budget has been boosted by these two funding streams and in particular that the full redevelopment of Goulburn Valley Health is funded immediately.

Shepparton has been largely ignored by Daniel Andrews and Labor. The Labor Party did not make a single election commitment to the Shepparton electorate. In addition the government made no significant provisions for projects in the Shepparton electorate in last year's budget, and it is vital that this pattern of Labor ignoring our community is reversed immediately.

It is clear that Goulburn Valley Health should be the government's first priority for any funding. I have made numerous speeches in this house attesting to the desperate need for a new hospital to service the Shepparton electorate and surrounding regions. The services plan is complete, the master plan is complete and the business case has also been completed. The money returned by the Tatts Group provides an ideal funding source to get on with this project immediately. The Treasurer is visiting Shepparton on 18 March to speak at a Committee for Greater Shepparton luncheon,

and I call on the Treasurer to use this visit to announce a commitment of funding for the redevelopment of Goulburn Valley Health.

The Shepparton CBD redevelopment and a jobs plan for Greater Shepparton and the Moira shire are amongst many other projects that could be funded out of the Tatts payment. The Liberal Party has insisted that at least 10 per cent of the proceeds from the port of Melbourne lease be allocated to transport projects within rural and regional Victoria. As the Treasurer would be aware, over the years primary producers within the catchment area of Goulburn Valley Health have contributed significantly to the growth of the port of Melbourne. Now that the government intends to lease the port, it is only fair that those who have established the asset should also benefit from the proceeds.

There are several much-needed transport projects within the Shepparton electorate which these proceeds can and should be used to fund, including additional train services and upgrades to the Shepparton rail line and stage 1 of the Shepparton bypass. The action I seek from the Treasurer is that he ensure that much-needed projects in the Shepparton electorate are funded now that the budget has been boosted by these two funding streams and, in particular, that the full redevelopment of Goulburn Valley Health is funded immediately. I call on the Treasurer to make that funding commitment when he visits Shepparton next week on Friday, 18 March.

### **Pornography awareness education**

**Dr CARLING-JENKINS** (Western Metropolitan) — My adjournment matter is for the Minister for Education, James Merlino, and it concerns the impact that pornography has on children and the pressing need for schools to be equipped to appropriately respond to what is being described as a crisis. I call on the minister to ensure that students receive an education through the schools and to ensure that teachers are appropriately resourced and trained in this area. I recommend as a model for this the Reality & Risk project.

The Reality & Risk project has received widespread support, including from the sexual and family violence division of Victoria Police. The details of this project can be found at [www.itstimewetalked.com.au](http://www.itstimewetalked.com.au). I quote from this website the concerns over the mainstreaming of pornography and the effect it is having on our children:

More than 90 per cent of boys have now seen online porn.

More than 60 per cent of girls have seen online porn.

88 per cent of scenes of the most popular porn include physical aggression.

About 30 per cent of all internet traffic is porn related.

These statistics are staggering. I believe it is time that we faced the impact that pornography is having on our children in the majority, not just in the minority. As we all know, technology has progressed. Exposure therefore has shifted, so pornography has become widely available and it is almost impossible for children not to see it. The internet is widely available, and while many schools have addressed this through introducing filters for students while at school, many of their students are still being exposed. The internet is everywhere — on our laptops, on our smart phones and on our tablets.

I would like to bring to the minister's attention a quote from Dr Tucci, who earlier this year described this exposure of children to pornography as 'a public health crisis'. He said:

Like smoking or other public health issues, this will have long-term consequences.

We all know — and this is where Dr Tucci was coming from — that children absorb and imagine what they are exposed to, based on their experience. The reality therefore is that children are seeing porn as a portrayal of what is real. This has negatively influenced, I believe, their expectations and their behaviours in regard to relationships and sex. The consequence of this has been an outbreak of adverse issues, which are being addressed by social workers, psychologists and general practitioners, which are outlined in detail by the Reality & Risk project. Pornography has become an issue that every school in Victoria has to deal with, and no type of school is immune. Schools cannot afford, I believe, to ignore the need to implement a broad and proactive approach to preventing the harms associated with this.

### **Sunbury Road duplication**

**Mr FINN** (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Roads and Road Safety. I first raised this matter about a year ago, and I have been staggered, I have to say, by the lack of progress by the government since then. I am delighted to say that the Hume City Council has come onside. The project that I am talking about is the proposed duplication of the Melbourne–Sunbury road, including the Bulla bypass. There was just a couple of weeks ago a major accident at the bottom of the Bulla hill. The Bulla bridge was built some 150 years ago and is

certainly not up to the job of providing for the traffic — the very heavy traffic — that it currently takes. As a result of that accident many thousands of cars were sent off through country roads, across one-lane bridges in some instances, and it was somewhat of a debacle.

I am delighted to say that the Hume council has come on board to support the duplication of the Melbourne–Sunbury road. I can only say that it is extremely, extremely disappointing that there is a lack of support for this project from the member for Sunbury in another place, because this is something that really should be bipartisan. This is something that is necessary for the future of the Sunbury and Bulla communities — and not only Sunbury and Bulla, but also the Macedon Ranges, where a good number of people who work at the airport live. Of course what we are talking about is the main road from the Macedon Ranges, Sunbury and Bulla to Melbourne Airport, where thousands of people who travel on that road work. I am asking the minister as a matter of urgency to provide the necessary funding to bring this project on.

We need to duplicate this road. Sunbury is now a major centre. There are tens of thousands of people there, and tens of thousands of people more in the Macedon Ranges, and we need to provide satisfactory roads for people to travel on. At the moment it is not unusual in the peak hour in the morning for the traffic to be banked back way past the airport and right back into Bulla. That is not good enough, and I for one will be screaming non-stop until such time as the government comes to the party on this. I ask the minister as a matter of urgency to provide funding for this project.

### **South Oakleigh Primary School site**

**Mr SOMYUREK** (South Eastern Metropolitan) — My adjournment matter today is for the Minister for Planning in regard to the plans for the development of the former South Oakleigh Primary School site at 1 Beryl Avenue, Oakleigh South. The plan submitted and being pursued by the private developer of this former government site represents a significant and, in my view, deleterious development not in keeping with the residential neighbourhood of the area. The proposed development would dramatically escalate the number of vehicles on the streets. Traffic jams, noise and frustration would undoubtedly affect the existing amenity of the area and increase the road danger to students and indeed their parents.

Whilst there is no doubt that some development of the site may be undertaken, in my view it must be in keeping with the existing neighbourhood and

incorporate public open space for active and passive recreation. Local residents should be directly consulted in determining development parameters. Therefore I ask that the minister investigate this matter and take whatever action is necessary to achieve a residential and open space outcome in keeping with the neighbourhood's character and needs.

### **Grand Final Friday**

**Ms BATH** (Eastern Victoria) — My adjournment matter is for the Minister for Small Business, Innovation and Trade, the Honourable Philip Dalidakis, who is in the house tonight. It relates to Labor's decision to continue the grand final parade day holiday for the next two years. The action I seek from the minister is that he reverse this decision out of respect for the pain it causes our rural and regional small businesses across Victoria.

I have sat in this house when Minister Dalidakis has spoken about how Labor cares about families and how family members have more time to spend with each other on that holiday. However, he has failed to acknowledge that small businesses in rural and regional Victoria are struggling with many pressures and that this holiday just adds to them. The Labor government recently announced that it will be continuing this parade day holiday for another two years despite huge costs to local businesses.

Many local businesses were forced to shut their doors; cut staffing by reducing the hours of casual workers, who lost their shifts; or operate at a loss on that first parade day holiday. Impacted small businesses across the state reported losses ranging between \$1000 and \$5000 as a direct result of this public holiday. In Leongatha in my electorate five businesses have closed their doors in the last six months. Most of these businesses had been functioning properly and had a great track record for over five years.

The local baker, Mr Darren McInnes, contacted me on this issue. He said:

... I don't think that the Labor Party realise it's killing small country towns. As you would be aware there is five small businesses closing in Leongatha alone and I bet it's the high cost of operating a small business that's doing it ...

Many traders feel that penalty rights are just too high — —

**Mr Dalidakis** — 'Rights' or 'rates'? I think you meant 'rates' — penalty rates.

**Ms BATH** — Thank you.

*Honourable members interjecting.*

**The ACTING PRESIDENT (Mr Finn)** — Order! Minister, please!

**Mr Dalidakis** — I was being helpful.

**The ACTING PRESIDENT (Mr Finn)** — Order! Let me assure the minister that he is being less than helpful just at the moment.

**Mr Dalidakis** — Turn it up.

**Mr Ondarchie** — On a point of order, Acting President, it is commonplace in this place that a member can raise their adjournment matter without constant bickering and interruption. I think you are some way down the track already, but I would ask you to correct the minister about interjecting during a member's adjournment matter and also about his disrespect for the Chair on this occasion.

**The ACTING PRESIDENT (Mr Finn)** — Order! I take on board what Mr Ondarchie said, and I ask the minister to respect the right of the member on her feet to have her say without interruption and also to show appropriate respect for the Chair.

**Ms BATH** — This holiday is for a Melbourne event. During the parade day holiday last year Traralgon was like a ghost town. There was reduced patronage, meaning that if a business opened, the extra wages cost would not be covered by money in the till. I am sorry for all the small business operators who were left to carry that burden. I reiterate my point, and I ask the minister to reconsider and to reverse this decision, which has a great and serious impact on rural and regional small businesses.

### **Strathmore Secondary College**

**Ms DUNN** (Eastern Metropolitan) — My adjournment matter is for the Minister for Roads and Road Safety. I refer to a recent *Age* article headed 'CityLink-Tulla widening a "failure of duty of care" for Strathmore school students' health?', published on 6 March and written by Gina McColl. The article suggests that the 1600 students at Strathmore Secondary College are facing increased health risks such as severe asthma and cardiovascular disease due to an overpass being constructed within metres of school classrooms due to the Tullamarine Freeway widening. The action I seek from the minister is that he immediately cease construction on the Tullamarine widening project while full and thorough modelling of the risks of the project to the neighbouring school are undertaken, including installation of pollution

monitoring facilities on the site to verify the actual localised pollution that children are exposed to.

The article reports that experts declared the project a failure of duty of care, voicing their concerns over the macro modelling that Aecom, a technical consultancy company, has used as part of the Transurban assessment of the project. Experts are concerned that this assessment fails to take into account key factors such as micro-exposures of some communities or the stop-start nature of the traffic on the new bridge. Of concern was the reported response by VicRoads acting director Peter Holcombe Henley, who is quoted as saying, 'At the end of the day, there's a value for money equation'. If the quote is correct, the response by Mr Holcombe Henley is alarming, pitting the cost of a road against the cost to public health.

The air pollution modelling done so far has been completely inadequate for a number of reasons. Firstly, the baseline data was extrapolated from air monitoring in Footscray, which is a long way from the school and the very northern end of the project. No actual air monitoring has been done, so this is all just guesswork and cannot be relied upon for accuracy. Secondly, the figures are based on acceptable levels under national environment protection measures that are now outdated, as they were updated in December 2015 to be stricter. Thirdly, there were a limited range of pollutants considered. Critically, PM<sub>2.5</sub> was not considered, and it is the smallest and most deadly particulate matter. Also ozone, land and sulphur dioxide were not considered despite their monitoring and reporting being required under the National Environment Protection Council ambient air quality measures.

Finally, I make the point that this background data, even if it were taken locally, would not reflect the pollution that will actually be breathed in by the children by the bridge during peak hour. These background air quality assessments are totally inadequate to assess the risk posed to an asthmatic student, as the background data is collected in locations remote from the point source and in relation to particulate matter they are measured over 24 hours, which softens out the peaks in exposure to make it appear to be within acceptable limits.

### **Technical schools**

**Mr LEANE** (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Education, James Merlino, and it pertains to the 10 technical schools that are currently being rolled out across the state. I know a number of my colleagues in this house and in the other house are leading a lot of

consultations with schools, industry, councils and other interested parties around what the tech schools will actually teach and what they will contain as far as teaching material is concerned.

I did have an instance brought to my attention around the fact that there are some secondary schools that have developed quite comprehensive small training centres themselves. One school I know concentrates particularly on automotive training. This school will form part of a cluster that will be tied to one of the new tech schools. The action I seek from the minister is that he ensure that his department take into account the good facilities that exist in some of the school clusters and not replicate those in a tech school, where students from other schools can access the existing facilities in one of their partnership schools.

### **Melbourne Youth Justice Centre**

**Ms CROZIER** (Southern Metropolitan) — My adjournment matter this evening is for the attention of the Minister for Families and Children. The matter I wish to raise is in relation to the recent reports about the escalating loss of control by the Andrews government of the Melbourne Youth Justice Centre and the apparent intent of the minister to deflect any attempt at transparency.

On Network Ten news on 8 March there were reports of conflicting views of when Monday's riot actually started. The Community and Public Sector Union (CPSU) says that Monday's very serious riot started with the break-in to the tool shed on Sunday, but the Department of Health and Human Services denies that the two incidents are related. The minister's answer to this very serious accusation on that same news report was to say that teenagers can act spontaneously.

In an article in the *Herald Sun* yesterday staff said that they can no longer control inmates aged 15 to 17 and are frightened of what may happen next time. A CPSU spokesman talked about affiliations of young people with adult crime organisations. Victorians are worried about a gang culture developing or indeed escalating out of control amongst Victoria's child offenders and whether this government is out of its depth in addressing it. They have not forgotten that the youth justice system was in complete disarray under the previous Labor government.

Over the last year I have repeatedly asked the minister questions on notice about category 1 and serious incident reports and other data. Her responses treat my questions on notice with contempt. The minister dismisses these valid requests and repeatedly writes that

if I wish to access the data that I am requesting, I should look it up on the website of the Department of Health and Human Services. This government's and its minister's words about transparency are a complete farce.

My question relates to the reporting requirements for incidents within youth justice centres and whether they have changed since December 2015. I ask the minister: are the reporting requirements, if changed, camouflaging the extent of the problem through less reporting of incidents due to definitional changes, and when will the minister make category 1 and serious incident data readily available?

### **Family violence**

**Ms TIERNEY** (Western Victoria) — My adjournment matter is for the attention of the Minister for the Prevention of Family Violence and is in relation to the Royal Commission into Family Violence, which is due to deliver its recommendations on 29 March. As the minister said in her ministerial statement in the other place yesterday, this will be the most significant report into violence against women conducted in Victoria and indeed the country.

The establishment of our new family violence system will be guided by the recommendations and findings of the commission's report. As the minister said yesterday, embedding the experiences of those who have been directly impacted by family violence within the design of a new system has never happened before. It will ensure that victims will be at the centre of the Andrews government's response to the scourge on our society that is family violence.

The action I seek from the minister is for her to visit my electorate of Western Victoria Region and meet with local service providers to provide them with an update on what the Andrews Labor government is doing to address family violence and empower women.

### **Water policy**

**Mr RAMSAY** (Western Victoria) — My adjournment matter tonight is for the Minister for Environment, Climate Change and Water. The action I seek is that she explain to Geelong region residents why they will have to pay for gold-plated desalination water when there are plentiful water reserves and when no water restrictions have been put in place prior to the order for desalination water.

The announcement from the Premier and the minister to turn on the desalination plant displays a return to the

ALP of old — tax and waste, not to mention the fact that there are cabling problems at the plant at the moment. Life is about choices, and the life of a government is no different. The Andrews government has been looking for a reason to vindicate the former Brumby government's decision to build the desalination plant more than six years ago. The construction cost alone would have built 20 hospitals a year every year. No-one would need to wait for elective surgery if that money had been used on hospitals. The decision to build the plant would have benefitted from further discussion, so then let us not waste this opportunity to deliberate over Sunday's announcement that the facility will be turned on for the first time in six years to produce water.

It has been a very dry as well as a particularly long summer, with water reserves dropping, but apparently not enough to call for water restrictions. Members will have read that next month's long-range forecast says that it will be a very wet March. So why turn on the desalination plant? The political answer is that this might be the best time in the electoral cycle to show that the former Brumby ministers may not have been the duds Victorians think they were. Ms Neville, a Geelong resident and the Minister for Environment, Climate Change and Water, had carriage of this policy. She was one of the Brumby ministers who decided to build the desalination plant in the first place.

Under a complicated financial arrangement the water from the desalination plant is nearly the cost of gold compared to all other types of water. In Geelong there are significant storages of water, so there is no need to resort to the desalination plant. The reservoirs are at 40 per cent capacity and there are significant reserves underground that could last for many decades with no rain. All of this water costs a fraction of the cost of the desalinated water. There is no water emergency; there is only a political emergency to show that the plant was really worth it, and with it comes increasing costs for water corporations and voters. This is another example of the Andrews government's waste.

My office has received many complaints about Minister Neville's hand-picked chair of Barwon Water, who apparently demanded she have a chairman's office built for her use at the cost of \$30 000 of public money — and this is only temporary accommodation. Culture is catchy. If it is okay for the government to waste billions, it soon becomes okay for mere mortal part-time chairs to waste money as well.

The climate is changing. Minister Neville has been seen for her lack of skills and commercial judgement. That is why I seek an explanation for the Geelong community

as to why they have to pay for desalinated water when there are significant reserves in place.

### **Caroline Springs artificial lakes**

**Mr MELHEM** (Western Metropolitan) — My adjournment matter is also for the attention of the Minister for Environment, Climate Change and Water, my good friend the Honourable Lisa Neville. She is a great minister who is doing a wonderful job.

The issue I wish to raise is regarding the ongoing deaths of animals in and around the Caroline Springs artificial lakes. The lakes are under the responsibility of Melbourne Water, as I have been advised by the City of Melton. Local residents have reported seeing dead birds and fish scattered around the lake area and have contacted various authorities about this without receiving much feedback. Residents are concerned that Melbourne Water and the Environment Protection Authority Victoria (EPA) are not giving out proper information, except to say that it is avian botulism, which is a bird illness that is a major cause of mortality in wild birds and which could pose a risk if those birds come into contact with people and pets.

There is a bit of an argument here between the City of Melton and Melbourne Water over who has responsibility for this issue. I understand this sort of problem is quite common when you have static lakes around the state. It is also prevalent at this time of year and is a common problem. The problem is that the residents are not being informed about the danger. As a matter of fact I have seen a few dead fish myself. People still fish in these lakes. It would be a simple solution to put signs out there to warn residents.

The action I am seeking from the minister is that she get someone from her department to get a bit of coordination happening between Melbourne Water, the EPA and the City of Melton and to put together a comprehensive plan to address this problem or at least warn the residents about the sorts of actions they should be taking around these lakes — for example, not fishing or swimming et cetera — to make sure that this disease is not transferred to humans, and also to explore some ways to stop these birds and animals dying around these lakes. I ask for the minister's assistance and action, and I look forward to her response.

### **V/Line customer compensation**

**Mr MORRIS** (Western Victoria) — My adjournment matter tonight is for the attention of the Minister for Public Transport, and it relates to the crisis on the V/Line service being inflicted upon regional

commuters to this day. We heard an announcement today about a return to some sort of normality for V/Line services. Unfortunately we have heard this all before, and I, along with Ballarat commuters, will certainly believe it when I see it.

My particular matter this evening is with regard to compensation for V/Line commuters. Compensation certainly has been a very contentious issue for V/Line commuters. There is no doubt that they deserve compensation; however, many commuters have contacted my office with concerns about the compensation they have received. Some have actually contacted my office saying they believe they are entitled to compensation and have received none. Some commuters have received compensation but not enough, and I have even been contacted by commuters who have not travelled on a service but have received compensation on their myki cards. So the action that I ask of the minister is to review the compensation regime for V/Line customers to ensure that those customers who rightly deserve compensation are receiving it.

### Nunawading police station

**Mr O'DONOHUE** (Eastern Victoria) — I raise a matter for the attention of the Acting Minister for Police, and the action I seek is that he provide me with a detailed explanation of the community consultation that took place, if any, prior to the Nunawading police station being closed. Let me quote from the media release of 15 April 2015 of the Minister for Police. It is headed 'Statement on one-man police stations'. I will read the entire statement into *Hansard*.

The Andrews Labor government supports one-man police stations in regional Victoria. Despite reports to the contrary, 105 one-man police stations are not being phased out. We understand they are an important fabric of many small towns in this state.

As Minister for Police, I made a commitment in Parliament in February that this would keep all existing police stations open.

This government does not support the forcible closure of police stations against the wishes of local communities. There are 329 police stations across the state and they all play a significant role in the work done by police.

I was in Nunawading last week with the very hardworking local member, Dee Ryall, from the Legislative Assembly.

**Ms Shing** interjected.

**Mr O'DONOHUE** — She works incredibly hard. She is a great advocate for her community and for her

electorate. We thought we would drop in to the Nunawading police station just to — —

**Mr Morris** — A warm response? Tea and scones?

**Mr O'DONOHUE** — I take up the interjection of Mr Morris. Was there a warm response? Well, there was no response at all, because there was signage indicating that the police station has been closed. There was a sign on the front door saying that the station is closed.

**Ms Shing** — Did you knock three times?

**Mr O'DONOHUE** — To pick up Ms Shing's interjection, I did knock several times and we stood there wondering where the police were. The 'Police' sign has been removed and there was a sign on the door saying 'Police station closed'.

Of course if the government is being true to the statement from the minister that the government does not support the forced closure of police stations against the wishes of local communities, I would be interested to know what consultation took place with the local community. After consulting with Ms Ryall, the hardworking local member, I found she was unaware of any consultation that had taken place with the local community. There is a question as to whether consultation indeed has taken place. This is in contravention of the very clear and unequivocal promise from the minister that all police stations in this state would remain open. I would appreciate a response to that issue from the acting minister.

### Gardiners Creek Reserve, Burwood

**Mr DAVIS** (Southern Metropolitan) — My matter for the adjournment tonight is for the attention of the Minister for Planning in the other place, and it concerns land near Deakin University. An important creek runs between two parts of the Deakin University campus — the city campus I might add, not the Geelong one — in the lower house Burwood electorate and also in my electorate of Southern Metropolitan Region.

There is a long history to this matter, and I can recount it because I was at the meetings in 1999 when the then Labor candidate for Burwood, Mr Stensholt, promised that Deakin University would not get control and would not be allowed to build an extravagant and intrusive bridge which would damage the vista and the ability of people to walk through that area and which would have a significant impact on the local environment. Local environment groups like the West of Elgar Residents Association and others have been campaigning since

those days to ensure that the grandiose and intrusive bridge that Deakin University has sought to build there would not be built.

But in the depth of the Christmas season several actions occurred that would give people great concern. The first of those was a decision by the Minister for Environment, Climate Change and Water to remove from the local council the committee of management rights for the creek, the associated vegetation and surrounds and the walking tracks, and to give those committee of management rights to Deakin University, which had long sought access to and control of that land so that it could build a dirty big bridge and destroy the local environment in that area. I am a strong supporter of Deakin University, but not of its actions in this case. I think it is concerning that the university has taken this approach and pushed forward with its plan.

I understand that planning approvals are also required and that the planning minister has given those approvals to enable this intrusive, unwanted and unwelcome bridge to be built, which is out of keeping with the Labor promise going back as far as 1999, and Acting President Finn may remember that time as well.

What I seek from the Minister for Planning is a review of this decision and a commitment to stick with longstanding Labor commitments and promises and not to override the local community's wishes, not to override the local council but to protect the environment and ensure that this bridge in the form wanted by Deakin is not built.

### Lalor small business

**Mr ONDARCHIE** (Northern Metropolitan) — My adjournment matter tonight is for the Minister for Small Business, Innovation and Trade, the minister at the table tonight. It concerns a small business strip shopping centre in the suburb of Lalor. That strip shopping centre is right beside the railway station. The Minister for Planning has made an arbitrary decision to rescind the planning scheme out there that allows for high-density residential development alongside that bit of infrastructure. That is going to have a significant impact on the small business community out there, many of whom are quite worried about future revenues because the opportunity to increase the number of residents in that area was good for them.

The action I seek from the small business minister is to accompany me to visit those small business operators in Lalor and hear their stories directly about what his cabinet colleague has done in terms of their future opportunities, many of whom have mortgaged their

homes to start those small businesses. They are small family-run businesses that are now impacted by the planning minister's arbitrary decision to stop development alongside infrastructure — which is quite unusual given the government's propensity to build infrastructure and build development around infrastructure, and even sky rail in some places.

The action I seek is for the minister to confirm a date when he will come with me to visit those small businesses and hear those stories directly.

### Responses

**Mr DALIDAKIS** (Minister for Small Business, Innovation and Trade) — This evening we have adjournment matters from Ms Lovell to the Treasurer regarding funding of Shepparton projects; Dr Carling-Jenkins to the Minister for Education regarding teachers being trained and resourced in dealing with pornography; from Mr Finn — in fact yourself, Acting President — to the Minister for Roads and Road Safety regarding the funding and the commitment to build the duplication of the Melbourne–Sunbury road; and from Mr Somyurek to the Minister for Planning regarding planned development of a former school site in South Oakleigh.

Let me deal with Ms Bath's adjournment matter addressed to me right now in relation to the reconsideration of the public holiday. Again, as I have said many times in this chamber, the government honours its election commitments and there will be no change. I just wish to dispel two myths. The first one is that it is meant to be for just the next two years. In fact it is not. When it was gazetted it was gazetted for time immemorial. The only way that it will be removed is if the Liberal Party chooses to remove it after a future election.

Also Ms Bath mentioned Mr Darren McInnes. Let me tell Ms Bath that he emailed me on 2 March at 6.58 p.m. I replied to his email at 7.33 p.m. on the same day, so I have in fact also communicated with him.

We also had an adjournment matter from Ms Dunn to the Minister for Roads and Road Safety regarding the cessation of construction on the Tullamarine Freeway widening; from Mr Leane to the Minister for Education seeking to ensure that the department considers good existing facilities and that they not be replicated within tech schools as they are rolled out; from Ms Crozier to the Minister for Families and Children in relation to definitional changes to category 1; from Ms Tierney to the Minister for Prevention of Family Violence with a request for the minister to visit her electorate of

Western Victoria Region to discuss issues in relation to the royal commission; from Mr Ramsay to the Minister for Environment, Climate Change and Water requesting an explanation of the water price increase for the Geelong community; from Mr Melhem for the Minister for Environment, Climate Change and Water for advice on what to do with the Caroline Springs lakes and dead birds; and from Mr Morris to the Minister for Public Transport regarding a V/Line review of the compensation regime.

There was a matter from Mr O'Donohue to the Acting Minister for Police regarding community consultation on the closure of Nunawading police station. May I point out that the statement from which he read, quoting the minister, who is obviously now on leave, was in relation to police stations in rural and regional Victoria, and I am not sure it was appropriate to try to use that for a metropolitan station.

There was a matter from Mr Davis for the Minister for Planning in relation to a review of the bridge approval for Deakin University, and there was a matter from Mr Ondarchie to me. Let me deal with that right now. I am more than happy to visit the strip shop in Lalor in relation to the concerns the people there have got, but it will be done with the local member and not with Mr Ondarchie.

**Mr Ondarchie** — I am a local member.

**Mr DALIDAKIS** — The local lower house member.

I have written adjournment responses to adjournment debate matters raised by Ms Tierney on 9 February and 23 February, Mr O'Donohue on 11 February and Ms Wooldridge on 24 February.

## QUESTIONS WITHOUT NOTICE

### Written responses

**The ACTING PRESIDENT (Mr Finn)** — Order! The President has asked me to inform the house that he has instructed the Minister for Small Business, Innovation and Trade — we are indeed instructing the minister now — to supply a written response to the supplementary question of Mrs Peulich today, and that is to be delivered in two days, which will be on Tuesday week in real time.

With that, the house stands adjourned.

**House adjourned 6.15 p.m.**

**Wednesday, 9 March 2016**

**JOINT SITTING OF PARLIAMENT**

**Honourable members of both houses met in Assembly chamber at 6.48 p.m.**

**The CHAIR** — Order! We are convening the joint sitting this evening for three purposes: to appoint nominees to two agencies and also for the nomination of a senator.

The joint sitting of the Legislative Council and the Legislative Assembly to choose a person to hold a seat in the Senate is required due to the resignation of Senator the Honourable Michael Ronaldson. We also have to elect three members to the Victorian Health Promotion Foundation and three members to the board of the Victorian Responsible Gambling Foundation.

Under joint standing order 19(2), the Chair of the joint sitting alternates between the President and the Speaker. On this occasion it happens to be my turn as President. The general procedure for the joint sitting is set out, as members would be aware, in joint standing order 22.

**Victorian Health Promotion Foundation**

**The CHAIR** — We will commence this evening's deliberations with the nominations for the Victorian Health Promotion Foundation. As I indicated, we need three members for the foundation. I advise that we are operating under the rules set out by joint standing order 24. I invite proposals from members with regard to members to be elected to the Victorian Health Promotion Foundation.

**Mr ANDREWS** (Premier) — I propose:

That Ms Natalie Suleyman, MP, the Honourable Wendy Lovell, MLC, and Ms Colleen Hartland, MLC, be elected to the Victorian Health Promotion Foundation.

I am advised they are willing to accept the nomination.

**Mr GUY** (Leader of the Opposition) — I second the proposal.

**The CHAIR** — Are there any further proposals? No-one of great courage?

As only three members have been proposed, I am delighted to declare that Ms Natalie Suleyman, MP, the Honourable Wendy Lovell, MLC, and Ms Colleen Hartland, MLC, are hereby elected to the Victorian Health Promotion Foundation for a three-year term, commencing immediately.

**Victorian Responsible Gambling Foundation**

**The CHAIR** — We now proceed to the second agenda item to be dealt with by the joint sitting, in respect of the Victorian Responsible Gambling Foundation board. While joint standing orders 19 to 22 apply to this joint sitting, there is no joint standing order to cover the nomination of members to this particular board. Therefore the first matter to consider is the adoption of rules.

**Mr ANDREWS** (Premier) — I move:

That the rules for nominations, which are in the hands of members, be adopted.

**Motion agreed to.**

**The CHAIR** — I now invite proposals with regard to three members to be elected to the board of the Victorian Responsible Gambling Foundation.

**Mr ANDREWS** (Premier) — I propose:

That Ms Maree Edwards, MP, Mr Graham Watt, MP, and Mr Tim McCurdy, MP, be elected to the board of the Victorian Responsible Gambling Foundation.

I am advised that they are willing to accept the nomination.

**Mr GUY** (Leader of the Opposition) — I second the proposal.

**The CHAIR** — Are there any further proposals?

There being none, I am delighted to declare that the three members proposed on the Premier's nomination, being Ms Maree Edwards, MP, Mr Graham Watt, MP, and Mr Tim McCurdy, MP, are elected to the board of the Victorian Responsible Gambling Foundation.

**Senate vacancy**

**The CHAIR** — We now move to the third agenda item for the joint sitting, that being the election of a nominee for the Senate to represent the state of Victoria. In considering the Senate vacancy, I advise that we are operating under the rules set out by joint standing order 23. I am delighted to invite proposals from members for the appointment of a person to hold the place in the Senate rendered vacant by the resignation of Senator the Honourable Michael Ronaldson.

**Mr ANDREWS** (Premier) — I propose:

That Mr James Paterson hold the place in the Senate rendered vacant by the resignation of Senator the Honourable Michael Ronaldson.

Mr Paterson is willing to hold the vacant place if chosen. In order to satisfy the joint sitting as to the requirements of section 15 of the commonwealth constitution, I also declare that Mr Paterson is the selection of the Liberal Party, the party previously represented in the Senate by Senator Ronaldson.

**Mr GUY** (Leader of the Opposition) — I very proudly second the proposal.

**The CHAIR** — Are there any further proposals?

As only one person has been proposed, I therefore declare that Mr James Paterson has been chosen to hold the place in the Senate rendered vacant by the resignation of Senator the Honourable Michael Ronaldson. I will advise the Governor accordingly.

I now declare the joint sitting closed.

**Proceedings terminated 6.56 p.m.**