PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 24 November 2011

(Extract from book 18)

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Legislative Council committees

Privileges Committee — Ms Darveniza, Mr D. M. Davis, Mr P. R. Davis, Mr Hall, Ms Lovell, Ms Pennicuik and Mr Scheffer.

Procedures Committee — The President, Mr Dalla-Riva, Mr D. M. Davis, Mr Hall, Mr Lenders, Ms Pennicuik and Mr Viney

Legislative Council standing committees

Economy and Infrastructure Legislation Committee — Mr Barber, Ms Broad, Mrs Coote, #Ms Crozier, Mr Drum, Mr Finn, #Mr Ondarchie, Ms Pulford, Mr Ramsay and Mr Somyurek.

Economy and Infrastructure References Committee — Mr Barber, Ms Broad, Mrs Coote, #Ms Crozier, Mr Drum, Mr Finn, #Mr Ondarchie, Ms Pulford, Mr Ramsay and Mr Somyurek.

Environment and Planning Legislation Committee — Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, Mr Ondarchie, Ms Pennicuik, #Mrs Petrovich, Mrs Peulich, Mr Scheffer, *Mr Tarlamis, Mr Tee and Ms Tierney.

Environment and Planning References Committee — Mr Elsbury, #Mr Finn, #Ms Hartland, Mrs Kronberg, Mr Ondarchie, Ms Pennicuik, #Mrs Petrovich, Mrs Peulich, Mr Scheffer, Mr Tee and Ms Tierney.

Legal and Social Issues Legislation Committee — Ms Crozier, Mr Elasmar, #Mr Elsbury, Ms Hartland, Ms Mikakos, Mr O'Brien, Mr O'Donohue, Mrs Petrovich, #Mr Ramsay and Mr Viney.

Legal and Social Issues References Committee — Ms Crozier, Mr Elasmar, #Mr Elsbury, Ms Hartland, Ms Mikakos, Mr O'Brien, Mr O'Donohue, Mrs Petrovich, #Mr Ramsay and Mr Viney.

** Inquiry into Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2011*

 # Participating member

Joint committees

Dispute Resolution Committee — (*Council*): Mr D. Davis, Mr Hall, Mr Lenders, Ms Lovell and Ms Pennicuik. (*Assembly*): Ms Allan, Mr Clark, Ms Hennessy, Mr Holding, Mr McIntosh, Dr Napthine and Mr Walsh.

Drugs and Crime Prevention Committee — (*Council*): Mr Leane, Mr Ramsay and Mr Scheffer. (*Assembly*): Mr Battin and Mr McCurdy.

Economic Development and Infrastructure Committee — (*Council*): Mrs Peulich. (*Assembly*): Mr Burgess, Mr Foley, Mr Noonan and Mr Shaw.

Education and Training Committee — (*Council*): Mr Elasmar and Ms Tierney. (*Assembly*): Mr Crisp, Ms Miller and Mr Southwick.

Electoral Matters Committee — (*Council*): Mr Finn, Mr Somyurek and Mr Tarlamis. (*Assembly*): Ms Ryall and Mrs Victoria.

Environment and Natural Resources Committee — (*Council*): Mr Koch. (*Assembly*): Mr Bull, Ms Duncan, Mr Pandazopoulos and Ms Wreford.

Family and Community Development Committee — (*Council*): Mrs Coote and Ms Crozier. (*Assembly*): Mrs Bauer, Ms Halfpenny, Mr McGuire and Mr Wakeling.

House Committee — (*Council*): The President (*ex officio*) Mr Drum, Mr Eideh, Mr Finn, Ms Hartland, and Mr P. Davis.. (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Ms Campbell, Mrs Fyffe, Ms Graley, Mr Wakeling and Mr Weller.

Law Reform Committee — (*Council*): Mrs Petrovich. (*Assembly*): Mr Carbines, Ms Garrett, Mr Newton-Brown and Mr Northe.

Outer Suburban/Interface Services and Development Committee — (*Council*): Mrs Kronberg and Mr Ondarchie. (*Assembly*): Ms Graley, Ms Hutchins and Ms McLeish.

Public Accounts and Estimates Committee — (*Council*): Mr P. Davis, Mr O'Brien and Mr Pakula. (*Assembly*): Mr Angus, Ms Hennessey, Mr Morris and Mr Scott.

Road Safety Committee — (*Council*): Mr Elsbury. (*Assembly*): Mr Languiller, Mr Perera, Mr Tilley and Mr Thompson.

Rural and Regional Committee — (*Council*): Mr Drum. (*Assembly*): Mr Howard, Mr Katos, Mr Trezise and Mr Weller.

Scrutiny of Acts and Regulations Committee — (*Council*): Mr O'Brien and Mr O'Donohue. (*Assembly*): Ms Campbell, Mr Eren, Mr Gidley, Mr Nardella and Mr Watt.

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 W. R. Tunnecliffe

Parliamentary Services — Secretary: Mr P. Lochert

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FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

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Deputy Leader of the Government:
The Hon. W. A. LOVELL

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Mr J. LENDERS

Deputy Leader of the Opposition:
Mr G. JENNINGS

Leader of The Nationals:
The Hon. P. R. HALL

Deputy Leader of The Nationals:
Mr D. DRUM

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Barber, Mr Gregory John	Northern Metropolitan	Greens	Lenders, Mr John	Southern Metropolitan	ALP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Lovell, Hon. Wendy Ann	Northern Victoria	LP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	O'Brien, Mr David Roland Joseph	Western Victoria	Nats
Dalla-Riva, Hon. Richard Alex Gordon	Eastern Metropolitan	LP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Davis, Hon. David McLean	Southern Metropolitan	LP	Pakula, Hon. Martin Philip	Western Metropolitan	ALP
Davis, Mr Philip Rivers	Eastern Victoria	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin	Northern Victoria	Nats	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
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Elsbury, Mr Andrew Warren	Western Metropolitan	LP	Ramsay, Mr Simon	Western Victoria	LP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Hon. Gordon Kenneth	South Eastern Metropolitan	LP
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Hall, Hon. Peter Ronald	Eastern Victoria	Nats	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Tarlamis, Mr Lee Reginald	South Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP

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Thursday, 24 November 2011

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 9.33 a.m. and read the prayer.

PAPERS

Laid on table by Clerk:

Ombudsman — Report on the Investigation into the Foodbowl Modernisation Project and related matters, November 2011.

Parliamentary Committees Act 2003 — Government Response to the Public Accounts and Estimates Committee's Report on the 2011–12 Budget Estimates — Part One.

Victorian Environmental Assessment Council Act 2001 — Government Response to the Victorian Environmental Assessment Council's Remnant Native Vegetation Investigation Final Report.

Victorian Industry Participation Policy — Report, 2010–11.

NOTICES OF MOTION

Ms HARTLAND having given notice of motion:

The PRESIDENT — Order! I advise Ms Hartland that there may be some financial implications for the government associated with that bill. She should have a talk to the Clerk about it to ensure that we have followed the proper procedures if it is to proceed.

Further notice of motion given.

BUSINESS OF THE HOUSE

Adjournment

Hon. D. M. DAVIS (Minister for Health) — I move:

That the Council, at its rising, adjourn until Tuesday, 6 December 2011.

Motion agreed to.

MEMBERS STATEMENTS

Water: charges

Mr BARBER (Northern Metropolitan) — We can live without coal, but we cannot live without water. Last year, the Baillieu government raked in an extra $400 million from Victorian consumers on their water bills. That is equivalent to about one-quarter of what the carbon tax might collect next year, but the Baillieu government's water revenue is going to continue to rise. The much-vaunted Living Melbourne, Living Victoria project has so far not delivered a new pricing model as promised by the government when in opposition; it simply called for another look at pricing, which means that between 33 per cent and 90 per cent of what is on a water bill is a fixed charge rather than providing an incentive to conservation.

In the meantime we have the usual nickel-and-dime rebates towards conservation that do not reflect the benefit to the government of our becoming more conservationist in our use of water. After nearly 365 days we would have expected a lot more, because water bills are such an important part of our cost of living. They are also an essential reform towards putting water back into our rivers and creating a healthier environment.

Nurses: enterprise bargaining

Ms PULFORD (Western Victoria) — On Monday, 14 November, I met with nurses in Hamilton to discuss their ongoing dispute with the Baillieu-Ryan government. The nurses I spoke with are deeply concerned about the government's threats in relation to nurse-to-patient ratios and split shifts, which they say will reduce the quality of health care in Hamilton. The government has a responsibility to Victorian nurses and the people they care for. The nurses in Hamilton simply want the government to negotiate in good faith and show greater respect for their work.

Go Home on Time Day

Ms PULFORD — On another matter, national Go Home on Time Day is an initiative of the Australia Institute to raise awareness of the impact that working overtime can have on the health of workplaces and the social wellbeing of Australians. A survey conducted by the Australia Institute found that over half of our national workforce — about 6.8 million people — has seen an increase in work demands taking up their free time. One in two people surveyed stated they do not spend as much time with their families as they would like to because of increased work demands. The report *Something for Nothing — Unpaid Overtime in Australia*, released by the Australia Institute, found that on average full-time employees work 70 minutes of unpaid overtime each day, and part-time employees work 23 minutes of unpaid overtime each day. Across a single year this equates to 33, 8-hour working days of time pollution.

National Go Home on Time Day is next Wednesday, 30 November. It is a day on which we can all focus on spending more time with our families and friends and recognising, importantly, the importance of going home from work on time.

Royal Women's Hospital: clinical error

Mr FINN (Western Metropolitan) — I rise in the chamber this morning in shock and deep grief. Like most, I am sure, I was horrified to read the news report on the front page of the *Herald Sun* this morning about the mix-up at the Royal Women's Hospital which led to the death of twin baby boys during an abortion where the death of only one baby had been planned. I grieve not just for the healthy baby boy who was killed in what they are calling a terrible accident. I grieve not just for the sick brother who was killed the next day. I grieve not just for the twins' mother, who lost both her children. I also grieve for some in the medical profession who see killing as a treatment for a medical condition. I am not distressed because doctors killed the wrong baby, as many people might be. I am deeply distressed, though, that any baby died at all. It should not have happened, but it is happening in Victoria in 2011. For that my grief and distress knows no bounds. It is a tragedy for all involved.

Whittlesea Youth Commitment

Ms MIKAKOS (Northern Metropolitan) — On 17 November I attended, together with the member for Mill Park in the Assembly, the recognition and celebration event for the Whittlesea Youth Commitment spirit of cooperation agreement for 2012–15 at the City of Whittlesea council offices.

In the last 12 years the Whittlesea Youth Commitment has been providing young people with the opportunity and support to complete year 12 or a Victorian certificate of education equivalent through training or employment. The partnership, which is between the City of Whittlesea, RMIT University and the Hume Whittlesea Local Learning and Employment Network and other stakeholders, has been extended for a further three years, and it aims to recognise and celebrate the true value of young people in our community.

I commend the Whittlesea Youth Commitment and its member stakeholders for the invaluable work they undertake, and I thank them for their involvement in numerous initiatives and projects that have led to positive outcomes for young people in the city of Whittlesea.

World Lebanese Cultural Union of Victoria: statue unveiling

Ms MIKAKOS — On another matter, on 19 November I together with many other members attended the World Lebanese Cultural Union of Victoria for the unveiling ceremony of the Lebanese migrant statue in the Ray Bramham Gardens in Preston. The unveiling of the statue represents 150 years of Lebanese presence in Australia. It was extremely well attended by the community, and a dinner celebrating the independence of Lebanon followed. I congratulate the Lebanese community on this successful initiative. It has made a great contribution to Australia in many ways, including in this Parliament.

White Ribbon Day

Ms MIKAKOS — Lastly, today I will attend the bipartisan White Ribbon Day event at the back of the Parliament building as part of the global stand to eliminate violence against women. The International Day for the Elimination of Violence against Women is traditionally recognised by the United Nations on 25 November. As part of the White Ribbon Day event tomorrow I will participate in a walk against violence event — —

The PRESIDENT — Time!

Nurses: enterprise bargaining

Hon. D. M. DAVIS (Minister for Health) — I make a point today about the Leader of the Opposition in the Assembly and his commentary about the nurses EBA (enterprise bargaining agreement) process. Some of the comments he has made regarding the nurses EBA have been extraordinary given the activities and position he adopted in 2007. In 2007 he supported flexibility in terms of nurse-to-patient ratios; he supported the use of nursing assistants in our public hospital system; he supported greater flexibility in regard to shift lengths, particularly having 4-hour and 6-hour shifts as options. They are all points that many people think are reasonable for discussion. But now he has taken a different viewpoint.

It was extraordinary at the press conference he conducted a couple of days ago when he refused point blank to put on the record that our industrial laws ought to be obeyed. It is very concerning that Daniel Andrews, former Minister for Health and now Leader of the Opposition, would not support the law of the land. He would not support the importance and significance of obeying the law of the land. He should stand up.

Tibetan Buddhist Society: gathering for peace

Mr EIDEH (Western Metropolitan) — On Saturday, 5 November, I attended the Tibetan Buddhist temple in Yuroke for the Tibetan community's annual gathering for peace. I was joined by Colleen Hartland, a member for Western Metropolitan Region, and the mayor of Hume City Council, Cr Helen Patsikatheodorou, both of whom gave very fitting speeches which praised the Tibetan community's ongoing support for people and charities that need it most. The celebration was well attended by many people who united as one in offering their prayers for peace and their hopes for an end to the various conflicts that people in today's world are facing.

Although the Tibetan community is small by comparison, that has not stopped it from leaving a positive mark on Victoria's reputation as the multicultural capital of Australia. The Tibetan Buddhist Society has raised funds for numerous charitable causes, most recently donating $17 000 for the Queensland flood appeal. I would like to take this opportunity to thank and congratulate the festival directors for their time and dedication in holding this successful event. I also thank all the members of the Tibetan community.

Moreland and Hobsons Bay city councils: citizenship ceremonies

Mr EIDEH — On another matter, I attended citizenship ceremonies at Moreland City Council on l5 November and Hobsons Bay City Council on l6 November. I always enjoy attending these events, as they mark the beginning of a new life for so many and provide an opportunity to add a new spectrum to the already culturally diverse community that makes up our great state. I take this opportunity to congratulate the newest members of our Australian society.

Remembrance Day

Mr ELSBURY (Western Metropolitan) — I rise to say that it was a great honour to join the Werribee RSL at Station Place in Werribee on Remembrance Day. It was great to see the town centre come to a standstill to observe that event. It is important to honour and respect the sacrifice of the soldiers who have defended our country over many years and continue to do so.

Al-Taqwa College: 25th anniversary

Mr ELSBURY — I also attended the 25th anniversary of the Al-Taqwa College, which provides faith-based education to the people of Hoppers Crossing in the great western suburbs. I congratulate Omar Hallak, the principal of Al-Taqwa College, on the fantastic work he has done in nurturing young men and women through their education.

Wyndham and Brimbank city councils: citizenship ceremonies

Mr ELSBURY — Just like Mr Eideh, I also attended citizenship ceremonies, in my case in the cities of Wyndham and Brimbank. It is a good time to say that I am rather proud that people feel the desire to uproot themselves from a different place, bring their families and settle in Victoria, especially in the western suburbs.

Movember

Mr ELSBURY — I also remind members of the Parliament that today is the last day my moustache will be on my face, as Movember ends next week. It is the last sitting day that it will be there, and therefore I say, 'Pay up'!

Echuca-Moama tertiary training facility: opening

Ms DARVENIZA (Northern Victoria) — I was very pleased last Wednesday to attend the opening of the Echuca-Moama Tertiary Training Facility in Echuca. It is the conversion of a former 60-bed nursing home on the hospital site which has been renovated and refurbished for the use of medical and allied health professional students. The opening of this centre means that city students are able to have a three-month placement in regional Victoria. It is hoped that on the completion of that experience they will have an understanding of what rural and regional Victoria has to offer medical and allied health professionals and when they are qualified they might choose to come back to the country.

It is a partnership project that was started and funded under the previous Labor government, but it also included funding from the federal Labor government as well as La Trobe University and Melbourne University. There was also a quite considerable community contribution through the Echuca Regional Health Foundation, the Helen Macpherson Smith Trust, the Echuca bike riders association and the Olive Woods Trust. It is a fantastic facility, and I hope the many students who spend time there will choose to practice in the country.

Remembrance Day

Mrs PEULICH (South Eastern Metropolitan) — I pay tribute to the scores of volunteers who day in, day out work very hard to make so much happen in our community that otherwise would not be organised. In particular I recognise the special efforts of all those RSL committees who made the arrangements for the recent Remembrance Day. I thank all those who were involved in the Edithvale/Chelsea RSL Remembrance Day services as well as those at Cheltenham Moorabbin RSL and Clayton RSL. I attended the Edithvale/Chelsea service, and my husband and son attended the Cheltenham Moorabbin and Clayton services. We recognise and thank the volunteers for all their work.

Relay for Life: Casey Walkie Talkies

Mrs PEULICH — I also had the pleasure of attending the fundraising dinner for the 2012 Relay for Life Casey Walkie Talkies team, of which I am honoured to be a patron. Its members are gearing up for next year's big event, and I would encourage everyone to be involved if they have an opportunity to do so.

Frankston North: men's shed

Mrs PEULICH — I also officiated at the opening of the Pines Community Men's Shed in Frankston North, and I commend the committee for bringing a wonderful project to fruition.

Keysborough Turkish Islamic and Cultural Centre: festival

Mrs PEULICH — I recognise the efforts of Ekrem Ozyurek, his wife, Naime, and the hardworking community of the Keysborough Turkish Islamic and Cultural Centre at the recent festival of the Eid-ul-Adha, which is also known as the Kurban Bayram, which I had the pleasure of attending. I would like to thank all the committee members for the outstanding work they do. I am very honoured to be involved and to have the opportunity to support their efforts.

Planning: revitalising central Dandenong

Mr SOMYUREK (South Eastern Metropolitan) — I call on the Minister for Planning, Mr Guy, to continue the work of the Labor governments in rejuvenating central Dandenong. The Bracks and Brumby governments' revitalisation initiatives in central Dandenong have turned things around in this area. During the Kennett government era, due to a combination of factors such as the restructuring of the national economy and government apathy, central Dandenong went from being a thriving little city — indeed, Melbourne's second city — to being a run-down ghost town littered with empty shops and buildings. Through the hard work of the previous Labor governments, and particularly through the revitalising central Dandenong project, central Dandenong has again rediscovered its style and confidence; however, there is still more work to be done, and I call on the minister to continue this work.

Rail: Clayton level crossing

Mr SOMYUREK — On another matter, I call on the Minister for Public Transport to find an urgent solution to the ongoing issue of the Clayton Road level crossing, which continues to cause stress in the lives of local residents, shopkeepers and everyone else who happens to be driving through this very busy and indeed dangerous intersection, particularly in peak-hour traffic. The Department of Transport ranks the Clayton Road level crossing seventh on its level crossing priority list. The crossing is one of Melbourne's busiest and most dangerous level crossings, but for some bizarre reason it did not make it onto the list of 13 grade separations at crossings announced by the government earlier this year.

Eltham North Primary School: sustainability certification

Mrs KRONBERG (Eastern Metropolitan) — What a delight it was to attend the assembly at Eltham North Primary School on Monday, 21 November. During the assembly I had the opportunity to present the school with its 5-star sustainability certification sign, which was achieved under the Victorian ResourceSmart program as part of the Australian sustainable schools initiative. Eltham North Primary School, a school of more than 500 pupils overlooking the Diamond Creek that has an extensive tract of native bushland and reserve, has won the highest award a Victorian school can attain under the program. More than 700 schools right across the state are participating in the ResourceSmart program, and Eltham North Primary School, with its extraordinarily creative and focused approach, is one of the first schools to receive 5 stars.

The school's principal, Mr David Foley, and sustainability coordinator, Ms Johanna Harwood, have provided the direction and inspiration to encourage the students to participate in the program. Remarkably the program, which gives the students the opportunity to have the important principles of sustainability put into practice through their curriculum, also gives them the

opportunity to express themselves in music, poetry and art. By following the guiding principles of how to make a school more sustainable by saving water, reducing energy and waste, improving biodiversity and minimising their overall impact on the environment, students at Eltham North Primary School and its teachers, parents and the community are encouraged to follow the example set by the school and its students. In particular congratulations are extended to the students who undertook the leadership roles as environmental leaders and enviro captains. Importantly the — —

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

Peninsula Community Legal Centre: award

Mr TARLAMIS (South Eastern Metropolitan) — Last month in this house I congratulated the Peninsula Community Legal Centre on being nominated as a finalist in the prestigious 2011 Law Institute of Victoria President's Awards in the category of Legal Organisation of the Year. I would like to update the house on the fact that the Peninsula Community Legal Centre won the category ahead of two worthy candidates, Blake Dawson and Slater and Gordon. The centre has been providing free legal advice for over 30 years, targeting its services at disadvantaged people who would otherwise fall through the cracks of the justice system. I once again commend the centre for this well-deserved award and for all the work it does, and I wish the centre continued success.

Helen Constas

Mr TARLAMIS — On a related matter I congratulate Helen Constas, CEO of the Peninsula Community Legal Centre, on being awarded a community service award by the Hellenic Australian Chamber of Commerce and Industry for her work with the centre. The Hellenic Australian Chamber of Commerce and Industry award recognises outstanding achievement by an individual for the community.

Under Helen's leadership the centre has grown to become one of the largest community legal centres in Australia, assisting those who experience severe disadvantage, including family violence, homelessness, low income and low levels of education and literacy, exacerbated by geographical isolation and remoteness from mainstream services.

Helen has been an active member of the local community and a strong advocate for those in need and has dedicated her career to improving access to justice for disadvantaged people. The award is an acknowledgement of her dedication and commitment to the community, and I wish her well with her future endeavours.

Ukraine: famine commemoration

Hon. M. J. GUY (Minister for Planning) — Saturday, 26 November, will mark the 78th anniversary of the Ukrainian Holodomor, or famine, of 1932–33, and it will be the day that Ukrainians around the world will remember the victims of the Ukrainian genocide of that era. This was the most extensive and heinous crime the totalitarian Soviet regime perpetrated against Ukrainians and the Ukrainian nation. An attempt to subdue the nation 78 years ago destroyed its national spirit. Soviet authorities brutally eliminated millions of innocent Ukrainians, causing irreparable harm to the social fabric of the country and its society, spiritual culture and ethnic identity.

In commemoration of the 78th official anniversary of the Holodomor of 1932–33 the Ukrainian World Congress and the Ukrainian diaspora around the world will remember this tragic historical event and mark the anniversary on this Saturday with memorial services, community vigils and other commemorative events. Here in Australia the Ukrainian community will also be marking the official anniversary of the 1932–33 Holodomor famine in the Ukraine with a number of community events and church services. May our memory of the victims of the genocide of the Ukrainian nation be eternal.

JUSTICE LEGISLATION FURTHER AMENDMENT BILL 2011

Second reading

Debate resumed from 10 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr LEANE (Eastern Metropolitan) — The opposition does not oppose the Justice Legislation Further Amendment Bill 2011, one of the reasons being that this particular bill does not actually do a great deal. Usually we rely on the Assembly opposition members' lead speaker to give an intense analysis of all the items in a bill. I might just touch on a few things because, as I said, the bill does not actually do a great deal. One of the things it does is amend the Road Safety Amendment (Hoon Driving and Other Matters) Act 2011 so that the default date of 1 February 2012 is changed to relate to the commencement of the commonwealth Personal Property Securities (Commonwealth Powers) Act 2009.

The second thing the bill does is change the sunset period from 1 January 2012 to 1 January 2016 in relation to the powers of the chief examiner to deal with matters of contempt and protection against double jeopardy. It also authorises the chief examiner to issue a charge and a warrant for arrest relating to the failure to proceed with or respond to a summons to a witness.

The third thing the bill does is amend the Criminal Procedure Act 2009 to enable police prosecutors to appear on behalf of protective services officers (PSOs) in Magistrates Court proceedings relating to the extension of PSO enforcement powers with the government's rollout of PSOs on train stations. The jewel in the crown of the coalition's election platform was its big law and order commitment to roll out two PSOs on every train station. So far not one PSO has been rolled out. I know these things might take time, but I understand there are currently just 21 PSOs being trained — that is, 21 PSOs in the first year and a bit. If we proceed at that rate, the promise of 940 PSOs on train stations may take up to 43 years to put in place.

We should also take into account that the coalition promised a number of extra train lines — to the airport, Avalon and Doncaster. I know the Rowville station was only a study, but I think people have expectations of that actually being built. For the government's commitment and its law and order strategy to be fulfilled, you would expect to find PSOs on the extra train stations that will be built on the new train lines. When you add on those extra stations I would say you would be looking at a period of about 50 years to roll out the PSOs if it proceeds at its current rate. I am not sure we will all still be here in 50 years when the policy will be fulfilled. We might all be catching the public hovercraft in 50 years and the PSOs might be staffing the hovercraft stations. I am not too sure. We might all be teleporting in 50 years, so there might not be any need for that security. I will finish my remarks there.

Ms PENNICUIK (Southern Metropolitan) — The Justice Legislation Further Amendment Bill 2011 basically makes three amendments to three current acts. The first of those is an amendment to the Criminal Procedure Act 2009 to allow police prosecutors to appear on behalf of protective services offices in Magistrates Court proceedings. The explanatory memorandum of the bill sets out that changes were made to several acts by the Justice Legislation (Protective Services Officers) Act 2011, which changed the regime for protective services officers in this state, allowing them to be deployed at railway stations. The provision in the bill before us was not included when that initial legislation was drawn up, presumably because of an oversight.

I remember at the time the bill was debated I foreshadowed that more amendments would be required, and lo and behold, here is the first of those, and I assume it will not be the last. I remind the house that the Greens did not support that bill and do not support the role of protective services officers across the railway system. It is our view that we need to staff the railway system with railway staff before deploying protective services officers across the system at great cost to the community.

The second act amended by the bill is the Major Crime (Investigative Powers) Act 2004. The bill will extend the operations of sections 49 and 50 of that act. Clause 4 of the bill relates to a change to the section dealing with contempt of the chief examiner and clause 5 relates to the no jeopardy rule. This is the second extension of the sunset clause on those particular provisions in the act. It was extended for three years by the previous government. Three years ago during the debate on that particular provision I raised the issue of the need for a formal review of the provisions, because the acts we are talking about, the Major Crime (Investigative Powers) Act 2004, the Police Integrity Act 2008, the Police Regulation Act 1958 and the Whistleblowers Protection Act 2001, all involve the use of coercive powers, and this is what this particular amendment goes to.

Without any explanation that there has been a review of the provision — certainly there was no explanation in the second-reading speech — this government is now proposing in this bill to extend the provision for another four years. The previous government extended it for three years. It begs the question: do we just keep extending this sunset clause every time it rolls out with no explanation whatsoever from the government and no review? If that is the case, why not just remove it altogether, because a sunset clause implies that there needs to be some review of whether the provision is working and whether it is required? That is why you have a sunset clause.

We are now in a situation where the sunset clause will have been extended for seven years. The Attorney-General did not go to this particular issue in the second-reading speech. It is of concern when no explanation is offered as to why that is to occur and no justification is proffered as to why the sunset clause should be removed or the provision remain as a permanent provision. We have been left in the dark as to why this is. I presume it has to happen now because it is going to expire, but there is no explanation as to why it is not being extended for only a year so that we could obtain some information from the public as to how the provision is working and whether it needs to be

amended, made a permanent provision or removed altogether. That is of concern. Four years is a long time — why not 12 months; why not two years?

The bill also amends section 2 of the Road Safety Amendment (Hoon Driving and Other Matters) Act 2011 to alter the commencement of certain provisions of the act that relate to the establishment of the personal property securities register by the commonwealth Personal Property Securities Act 2009, the implementation of which has been delayed. This seems a fairly straightforward and sensible amendment. We debated the required state amendments pursuant to that commonwealth act in the last Parliament. We understand those provisions and that the provisions under the Road Safety Amendment (Hoon Driving and Other Matters) Act 2011 cannot work without the commonwealth act being proclaimed, and it has not been. That amendment is not controversial.

As I said, the amendment to the Major Crime (Investigative Powers) Act 2004 has no explanation tied to it, and that is an oversight from the government. Perhaps a government speaker would like to go to that in their contribution.

In regard to the protective services officers (PSOs) rollout across the rail system that the Greens have not supported, it seems that there is a very costly recruitment drive under way. People who use the public transport system will have noticed advertising to try to recruit PSOs and billboards that ask 'Do you want to be a PSO?' and state that PSOs are needed on every platform at Flinders Street station and at other stations. I know there have been advertisements in the rural press such as the *Wangaratta Chronicle*, the *Mildura MidWeek* and the *Sunraysia Daily*. They have been running articles and advertisements for PSOs. We also read in the *Age* last month that 700 people have applied to be PSOs but only 10 have been accepted. There is obviously a big spend under way on the recruitment drive for PSOs, but there remain serious concerns about their powers and responsibilities, and practical arrangements to put them in place across the railway system are nowhere near completed.

I refer again to the serious concerns with their powers and responsibilities, which I raised at length during the debate on the Justice Legislation Amendment (Protective Services Officers) Bill 2011 earlier this year. As the explanatory memorandum outlines, a provision in this bill makes an amendment to allow police prosecutors to appear on behalf of protective services officers in Magistrates Court proceedings on issues that might arise because of the exercise of their extended enforcement powers. Their extended enforcement powers have been an issue of much concern to many in the community, including all of the legal groups, all the community legal centres, the Human Rights Law Centre and the Mental Health Law Centre. All of these bodies have raised concerns about the extended powers given to PSOs under the PSO bill and with the lesser training that PSOs will undergo.

I again qualify my remarks by stating that the PSOs we see around us here in Parliament do a fabulous job, and I respect the work that they do on our behalf in protecting us. However, this is what you might say a rarefied atmosphere; it is not a railway station, which is a much less controlled environment.

The PSO bill confers on PSOs many powers that previously were held only by sworn police officers, and that is a concern. This might seem like a simple provision, but the question to ask is: what extra work is going to fall on police prosecutors as a result of the use of PSOs, who are less trained than sworn police, with their extended powers in their role at railway stations where they could come across any sort of situation involving vulnerable people, involving people in crisis or involving young people? Yesterday we heard very strongly, very sadly, when the state coroner, Judge Jennifer Coate, outlined her findings at the conclusion of the inquest into the death by police shooting of Tyler Cassidy on 11 December 2008, that her major finding and urgent recommendation is that police urgently need training on how to deal with youth — with young people. She said that this was urgent and that police did not have the required training to deal with young people. Now PSOs, with a lesser level of training, are going to come across young people all the time on railway stations.

The coroner also said that police urgently need training to deal with vulnerable people in crisis and that her inquest found that they did not have the required training in place to deal with that. Therefore, while it seems like a simple provision, there is a lot that surrounds it and will come from it that is of concern to the community.

In his second-reading speech on the PSO bill the minister said that recruitment standards for PSOs will be as high as for police officers. We know that it does not take as long to train as a PSO as it does as a sworn police officer, and it is interesting to look at the exam that PSOs and police must take as part of their recruitment process. If you look at that exam, which looks at things such as spelling, comprehension, mathematics, reasoning ability, English skills, writing and so on, the pass marks for those particular items are higher for sworn police than they are for PSOs. This is

not to cast aspersions on PSOs, but it is to ask the question: if the government is saying that the recruitment process and standards will be the same for police officers and PSOs, why are the pass marks different? If the standards were the same, one would think the pass marks would be the same. However, in this test — and this information is available on the VETASSESS website — the police pass mark for spelling and comprehension is 20 out of 30, while the PSO pass mark is 15 out of 30. For mathematics the pass mark is the same, but for reasoning ability it is 34 out of 54 for police and 30 out of 54 for PSOs. For English skills it is 42 out of 70 for police and 35 out of 70 for PSOs, and for the writing task it is 35 out of 50 for police and 25 out of 50 for PSOs. I suggest that if the standards are the same, the exam standards should reflect that and thus the pass marks should be the same.

Mr O'Brien — Sounds like a great statistical survey.

Ms PENNICUIK — It is not a survey, Mr O'Brien. These are the exam pass marks that are set for police officers and protective services officers.

Mr O'Brien — You are running down PSOs again.

Ms PENNICUIK — No, I am not. I am saying they should come up to the same pass mark.

The provision regarding police prosecutors representing PSOs raises another question: how much work is it anticipated this amendment will create for police prosecutors and what cost would be associated with this work? I do not know if the government has done any work on that. I am happy to hear what Mr O'Brien might have to say in that regard, because this provision will have an impact on the role and daily work of police prosecutors once PSOs are rolled out across the system.

We also know that initially PSOs will only be rolled out to the city and inner suburban stations. It appears that the reason for that is that they are the only stations that have facilities for PSOs to use; for example, toilets. We know that only one-third of railway stations across the metropolitan system have functioning toilets. The outer suburban stations do not have amenities such as rooms with basic facilities in them. All those types of facilities have been closed down and the stations are not staffed.

That is the problem with railway stations: they are not staffed and they do not have any facilities or amenities. That is one of the problems causing people to be upset and dissatisfied with the public transport system, not to mention overcrowding, infrequency of services and a lack of connection between trains, buses and trams. These are the major problems with the public transport system that need to be fixed. The government has not allocated any money in this budget to fix these problems, but it is allocating millions of dollars to roll out protective services officers across the railway system when they are not needed.

One provision in this bill is of concern because of the powers that have been extended to PSOs. Unless the government wants to advise me that PSOs will undergo the same training as sworn police officers, the public is still to believe they do not have the same training. As we canvassed in the earlier debate, the exercise of those powers in designated areas is not cut and dried — it is not black and white. In the committee stage of the PSOs bill Mr Dalla-Riva conceded that if a PSO witnessed an offence occurring outside the designated area to which their powers are confined by the legislation, they could use their powers outside the designated area. That is a great concern, and provisions in this bill go to that concern regarding police prosecutors and the evidence and appearance of protective services officers in the Magistrates Court — or any other court, for that matter. It may seem like a straightforward bill, but there are a lot of issues that come out of it. Nevertheless the Greens will not oppose the bill.

Mr O'BRIEN (Western Victoria) — It is a great pleasure to rise to speak on the Justice Legislation Further Amendment Bill 2011. It is a relatively short bill, and I will confine my comments to a brief summary of the bill in response to the other speakers. The bill has three purposes: to amend the Criminal Procedure Act 2009 to allow police prosecutors to appear on behalf of protective services officers (PSOs) in Magistrates Court proceedings, to amend the Major Crimes (Investigative Powers) Act 2004 to extend the operation of that act and to amend the Road Safety Amendment (Hoon Driving and Other Matters) Act 2011 in relation to the commencement of certain provisions of the act.

Firstly, I will deal with the Criminal Procedure Act 2009. As has been outlined, clause 3 of the bill will amend section 328 of the Criminal Procedure Act 2009 to allow a police prosecutor in criminal proceedings in the Magistrates Court to represent a protective services officer. Currently that section applies only to members of the Victoria Police, and this amendment is a consequence of the extended enforcement powers given to PSOs as a result of the Justice Legislation (Protective Services Officers) Act 2011. It builds on the commitment made prior to the last election to make Victoria's train network safe again by putting PSOs on every train station in metropolitan Melbourne and the major regional centres. This is where I will take up the

series of queries that have been raised by the Greens and, to a lesser extent, by Mr Leane.

I accept Mr Leane's categorisation of the rolling out of the 940 PSOs and the other major commitments that the Baillieu government has made in relation to keeping Victoria's streets safe as a significant jewel in the police platform that the current government took to the last election. It relates to not only the 940 protective services officers but also to the 1600 additional police and 100 transit safety police who will be in place by November 2014 and not in 40 years as was suggested. It also relates to the new police stations which will be built and the upgrades to be made to existing stations where they are most needed. Also it relates to the reforms that have been made in the area of law and order: increased truth in sentencing, respect for our community and, most importantly, protecting against violence.

I was somewhat taken aback — I was going to say 'bemused', but it is more serious than that. The question raised by the Greens was: what extra work will be imposed on police prosecutors as a result of this relatively small amendment? The extra work will be bringing to justice criminals who have up to the present evaded our justice system on our train networks and have committed acts of violence unchecked under the 11 years of the former government. Yes, there will be some extra work, but that extra work will have an important safety component for our community. It will bring to justice the very people who have so far eluded justice. We all know of the horrific crimes — the muggings, the bashings, the violence — that have occurred on our train network, unprovoked. It has been a major concern to Victorian citizens, and it is a major reason why the coalition is now the government. We will be respectful of the additional prosecution aspects of it. This bill is important in terms of the cost efficiencies, because it in effect allows a police prosecutor appropriately trained in bringing charges to court to step in in Magistrates Court cases.

In relation to the training questions that Ms Pennicuik asked, the PSOs deployed on the rail network will receive enhanced 12-week training, which includes two days of specialist rail safety training. The PSOs will also receive operational tactics and safety training, comprising a week of blocked firearms training and a week of defensive tactics training, which is spread out over the course.

This training is designed to better equip PSOs stationed on the rail network to work with the additional powers they will receive. PSOs are also given the same operational tactics and safety training as police, and they are required to requalify in this area every six months in the same way that police are. PSOs also receive community engagement and diversity training similar to the training provided to police members. The additional training police receive is targeted at the broader range of powers and responsibilities police have in protecting the community. PSOs are deployed on the rail network and perform a narrower range of duties — —

Ms Pennicuik interjected.

Mr O'BRIEN — They exercise a narrower range of powers and do not require the same training periods. For that reason, PSOs do not receive the specialist training that police prosecutors do which enables them to exercise prosecutorial functions in a court context. Accordingly the PSOs will not be in a position to prosecute matters in the Magistrates Court. This short amendment will enable that to be efficiently carried out so that the costs are mitigated in a sensible way. The costs to the community of violence have been unchecked under the previous government, aided and abetted by the attitude of the Greens.

I heard Ms Pennicuik say that the PSOs are not needed. We think they are. They will do a great job. I also note that this week the first 21-member team has commenced its training and that the recruits include two women. The officers range in age from 19 to 57, and the data shows an average age of 33. I commend the officers on their training, and I commend Chief Commissioner of Police Ken Lay, who said that the force had 65 recruits who had been assessed before joining the academy and 100 more who had passed the preassessment test.

Before turning to the amendments to the Major Crime (Investigative Powers) Act 2004, I will briefly respond to Mr Leane's contribution, which was relatively short — and I commend him for that. I am reminded of the great Brian Shaw, QC, who said the best advocacy is advocacy that is brief. Perhaps Mr Leane might step up to the plate more often for the Labor Party on some of these bills.

Ms Pennicuik — Is Mr O'Brien taking a swipe at me?

Mr O'BRIEN — No, I am probably taking a swipe at myself, Ms Pennicuik. I am complimenting Mr Leane, so we will leave it at that. The Major Crime (Investigative Powers) Act 2004 will authorise the use by Victoria Police of coercive powers to investigate organised crime offences and establish the statutory office of the chief examiner. Clause 4 of the bill extends

the sunset provision in relation to the power of the chief examiner to deal with a person for contempt for a further four years, to 1 January 2006.

This legislation will also be subject to the Public Interest Monitor Bill 2011, which is listed for consideration later today. I will not pre-empt that debate, but the context of these reforms and the extension of the sunset provisions relate to another very important platform that the coalition government took to the last election, which was restoring law and order in relation to serious criminal investigation powers. The Independent Broad-based Anti-corruption Commission and the appropriate controls that need to be in place are part of that. To respond to Ms Pennicuik's question, 'Why do we not just do away with it?', the reason for the extension of the sunset provisions is that this is a serious power. As I understand it, there has only been one investigation where it has been needed.

Ms Pennicuik — I want to know why there is no review.

Mr O'BRIEN — The review will be included in the continual reviews occurring under all our legislation. It will be extended to 2016, and there will be opportunities to consider its appropriateness at that time. I also indicate that clause 5 similarly extends the sunset provisions in relation to section 52, which ensures that there is no double jeopardy where an act or omission is both an offence against an act and contempt of the chief examiner.

Finally, turning to road safety and hoon driving, this is a very simple provision to remove the default date of 1 February 2012 in relation to notice provisions. This is as a result of delays with the commonwealth Personal Property Securities Act 2009, which is at risk of being delayed beyond 1 February 2012. That is a complex piece of legislation, but whatever delays are occurring are occurring at the commonwealth level, and we need to make sure that this bill comes in at an appropriate time. With that, I commend the bill to the house, and I commend the Attorney-General for promptly bringing it to this Parliament.

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to.

Read third time.

SEX WORK AND OTHER ACTS AMENDMENT BILL 2011

Second reading

Debate resumed from 10 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Ms MIKAKOS (Northern Metropolitan) — I rise to speak on the Sex Work and Other Acts Amendment Bill 2011, and I note at the outset that the Labor opposition does not oppose this bill. The bill amends the Sex Work Act 1994, the Confiscation Act 1997 and the Confiscation Amendment Act 2010. The sex industry is legal in Victoria, and there is no doubt it is an industry that attracts strong moral views from all members of the community. Personally I have a strong abhorrence of this industry as I believe it is inherently exploitative of women. However, sex workers need to be afforded the same level of assistance as other workers in our state to ensure that as much as possible they are adequately protected.

I refer members to an excellent research brief prepared by the parliamentary library on this bill. It provides a very thorough and comprehensive snapshot of the long history of prostitution in Victoria. I do not propose to go through that long history, but I want to make just a few comments about it. Firstly, the brief gives a good historical overview in which we can see the shift in Victoria's prostitution laws from prohibition to regulation over the last few decades. The policy of prohibition and criminalisation continued in Victoria until 1984 when the Planning (Brothels) Act 1984 formally decriminalised licensed brothels and regulated the industry.

As we are all no doubt aware, despite the introduction of a licensing system, unlicensed brothels continue to operate. We have a number of both licensed and illegal brothels in my electorate of Northern Metropolitan Region. How we know there are illegal brothels is that there have been media reports about some local government prosecutions involving these brothels. A number of my local councils have attracted some adverse media comment about these issues in recent times — for example, the *Sunday Age* reported on 16 October that an enforcement officer from the City of Darebin had been stood down as Victoria Police broadened its investigation into illegal brothels and the alleged payment of bribes to council staff. This was on top of the already uncovered secret payments of $130 000 between illegal brothels in the northern suburbs and an enforcement officer from the City of Yarra. That was reported in that same *Sunday Age* article.

Those types of media reports are obviously quite alarming to the community. It is alarming to me that this type of thing has occurred in my electorate — that there have been illegal brothels to which a blind eye has been turned by certain individuals. I would certainly hope this legislation would provide greater capacity to crack down on illegal brothels in the community. I think that would be the community's expectation. I would hope that local councils draw upon and learn from the experience of the incidents I have just referred to and ensure that these types of practices are stamped out.

I also want to refer to some recent reforms that were made by the previous government. In early 2010 the then Labor government made changes to the Sex Work Act 1994 to allow Consumer Affairs Victoria inspectors to question people entering and leaving premises suspected of being illegal brothels to gain evidence that could be used to obtain court orders to shut down those illegal brothels. We doubled the penalty for operating an illegal brothel to more than $14 000 and required licensed brothels to display signs warning that sex slavery is illegal. The previous government was concerned about issues surrounding sex trafficking, and that is why it made a reference to the last Parliament's Drugs and Crime Prevention Committee, of which I was a member.

Mrs Coote interjected.

Ms MIKAKOS — Mrs Coote was also a member, and Mr Leane was a member. I believe we delivered an excellent report, which was entitled *Inquiry into People Trafficking for Sex Work* and which was tabled in this Parliament in June 2010. Whilst the reference given to the committee was related to sex trafficking and human rights violations in Victoria, it allowed us to consider other parts of the sex industry. As part of the inquiry, for example, the committee looked at the mobility of sex workers, licensees and managers across legal and illegal brothels. I was shocked, as I am sure other members of the committee were, by the prevalence of sex trafficking in our state and also by the amount of movement of not only workers but management between the legal and illegal brothel sectors. The inquiry received evidence about the existence of illegal brothels in our state, and tragically it also found that an unquantifiable but significant number of women are believed to be sex trafficked in Victoria.

Given the findings of that report, while the introduction of this bill seems to be an attempt to address some issues in the industry, I am concerned that it does not go anywhere near far enough. To date I have been very disappointed that there has not been a formal response by the government to the committee's report as to what measures it will take to implement the recommendations. I do not believe the bill will be able to tackle the problems that are prevalent in this industry. I note that one of the report's recommendations states that sex trafficking would be minimised if the Attorney-General's department and not the police was put in charge of brothel regulation. Despite this being a bipartisan report, the government has ignored the recommendations of this very recent report and made Victoria Police the lead agency for enforcing laws relating to the sex work industry.

There have been recent media reports around the issue of sex trafficking, and I particularly draw attention to an article published in the *Age* of 22 November entitled 'Plea to stop suspected traffickers running brothels', in which the family of the late Abraham Papo, who was bashed to death after confronting an alleged standover man for a sex trafficking syndicate thought to have been holding his Korean girlfriend, is highlighted. I take this opportunity to express my sincere condolences to the parents and family of the late Abraham Papo for the loss of what appears to have been a very courageous young man, who sought to assist a young woman who had been caught up in these terrible circumstances. The family has sought to raise greater awareness about the circumstances relating to their son's case. It has also sought to draw greater attention to circumstances which I think would be shocking to the vast majority of the Victorian public — that is, that in this day and age we have a form of slavery in existence in our nation.

Centuries ago William Wilberforce, who is someone I admire greatly, took a courageous stand to stamp out slavery around the world. We like to think that is all in the dim, dark past of British and international history, and therefore it is truly shocking to think that in this day and age we still have people who are being trafficked and forced to work in terrible conditions to provide sexual services to men in our state. I think these circumstances deserve greater public recognition and action by all of us and by governments at all levels.

I do not want to go into the horrific circumstances that are occurring in Victoria — I spoke about these matters at greater length when the report was tabled in the Parliament last year — but there are some horrible circumstances, and it is women, in particular women from South-East Asia, who are being trafficked to Australia through various rackets and provided to both legal and illegal brothels in Victoria. I urge the Baillieu government to take a more comprehensive approach in responding to these issues.

By contrast to what I see as a half-baked approach to this issue, I was very pleased to read yesterday that the federal Labor government has announced a $1.6 million commitment to tackle human trafficking, including sex and labour exploitation. In a media release issued yesterday by the federal Minister for Home Affairs, Mr O'Connor, four non-government organisations, each of which has a track record in delivering results for the victims of sex trafficking, will share in $1.4 million. One of the four successful organisations, with which I have had contact in the past, is Project Respect, which is based in Collingwood. I was very pleased to read that that organisation will be supported by the federal government in the very important work it does to support anti-trafficking activities and to support victims of trafficking. I will speak further about Project Respect later in my contribution because I think its work is very worthy.

I want to turn now to the system we have in place in terms of government regulation of the sex industry. Currently there are a number of agencies involved in regulating the Victorian sex industry. They include Consumer Affairs Victoria, Victoria Police and local government. I believe there has been longstanding ambiguity and in some cases buck-passing in regard to who is responsible for enforcement action relating to illegal brothels. Consumer Affairs Victoria has long argued that it is responsible for licensed brothels and that it has no powers in relation to the illegal sector as that is a police and local government matter. Victoria Police already has the power to take enforcement action in relation to all offences under the Sex Work Act 1994. In December 2008 Consumer Affairs Victoria entered into a memorandum of understanding with Victoria Police and the Municipal Association of Victoria to allow for coordinated and integrated enforcement of laws targeting illegal brothels.

The regulation of the illegal brothel sector was understood to be the work of local government, which has been known to use the services of private investigators to locate such establishments, and I know its investigatory techniques have attracted some media commentary in the past. I spoke before about the issues arising from some local government officials who have been under investigation in my electorate.

It is always important to note that when a government claims to be following through on its commitments — and it is claiming in this case that it is fulfilling particular election commitments — it is important that we drill down to the substance of what it is that it is actually doing by way of legislation. As I said before, this bill claims it will remove the confusion around the division of enforcement responsibilities, but I believe that where the government had room to build a mountain it has in fact built a molehill. It could have gone far further in responding to the sex trafficking report that was tabled in the Parliament, but I believe it has taken half-measures in relation to this issue and there are still questions that need to be asked regarding the resources of Victoria Police, which I will come to a bit later on.

The bill confirms the functions of the director of Consumer Affairs Victoria insofar as it is the body responsible for the compliance and enforcement of the legal — that is, licensed — brothel sector. For example, it will continue to enforce offences in relation to children not being allowed in brothels, advertising, safe-sex practices, workers infected with a disease, issues around consuming liquor in brothels, administrative matters in regard to licences and other regulatory issues. If the director is made aware of allegations of an illegal brothel, they must forward this information to Victoria Police. Each respective local council will now only be responsible for enforcing planning laws where brothels are operating in breach of planning requirements. They are able to take action in regard to breaches of the Planning and Environment Act 1987.

Currently section 86(1) of the Sex Work Act 1994 provides that proceedings for an offence against the act may only be brought by the director of Consumer Affairs Victoria, a person authorised by the director or a member of Victoria Police. Insofar as the main role of policing and enforcement with regard to illegal brothels is concerned, the bill amends section 86 of the Sex Work Act 1994 to make Victoria Police the lead agency for the enforcement of laws relating to the sex work industry. Victoria Police will now have the sole power to enforce the law in relation to the offences of carrying on business as a sex worker service provider without holding a licence or assisting in the commission of such an offence.

I find this curious given that the police have not wanted to play a role in regulating prostitution since the disbanding of the vice squad in the 1990s. In the past they have argued that local government and Consumer Affairs Victoria should be responsible. Most importantly, it has not been made clear what additional resources police will be given to take on this additional work. Despite this change, the second-reading speech for this bill states that:

> Consumer Affairs Victoria will remain primarily responsible for monitoring the compliance of individuals licensed under the Sex Work Act. The bill ensures that Consumer Affairs Victoria retains powers to bring proceedings for offences

> relating to the licensing scheme for sex work service providers …

In effect Consumer Affairs Victoria will police legal brothels and police will regulate illegal brothels, which was already the case. I cannot really see what new ground is being broken by this bill. As I mentioned earlier, the Sex Work Act 1994 already provides the powerful Victoria Police with the ability to take enforcement action in relation to offences under the act. This bill, taken in context with what is already provided for under the legislation, does not do much more.

I will address the issue of police entry powers. Clause 9 is important and will insert proposed new section 78A into the principal act. This insertion will provide police members with specific entry powers where there are reasonable grounds to believe premises are being used for the operation of a brothel without a planning permit. The bill provides Victoria Police members with the ability to apply to a magistrate for a warrant to search premises where a brothel is operating without a planning approval and to establish the admissibility of evidence obtained as a result of those powers in proceedings in relation to an offence against a section of the Planning and Environment Act 1987. These new provisions will cross over the work conducted by local government.

Proposed new section 78B provides that if this is done outside office hours, the Chief Commissioner of Police may authorise entry to the premises without a search warrant if they believe, on reasonable grounds, that the premises are being used to operate a brothel in contravention of section 126 of the Planning and Environment Act 1997. The chief commissioner must also believe on reasonable grounds that relevant evidence is likely to be lost if entry is delayed to the premises until a search warrant is obtained.

The effect of the bill is that brothels will now be considered illegal if they are unlicensed, or do not have a planning permit or both. It also means that Victoria Police will need to rely on advice from the relevant local council to determine if the premises are illegal. There are some issues in relation to matters of urgency. The mechanisms that will be available to Victoria Police in order to establish a breach under the act in order to gain access are unclear.

Clause 6 of the bill deals with matters in relation to the Business Licensing Authority Victoria and provides that where it is in the public interest the Business Licensing Authority must refuse an application for a licence to carry on business as a sex work service provider where that applicant has been convicted or found guilty of a disqualifying offence — that is, an indictable offence — that renders the grant of a licence to that person against the public interest. Previously only offences committed within the previous five years were taken into account. I would be concerned, for example, if a person were to be convicted of sex trafficking and then some years down the track that same person was found to be running a legal brothel. The proposed amendment will hopefully respond to those types of issues.

The bill changes the reporting requirements of the banning notice regime for clients which commenced on 1 January this year. It was a regime introduced by the former Labor government as a pilot program for 12 months. The banning notices were to extend police powers so that police would be able to ban those persons seeking services from sex workers in a prescribed area in St Kilda for up to 72 hours. Penalties for breaching that included an on-the-spot fine of about $238 or a maximum fine of $2389 if a prosecution took place in court.

We now see the government seeking to claim that it is implementing an election commitment without first doing its homework. As I said, this regime is a 12-month pilot program. Before the 12 months is even up and before any quantitative or qualitative data has been produced on the pilot's effectiveness or otherwise, the coalition is steaming ahead and extending the regime for a further two years. We recognise this was an election commitment, but as this is a pilot program, I would have thought the government would have looked at reviewing the data and considering its merits when it nears completion. The government has not done this. I have to say this approach is concerning, because it demonstrates a lack of willingness to really look at qualitative approaches to law and order issues. A quick headline is what this government is all about. Coalition members were happy to make comments regarding spin when they were on this side of the house, but we have seen a great deal of spin from this new government to date and very little action.

The other matter I want to deal with is the issue around the proceeds of crime legislation. Part 4 of this bill deals with amendments to schedule 1 of the Confiscation Act 1997. The changes expand the summary offences under the Sex Work Act 1994 to which the court-ordered forfeiture powers apply. The bill also amends schedule 2 of the Confiscation Act 1997 to insert new clauses to expand the offences for which automatic and civil forfeiture is available.

The amendments to the Confiscation Amendment Act 2010 are not related to sex work but propose to repeal changes made last year, which have not yet come into

effect, for orders to defer a declaration of property interests. Effectively the changes in this bill will take the Confiscation Act 1997 back to what it originally was. This is apparently a response to Victoria Police concerns about spurious claims being opened up by the earlier changes. I would be interested in any further information the government can provide around these issues.

I come now to the critical issue of concern as I see it, and that is the issue of resources. I know that the issue of additional resources for Victoria Police is a concern held not only by the opposition but also by the Victoria Police Association. It is clear now that this bill aims to make Victoria Police the lead agency in dealing with issues affecting the brothel industry, yet the bill makes no reference to providing additional resources for Victoria Police to fulfil this role. This is quite concerning given the recent bungling of the government's protective services officers regime, which we have seen has had a $50 million cost blow-out and is no closer to being implemented. This new bill will put greater pressure on the workload of Victoria Police in responding to policing matters. I will revisit this issue later in the committee stage of the bill, because it is important that the government provides some reassurance on these matters.

The coalition's election policy platform makes reference to the fact that gross human rights violations occur in both legal and illegal brothels in Victoria, but this is as deep as its policy, and now its legislation, goes. We have heard from the coalition government that it will deal with the exploitation of women, sex slavery and prostitution in a more concerted fashion but we have not seen that in this legislation. Sex slavery and prostitution is not just about law enforcement, it identifies a much larger social problem. I believe it requires a whole-of-government approach as it touches upon a range of complex issues. That is what the Drugs and Crime Prevention Committee report tabled in Parliament last year found.

Sex workers require a great deal of help, and it is concerning to me that programs which have proven very successful in providing this much-needed support are at risk of losing their funding. The Pathways to Exit program, established in February last year, is run by the Inner South Community Health Service. This government-funded program is reported to have achieved outstanding results, with 31 per cent of women who participated having reduced or ceased sex work and 23 per cent having reduced or ceased drug use or accessed drug treatment. In addition, 65 per cent of participants were provided with counselling, 42 per cent went on to enrol in study, 27 per cent received housing support, 23 per cent had accessed employment services and 19 per cent were volunteering or running their own businesses.

I also want to say in relation to that matter that Martin Foley, the member for Albert Park in the Legislative Assembly, has been an excellent advocate of the program. The program was funded through Consumer Affairs Victoria and the Department of Justice for two years, and that funding will expire in February 2012. It would be a great tragedy if the program fell through because of a government agency change, and I will be seeking some assurances from the government that it will continue funding this very successful program.

Another organisation of which I am aware and which I mentioned earlier in my contribution to the debate is Project Respect, which is a not-for-profit organisation that aims to empower and support women in the sex industry via outreach and intensive case management services. It was established in 1998 and specialises in providing support to victims of trafficking for prostitution through a number of outreach programs. I met with this organisation during the time Labor was in government, both when it was giving evidence to the Drugs and Crime Prevention Committee and privately.

Earlier this year I wrote to the Minister for Women's Affairs, Mary Wooldridge, about this organisation, and I received a response some six months later. As I noted in my letter, the demand for Project Respect's services is increasing. In 2009–10 its two outreach workers were able to regularly visit 59 of Victoria's 90 legal brothels, contact 546 women in the sex industry and provide 884 hours of case management support. There are estimated to be 10 000 women in the Victorian sex industry, so the challenge this organisation faces is immense, and I give it great credit for the work it has done to date. If it had some additional support, obviously it would be able to do even more work in this area. The issue I raised with the minister was the funding for this organisation. Recurrent funding would allow it to employ additional workers, improve its services and allow its outreach workers to visit up to 90 per cent of legal brothels in Victoria. It would also enable it to expand its services to include other sex industry sectors, such as escort agencies.

The committee's inquiry was very supportive of the work of Project Respect, and it would be fair to say there was bipartisan support for strengthening funding to such organisations. However, I was very disappointed in the response I received from Minister Wooldridge. She assured me in her letter that the government will be offering assistance to sex workers, but in her response she made no specific commitment

in relation to core funding to Project Respect that would enable it assist more women. In light of the federal government's announcement yesterday about funding for this organisation, I hope the government moves on this issue and I hope the state government also moves by providing some additional resources.

In her written response the minister assured me that the government was considering the recommendations made by the Drugs and Crime Prevention Committee through its inquiry, but I must point out that we are nearing the end of 2011, yet we still have no word on when the government will respond to the report tabled in June 2010. That response needs to happen soon, particularly in light of the bill before us. We need to have a response that will give people an assurance that there will be a broader response to the issues of sex trafficking beyond the measures contained in this legislation.

I am supportive of any measures that aim to tackle issues relating to prostitution and sex slavery. I commend the programs and support services that are out there in the community for the great work they do in providing opportunities and resources where otherwise there might be none. I sincerely hope the government does not let lapse such groundbreaking programs as Pathways to Exit and that it supports the work that that program and organisations like Project Respect offer in protecting some of the most vulnerable women in our community.

I will be looking with interest to see just how this government will achieve the expectations it has created with regard to dealing with issues around sex slavery and prostitution in Victoria. This is just one step on that road, but a great deal more work needs to be done.

Mrs COOTE (Southern Metropolitan) — It gives me great pleasure to speak on the Sex Work and Other Acts Amendment Bill 2011. This bill is another example of the coalition government delivering on its pre-election commitments. It is important legislation, as this area of law deals with some of the most vulnerable Victorians. Much research has been done into sex work and people trafficking sex workers, including the parliamentary inquiry conducted by the Drugs and Crime Prevention Committee, which made its recommendations in June last year. This bill builds on some of those recommendations.

At the outset I will be up-front in commending Ms Mikakos on her contribution; it was very thorough. I have worked closely with Ms Mikakos, and indeed with Ms Hartland, on issues surrounding vulnerable women and sex workers in this state, and Ms Mikakos has recognised a great deal of that work. However, I have concerns about some points she raised, and I will deal with them in my contribution to the debate.

It is very interesting to look at the sex work industry in Victoria. The first red-light district, not far from here, was called Madame Brussels Lane and was exactly where the Department of Human Services building is on Lonsdale Street. Madame Brussels Lane is connected with this Parliament in several ways. As many in this chamber would know, the mace from the Assembly disappeared at one stage, and it was largely thought to have been taken down to Madame Brussels Lane and melted down. It was not done by anyone in particular; it seems several people were involved. The parliamentary library contains a commendable work entitled *Who Stole the Mace?*, which was written by a former Usher of the Black Rod in this place. I encourage people to have a look at it, because it is interesting to read.

However, it is important to understand that illegal sex work in the city was cracked down on some time ago, and once that happened it moved to St Kilda. Sex work has been an issue in some parts of St Kilda since the 1930s. I have had a lot to do with these matters. I was a member of the Attorney-General's Street Prostitution Advisory Group under the last Labor government as a local representative of my constituents. I have enormous respect and concern for the people who live in and around Blessington and Grieves streets and other streets on the corners of which illegal sex workers work.

It is interesting to note that the time I worked on the advisory group coincided with a heroin epidemic, and the girls who were street workers were usually heroin addicts as well. Often they were supporting not only their own habits but also those of their boyfriends. One young man happened to say to me when I was speaking to him, 'My bird was out there last night; she earnt $450 in cash, and we'd shot it up our arms by 9 o'clock in the morning'. That sort of culture has somewhat changed, but we are still dealing with vulnerable people who are being exploited, either by people close to them or by rackets or organisations, and it is something that we have to deal with.

It is all very well to say that illegal sex work has happened in St Kilda since the 1930s. Indeed some of the street sex workers would say to local residents, 'We've been here longer than you have, and we won't be leaving'. That is not the point; the point is dealing with an issue that is multifaceted and very concerning, because on the whole the street sex workers are not there for the fun. Street sex workers, particularly, are

there because they are supporting a drug habit of their own. They may be homeless, they may have mental health and drug issues and they may have disability issues, including intellectual disabilities, but many of their problems are multifaceted. It is important for us to understand the types of people with whom we are dealing; therefore the legislation we are looking at is very important to understand, because it looks at a whole range of clarification and support in an area that is not always easy to deal with. The area of sex work is frequently contentious, it is little understood and indeed it captures the attention of popular media, which skews a lot of what are the basic aspects of this very complex issue.

Local residents of neighbourhoods where prostitution takes place are vehement in their approach. Prior to the election some of them spent a lot of time in my office in Port Melbourne talking about the issues they were experiencing. I commend my constituents, because they are not out there saying, 'This has got to stop', and trying to make it more harmful for the girls themselves. They are trying to come up with some productive opportunities and solutions. This has been the history of the people I have worked with in my electorate; they have been trying to work constructively with the sex workers to see what can be done about making a difference, and that is why this legislation is so important.

A couple of very interesting reports have been made about these matters, including one produced in 2009–10 by a collaboration between RMIT University and the Inner South Community Health Service. The report came about as a result of a survey that was conducted of street sex workers, mostly in St Kilda. A large element of the bill we are discussing today is about illegal brothels and sex trafficking, but it is important to understand what the sex workers on the street are actually dealing with.

There is one fascinating aspect of illegal sex work I would like to put on record. Legal brothels are strictly regulated. Sex workers are tested for drugs and alcohol and are closely monitored, so it can be difficult for drug takers to work 10-hour shifts. No alcohol is permitted in legal brothels, and protected sex is the rule. Interestingly the legal brothels also conduct STD (sexually transmitted disease) tests, and the prostitutes themselves conduct STD checks with ultraviolet lights prior to commencing their business and have been known to detect a number of STDs. However, what goes on in these places is protected penetrative sex.

The issue on the street, which was found through the survey conducted by RMIT and Inner South Community Health Service, is that of the 100 sex workers surveyed, to which 89 responded, only 2 had not been asked by a client to provide unprotected penetrative or oral sex and 39 of those street sex workers had agreed to this. We really have to try to change this attitude. Of course the punters who want to have unprotected sex are going to go for the girls on the street or the people who are more vulnerable than the legal brothel workers. We have got to start talking and thinking about how we deal with this. It is not pleasant and not easy, but that is what we are going to have to do.

I have to talk about the banning notices implemented by the former government. Ms Mikakos spoke of these at length, but she intimated that it was for reasons of spin or headlines that the coalition made an election promise relating to banning notices. I assure her that that is very far from the truth. I have been personally involved with this issue, and I know that we are very dedicated to it. Ms Mikakos will acknowledge, I am certain, that I have been an advocate of finding a solution to this issue for a significant time. There was no spin involved with this; this legislation is a very real answer to a very real problem. I was pleased to see the banning notices pilot program implemented by the former government, and I am an advocate of these banning notices. It is not for headline-seeking reasons that I am doing this, nor was the coalition government encouraged to do this for that reason.

Ms Mikakos said we should have done our homework on the results of the pilot program before we came into this place to reinforce these banning notices. That is absolutely absurd. I think Ms Mikakos is clutching at straws. She thinks that because she is in opposition she has to come up with something negative and that that will do. Quite frankly I think that even in her quietest moments Ms Mikakos would have to agree that increasing and continuing the banning notices is a good thing. I do not have cold, hard empirical evidence, but I do know from speaking to local constituents and local police that residents living in the neighbourhoods frequented by these men — and I am going to call them sexual predators, because that is what I think they are — have experienced a decrease in the number of curb crawlers, which is a very positive thing. They also believe that there has been a dramatic drop in the number of robberies in the area. I cannot say to Ms Mikakos that we have got empirical evidence, but we certainly do have local evidence that changes are happening.

Ms Mikakos brought up on several occasions the question of whether the coalition government will be responding to the excellent report of the previous Drugs

and Crime Prevention Committee, of which she, Mr Leane and I were members, on the inquiry into people trafficking for sex work, which was tabled in June 2010. As I have said before in this place, this was the first inquiry of its kind in Australia, and it has highlighted illegal sex trafficking as an issue. The coalition government is acting on the recommendations that came out of this inquiry, particularly recommendations 4, 10 and 19. That is what this legislation is about, and one of the big issues it resolves is the clarification of who is responsible for what. There was confusion about whether it was local government, local police or the Australian Federal Police. Who was going to be responsible? This bill actually clarifies that. Ms Mikakos acknowledged that in her contribution, and I am certain Ms Hartland will as well.

The other issue is the exit strategies. I have been talking about exit strategies in this place for a significant time. I can remember saying a long time ago that Thailand had a very good program giving hairdressing skills to prostitutes so they had a skill that they could use in the wider community. The recommendation was that non-government organisations be encouraged and resourced to establish and further develop exit strategies to support trafficked women wanting to leave the sex industry. We are funding an effective exit program through Consumer Affairs Victoria, and it is provided by RhED (Resourcing Health and Education), which is a support centre in St Kilda. The *Age* was very complimentary of that and on 3 October said that there is already a waiting list at RhED and that people are queuing up to find out how they can engage with this very productive exit program.

I know Ms Hartland has some amendments, and I have to say that the government is very respectful of these amendments that Ms Hartland is going to bring to the table. She has given me the courtesy of sharing those amendments with me prior to today's debate, and indeed she explained what is behind the amendments. As I have explained to her — and she has not circulated them formally in the house yet — I would like to acknowledge that the government is very pleased with the sentiment behind those amendments. I thank her for bringing them to the chamber. We will be able to do this in committee, but I would like to explain that I feel that the bill already covers much of what she is intending in her amendments. I do not want to pre-empt the amendments, but I have to say on the issue of sending the bill off to a parliamentary committee to have a look at it that this is a time-contingent bill and we do need to get it through as quickly as we can. I am certain that Ms Hartland will respect that issue, because the bill is contingent on the Confiscation Amendment Act 2010. It is incumbent upon us to pass this bill today so that the Confiscation Amendment Act 2010 and its provisions can be dealt with. I know Ms Hartland will bring this up in committee, and I would like to reassure her in my contribution that the government will be very respectful of what she brings into this place.

It is a great pity that I have only 56 seconds left, because, as this chamber knows, I am a great advocate for helping and assisting the legal sex workers, the illegal sex workers and vulnerable women in this state. I have long been a supporter of the sex industry, the prostitutes and the women who are, for whatever reason, in such a vulnerable state that they need to prostitute themselves to support whatever it is that is concerning in their lifestyle. It may surprise this chamber that these are not always women who are drug affected or experiencing mental health issues or homelessness. There are myriad reasons, and it is incumbent upon us to continue to be vigilant and to work with those women to make certain that we can give them hope for the future and pathways out of this industry. We are going to work constructively together. This is good legislation.

Ms HARTLAND (Western Metropolitan) — The Greens, while we welcome any bill that has an impact on internationally recognised human rights violations, are concerned that this bill only makes it slightly harder to traffic people. It provides slightly greater financial penalties for human right violations. I think anybody who has been taking note of the media in the last few weeks and anybody who watched the recent *Four Corners* program could only have felt quite overwhelmed by what happens to these women when they are trafficked. We have to remember that these women are being trafficked into legal brothels. These are brothels that have licences under state law. These are not illegal brothels that we are talking about. That was what I found most disturbing about the *Four Corners* program. Often people talk about the need to clean up the illegal brothels, but we are actually talking about legal brothels here.

I have to say I do not understand why the government has not taken the opportunity to say that the trafficking of women and the violence it represents is not on and to bring in some legislation that has real teeth. The government has not responded to the Drugs and Crime Prevention Committee's final report on its inquiry into people trafficking for sex work, which was tabled in 2010 — nearly a year and a half ago. I am aware from the extremely good briefing that I received from the department that the government will do so soon, but I am concerned that the inquiry's excellent report has not been used to inform this legislation. The report, which a number of members of this house worked on — Jenny

Mikakos, a member for Northern Metropolitan Region, Andrea Coote, a member for Southern Metropolitan Region, and Shaun Leane, a member for Eastern Metropolitan Region — is a pivotal piece of work that has outlined the problems.

In a debate a little while ago on other legislation government members said they want to get tough on crime. The government is always saying it wants to get tough on crime, but this legislation is soft on crime. That is why I will move for this legislation to be referred to the Legal and Social Issues Legislation Committee. I need to explain to the house that in consultation with the Labor Party I have decided to change the date in that referral. I acknowledge the problems in terms of the Confiscation Act 1997, so I have set the date for the committee to report by to 8 December. I know that is a very short time frame, but our upper house legislative committees should be used to scrutinise legislation and should be able to manage a quick turnaround time.

If the referral does not succeed — and I understand the government will not be supporting it — I will circulate Greens amendments that, if agreed to, would toughen up the law by making it easier for police to act quickly to suspend a licence if a person has been charged with a serious offence and to suspend the use of a permit for a brothel if the relevant licence is suspended. I will speak to those amendments at the appropriate time.

Firstly, I want to talk about licensing generally. When I looked at the Sex Work Act 1994 I was struck by an internal inconsistency. Section 37(1)(a) provides that the authority must refuse an application if the applicant is not a suitable person. Section 38(1) sets out what is meant by a suitable person. The definition is fairly broad and includes whether the applicant or the applicant's associates are of good repute, having regard to character, honesty and integrity, whether the applicant will have in place arrangements to ensure the safety of persons working in the business, whether the proposed business structure is significantly transparent and so on.

These provisions are aimed at creating safe working conditions and preventing organised crime, but what if the police gather new evidence that very serious organised crime is happening at a licensed premises or that arrangements are no longer sufficient to ensure safety and transparency? Once a licence is granted, it cannot be cancelled simply because the licence-holder or their associates are no longer known to be of good repute, having regard to character, honesty and integrity. For a licence to be cancelled, there needs to be a specific breach of a licence condition or the person must be found guilty or convicted of an offence under section 47. An application may be made to revoke the planning permit or to revoke the licence, but the hearings could drag out. Currently there is one such application before the Supreme Court on appeal. I will not go into the details of that matter since it is before the court.

I understand the need for procedural fairness, especially where there are businesses at risk, but there are times when it is necessary to act quickly, and there have been times when this government and the previous government have been able to balance the need for procedural fairness with the urgent need to prevent crime — for example, the Bracks and Brumby governments instituted a series of reforms on family violence. Those reforms included giving the police the power to act quickly to remove someone who was suspected of committing family violence and to protect a person they suspected was at risk of family violence. These changes were not only tough on crime, they also prevented crime, and the Greens supported them.

More recently the Baillieu government legislated to give the government the power to act quickly and place a 12-month ban on new synthetic drugs as they appear. In that case the idea was to prevent drug-related harm for the period it took to do adequate research to determine if a permanent ban was in order, and the Greens supported that. Some provisions of the sex work act reflect a need to act quickly to prevent crime. For example, section 21 of the act gives the police the power to ban a person for up to three days if the police member suspects on reasonable grounds they are committing or have just committed a relevant offence within a declared area.

Under section 21C(3) of the act the police must believe on reasonable grounds that giving the notice may be effective in preventing or deterring a person from committing a further relevant offence, but there is nothing in the legislation to enable the police to act quickly and shut down a brothel if they have reasonable grounds for believing that crimes against humanity are being committed. I do not believe that the words 'crimes against humanity' are too strong in the case of women ending up as slaves. My amendments would give some ability to act faster if charges have been laid in relation to these terrible crimes.

I would like to have done more, but I had to come up with amendments within the confines of this very narrow bill. What I would have really liked, and we may as well record this for posterity, is for the Baillieu government to get tough on crime. The government has talked about a range of measures, such as armed guards

on train stations. I do not think that is being tough on crime; it is just posturing and portaloos. Another measure is frisking schoolkids and checking their bags, and there are fines for swearing — I do not understand that one at all.

The government is sitting on a report from a parliamentary inquiry which refers to organised crime in this state and to businesses that have permits and licences under Victorian law, including licences under the act being amended today. The main recommendation that requires legislation is the establishment of a coordination unit. That one change has a knock-on effect for most of the other recommendations. If I could amend this bill to include the establishment of a coordination unit, I would, but only the government can do this. You have to ask yourself why it has not been announced.

I will now set out some issues that I will ask the minister about in the committee stage of the bill. Serious allegations have made against people who have held licences under the Sex Work Act 1994, which indicates that existing provisions of the act are not working. Human trafficking is able to take place in the brothel industry, and I again emphasise the legal brothel industry due to the low levels of prosecution and conviction because the safeguards are not sufficient. New licences are being granted to people who are associated with businesses that have been subject to allegations of human trafficking and where violent incidents have occurred. I will give some examples.

I am about to cross a barrier that I have never crossed in this place and name a person I think should not hold a licence. I do not do this lightly. Lin Gao was a manager of a South Melbourne brothel at the time that Abraham Papo was struck with a tyre lever and killed outside of the brothel during a violent assault in February 2009. Mr Papo had attended at the premises to ask after his friend, who had called him making allegations that she was being held against her will and harmed.

Nobody has been charged in relation to his death, but the coroner's inquest is ongoing. It recommended a fresh police investigation, which has commenced so I will not make any inappropriate statements about the direct circumstances of his death or whether there is any link between Ms Gao and the person alleged to have struck Abraham Papo with a tyre lever. Abraham Papo went to the Oakleigh police station to report his concerns before he attended at the brothel. I wonder what would have happened if the police were trained in relation to allegations of trafficking in the way recommended in the inquiry report. I, along with Ms Mikakos, would like to express my deepest sympathies to the Papo family. I met Deanna Papo, Abraham's mother, in the last few days. This is a family which is not going to let this issue go. They are going to stand up for other people who are in this terrible circumstance. All I can do is express my respect for what they are doing.

Lin Gao was also the manager of a South Melbourne brothel when two women alleged they were held in sexual slavery. Australian Federal Police statements dating from as early as 21 May 2009 name Ms Gao, and they name a man who was involved in the violent dispute that led to Mr Papo's death. On 10 May 2010 Ms Gao was provided with a new permit by the former Labor government to manage a brothel called the Candy Club in Richmond. Again I emphasise that this is a legal brothel. In what universe are these unresolved allegations and ongoing police investigations not enough for Ms Gao or at least one of her associates to fail the test of being a suitable person who is of good repute, having regard to character, honesty and integrity? Given the horrific nature of the witness statements, how could that government possibly have believed that Lin Gao had in place arrangements to ensure the safety of persons working within the business?

Clearly there are serious questions to be asked about the adequacy of licensing under this act, but under this act managers and providers may come and go. If one is disqualified, another one will take their place. The greater challenge is to find a way to shut down businesses where serious crimes, including human trafficking, slavery and debt bondage, have occurred. As it stands, the provisions of the Planning and Environment Act 1987 are inadequate. In 2009 the Supreme Court heard evidence that in 2003 a woman was held in sexual slavery at 59 York Street, South Melbourne, and 43 Tope Street, South Melbourne. The two accused, the Ho brothers, were found guilty of slavery offences.

I have spoken before about allegations of sexual servitude in relation to 59 York Street, South Melbourne. Other allegations about trafficking in these brothels have been made over the years. The current provisions of the Planning and Environment Act 1987 make it almost impossible to revoke a permit even after charges have been laid. In my view this is the greatest legislative challenge at the heart of the human trafficking problem. Can this government find a way to get around the typical story of the permit-holder saying, 'I had no idea what was going on. I am shocked. I have installed a new manager. Be on your way.'? If the government can do this, I will be the first to stand up and support it.

The Greens amendments I will seek to move address the problem to the extent I was able to, given the confines of this rather narrow bill. It creates circumstances where a permit may be temporarily suspended if the licence associated with it is also suspended. This week I am responding to two consumer affairs bills: this one and one relating to liquor licensing. It is not lost on me that the one relating to selling alcohol to under-age persons creates a mechanism to suspend a licence, and rightly so, but the one on crimes against humanity does not.

The previous government created a new liquor licensing system with a scale of licensing fees related to the risk of harm and crime associated with the business and the history of adherence to licence conditions. This week we will debate the present government's reforms, which add a new system of demerit points with temporary licence suspensions, creating a strong financial penalty where business models result in breaches like serving alcohol to young people or people who are drunk. Why can we not have a licensing and permit system for brothels that includes an incentive to operate within the law and real financial penalties for business models that are against the law?

In conclusion, it is a troubling area of our society. I know that during the course of the Drugs and Crime Prevention Committee inquiry Ms Mikakos and Mrs Coote found there is a very dark underbelly where women are treated as commodities — people do not care about how they are treated. The things that really astounded me in reading the report of that inquiry and the statements is that the men who frequent these brothels do not notice that the windows are boarded up. They do not notice that there are padlocks on the doors. They do not notice that the women are so drug affected that they cannot give consent and they do not notice that the women do not want to participate in these activities. I think men need to take responsibility. When we think about the White Ribbon Day campaign about violence against women, we need to acknowledge that this is violence against women as well, and we need to step up to it.

I would like to finish by quoting Kathleen Maltzahn, who is an advocate for trafficked women and also a trusted friend. She says:

> It seems crimes in the sex industry are treated as administrative breaches, not the crime of violence that they truly are.

I am disappointed that the government has indicated it will not be supporting my amendments, but I truly urge the government to get on with the job and to look at other ways that it can legislate and change the culture so that police are given the power to stop this horrendous trafficking of women.

Ms DARVENIZA (Northern Victoria) — I am pleased to rise to make a contribution to the debate on the Sex Work and Other Acts Amendment Bill 2011. Along with Mrs Coote, Ms Mikakos and Ms Hartland, I have to agree that we are dealing here with some of the most vulnerable people in our community. They often, although not always, have a range of very complex social and health issues, particularly those who are working on the streets. Mrs Coote's electorate covers some of the streets around St Kilda which are frequented by sex workers, and I know she has had a passionate interest in this area for a long time. In fact Mrs Coote and I came into this place at the same time, and if my memory serves me right, this is an issue for which she has advocated and which has been close to her heart for a long time. I know she too has shared that passion with Martin Foley, the member for Albert Park in the other place. I see Mrs Coote is nodding. Mr Foley's electorate also covers some of those areas, and he too has been very active in this area. He has been a passionate advocate for change, not only for the benefit of sex workers who are working on the streets but also for constituents who live in the area.

My experience of the industry has been as a parliamentarian, but I also lived in St Kilda for some time, in fact on one of the beats, so I had some limited firsthand experience of life out there. With the kerb crawlers, drug dealers and the other unsavoury types that hang around those areas, we can understand why sex workers feel vulnerable and why they are at risk out on the streets, before they even start to do business with their clients. It is also a difficult situation for people who live in or close to that area.

When we were in government we took this issue very seriously. I know Mrs Coote has talked about what the Labor government did, as did Ms Mikakos. I know Mrs Coote was involved in a number of committees which were set up by Dick Wynne, the member for Richmond in the other place and a former Minister for Local Government and Parliamentary Secretary for Justice. Mrs Coote worked with the government then as it moved to put in place legislative changes as well as regulatory changes that would positively impact on sex workers, both those who were working on the streets and those who were working in legal brothels.

The opposition does not oppose the bill before the house today. It will support the amendments that Ms Hartland will propose. I will not go through this bill in a lot of detail, because I know Ms Mikakos has already put the opposition's position. However, I would

like to talk about a couple of parts of the bill and just generally what the bill seeks to do.

The bill seeks to clarify responsibility for the monitoring, investigation and enforcement of provisions of the Sex Work Act 1994. As Ms Mikakos has pointed out, clearly those responsibilities are going to rest with the police force. The bill is going to continue the ban on street prostitution and make other miscellaneous amendments, and it is also going to strengthen the proceeds of crime legislation in relation to illegal sex work activities.

As I have already said, in government we took the issue of prostitution seriously and changed legislation. In December 2008 Consumer Affairs Victoria entered into a memorandum of understanding with Victoria Police and the Municipal Association of Victoria to allow for a coordinated and integrated enforcement of the law, targeting illegal brothels. More recently, in 2010, Labor made changes to the principal act to allow consumer affairs inspectors to question people entering and leaving premises suspected of being illegal brothels to obtain evidence that could be used for court orders to shut them down. We also made changes that doubled the penalties for operating an illegal brothel to more than $140 000 and made changes that required licensed brothels to display signs warning that sex slavery is illegal.

In her contribution Ms Hartland talked about some of the disturbing evidence that has been aired in our media recently about illegal sex trafficking and the impact that has on those individuals. It appears from some of the evidence put forward by the media that women are being trafficked into not only illegal brothels but also legal brothels, which is of real concern.

It should be noted that Victoria Police already has the power to take enforcement action in relation to all offences in the Sex Work Act 1994, but the bill confirms the functions of the director of Consumer Affairs Victoria in relation to compliance and enforcement of licences for legal brothels — for example, offences in relation to children not being allowed in brothels, advertising of safe-sex practices, workers infected with diseases, consumption of alcohol in brothels, administrative matters in relation to licences and issues to do with regulations. If the director of Consumer Affairs Victoria is made aware of allegations of illegal brothels, they are required to forward that information to the police.

The bill allows the Business Licensing Authority, which licenses brothels, discretion to refuse a person with a serious criminal background from entering the sex work industry. Previous limitations meant that only offences committed in the last five years were taken into account. I support the change this bill makes so the person's whole criminal background, not just the last five years, is considered; it is a good change.

The bill provides Victoria Police with the ability to apply to the Magistrates Court for a warrant to search premises operating as a brothel without planning approval and establishes the admissibility of evidence obtained as a result of the exercise of those powers in proceedings for an offence against a section of the Planning and Environment Act 1987. It provides that outside business hours the Chief Commissioner of Police may authorise entry without a search warrant if there are reasonable grounds for believing that the premises are being used as an illegal brothel. The effect of the bill is that brothels will be considered illegal if they are unlicensed or if they do not have a planning permit or both. It also means that Victoria Police will need to rely on advice from the relevant local council to determine if a premises is illegal.

I want to talk about a concern that was raised by Ms Mikakos on behalf of the opposition, and that is police resources. The bill and the structural changes that will flow from it will clearly mean extra work for police, but I am not aware of the government making any provision for additional police resources. This additional work and structural change will bring greater pressure on our police force and police resources. Police need additional resources to go with the additional workload, powers and responsibilities, yet nothing in the government's submission goes to this issue. I am not sure how the government anticipates that this extra workload can be taken on by the police force without any additional resources being allocated. I would be interested to hear what the minister has to say about that in the committee stage. We also know that the Police Association has expressed concerns regarding the resourcing implications of the bill.

Ms Mikakos talked about a pilot program that the Labor government put in place to provide extended powers for the banning of those seeking services from sex workers from prescribed areas around St Kilda for up to 72 hours, with anyone who breaches such a banning order facing an on-the-spot $238 fine or a maximum $2389 fine if they are prosecuted in court.

The bill changes the reporting requirements for the banning notice regime and delays the end of the trial period from 31 December 2011 to 1 July 2014. Whilst on the surface it is probably not a bad thing that the trial be extended, there is a concern that this extension is not based on available data or any sort of assessment of

how the pilot program has worked. We introduced this pilot program because we believed it was worth conducting a trial and then looking at what the data said when it was completed. We are interested in the data, and we look forward to seeing it once it is collected and analysed after the completion of the extended pilot program. We hope the program has not been extended because of a lack of data collection, analysis or availability.

I would like to briefly mention the Pathways to Exit program. Again my concern is that this is a pilot project — —

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

Ms CROZIER (Southern Metropolitan) — It gives me pleasure to speak on the Sex Work and Other Acts Amendment Bill 2011 as this bill addresses many issues and affects many people, agencies and businesses within my electorate of Southern Metropolitan Region. I commend those speakers who have spoken on this bill, particularly Ms Darveniza, from whom we just heard; Ms Hartland; Mrs Coote; and Ms Mikakos, who gave a very thorough contribution earlier. Ms Mikakos said in her contribution that there was longstanding ambiguity surrounding these issues among the existing agencies — namely, Consumer Affairs Victoria, Victoria Police and the local councils which have responsibility. What this bill does is amend the Sex Work Act 1994, the Confiscation Act 1997 and the Confiscation Amendment Act 2010.

The bill will clarify the division of enforcement and prosecutorial responsibilities between Consumer Affairs Victoria and Victoria Police and improve the powers of Victoria Police to investigate and enforce breaches of the Sex Work Act 1994 and related provisions of the Planning and Environment Act 1987, which prohibit brothels from operating without requisite planning permits under that act. It also amends the Sex Work Act 1994 to tighten restrictions on people with serious criminal backgrounds entering the sex work industry as licensed sex work service providers. The bill amends the Confiscation Act 1997 to strengthen powers to confiscate the proceeds of property relating to sex work-related offences by expanding the sex work-related offences to which that act applies. Finally, the bill amends the Confiscation Amendment Act 2010 to address specific practical concerns in relation to amendments introduced by that act.

In essence, the bill will clarify, as I said, the responsibility for the monitoring, investigation and enforcement of provisions of the Sex Work Act 1994. It will continue the ban on street prostitution and strengthen the legislation in relation to illegal sex work activity. Sex work activity, or prostitution, has a long and colourful history in this state and in most societies, and that has been outlined by a number of speakers. Attitudes towards and laws to regulate prostitution have altered over many years. In some communities prostitution was viewed as a threat to public order and morality, and indeed in some societies it is still not tolerated in the same way that it is viewed and tolerated in our society. As I said, attitudes towards prostitution have certainly changed over the past few decades, but what has not changed are attitudes towards illegal sex activity, especially in relation to sex trafficking, which we have heard about in detail this morning.

This illegal activity conducted in our communities has been highlighted recently in some media outlets and programs, as has been referred to by a number of members this morning. It was highlighted very clearly on the ABC's *Four Corners* program, which reported on the large number of men who buy women for prostitution, and alarmingly, according to the program, some of those women have been trafficked. It was alleged in that program that many of the women in Victoria were trafficked within Southern Metropolitan Region. Women who have come to this country possibly expecting to have legitimate and legal employment have found themselves exposed and working in some very shocking circumstances.

The trafficking of women should not be tolerated by any society. In fact it has been raised at the highest levels, as Ms Mikakos very aptly pointed out in her contribution. The report prepared by the Drugs and Crime Prevention Committee, which has been referred to, contains a good introduction in relation to that issue being a crime against humanity.

Sex work is taking place, and in many instances Victoria Police is the lead agency that deals with the issues and situations arising out of both legal and illegal sex work activities, including the trafficking of women and also drug dealing and any proceeds of such illegal activities. As I have also said, there are a number of agencies that previously had responsibility for various aspects of enforcement in relation to sex work activities. This bill gives clarity to the division of enforcement responsibilities between Victoria Police and Consumer Affairs Victoria. It is far more appropriate that Victoria Police be the lead agency and that Consumer Affairs Victoria have responsibility for monitoring the compliance of those individuals licensed

under the Sex Work Act 1994. Consumer Affairs Victoria will retain its primary responsibility for monitoring the compliance of those individuals described under the Sex Work Act 1994. The bill will provide Consumer Affairs Victoria with the power to bring proceedings for offences relating to the licensing of sex work service providers.

As I said at the outset, this bill will affect many people within my electorate of Southern Metropolitan Region. Within that region there are some well-known brothels that conduct legal sex work activities. In fact I think there are approximately 28 legal brothels operating throughout the region, but there are also illegal brothels and street prostitutes. No-one knows the exact number, but an article that appeared in the *Sunday Age* in March entitled 'On the streets of St Kilda, police are cruising to curb the kerb crawlers' reports:

> Police say there are about 40 regular street prostitutes in St Kilda, many with $500-a-day heroin habits. The police's sights are now set on the women's clients, some of whom pick up sex workers at 5.00 a.m. for illicit trysts before they start work.

Unfortunately for many of those street prostitutes the style of work they do carries many risks. We heard of those risks during the contributions of Mrs Coote, Ms Mikakos and Ms Hartland, who talked about the vulnerabilities of those workers and the many issues they face. Sadly, only last month one of those street prostitutes was found dead in a laneway opposite my office in South Caulfield. It was very distressing, obviously, for the local business operators in that area, particularly for the person who found this woman, and the local police. I commend the local police for the action they took in relation to that issue and the police at a higher level for conducting their investigations.

In the report to which Mrs Coote and others have referred there is a recommendation that Victoria Police have a more flexible right of entry to brothels, legal or illegal, for monitoring purposes — that is, the ability to do spot checks. That will assist in looking at this issue in broader terms.

As others have said, there is a very good program, the Resourcing Health and Education in the Sex Industry program, which operates out of St Kilda. It aims to improve the health and wellbeing of sex workers right across Victoria. Ms Hartland referred to that program, and it does terrific work in supporting those people who are working both legally and illegally.

There is much to do to protect sex workers where possible. The proceeds from criminal activities, such as sex work-related offences, need to be dealt with appropriately, and there should be a requirement that sex work service providers obtain licences to conduct their business under the Sex Work Act 1994. As with any business, brothels need to have appropriate planning requirements, and they should be adhered to. Local councils have the authority to enforce planning laws in relation to a brothel's operation; however, it is appropriate that the police be the enforcement agency that can undertake proceedings against those brothels that are operating without a licence or are conducting illegal activities.

Ms Mikakos and other speakers have raised some concerns in relation to what the government is doing on this issue. I thought it might be of interest to them that the government has done a number of things. As we all know, the coalition has a longstanding election commitment to strengthen law and order in this state, and 1700 police are in the process of being recruited as we speak. Also in relation to this issue, the government has established a dedicated sex work task force, the Victoria Sex Industry Strategic Management Group, involving relevant state, commonwealth and local government authorities. Led by Victoria Police, the task force will oversee a multi-agency enforcement program designed specifically to target illegal sex work operations and related crimes. The program will utilise the multidisciplinary expertise of enforcement agencies such as state and federal police, immigration authorities and local councils. The task force's objective is to share data, intelligence and resources in order to identify, arrest and prosecute offenders.

In addition, the Drugs and Crime Prevention Committee report, which I have spoken about and which was tabled last year, contained 27 recommendations for Victorian government action and 3 for commonwealth government action. The response to that report was delayed by the change of government last year and is currently under development.

In relation to another issue, the Sex Work Ministerial Advisory Committee is an independent statutory body which advises the Minister for Consumer Affairs on sex work industry issues. The government has recently made appointments to enhance the committee's expertise in fulfilling this role. There are a number of things that the government has undertaken. This is a serious issue, as has been highlighted throughout the debate this morning.

In conclusion, this bill delivers on our election commitment to address and take action against criminal activities and elements in the sex work industry, which is expected by the community, and to provide

clarification about who is responsible for particular law enforcement roles.

Motion agreed to.

Read second time.

Referral to committee

Ms HARTLAND (Western Metropolitan) — I move:

> That the Sex Work and Other Acts Amendment Bill 2011 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 8 December 2011.

My reason for moving this motion is that this is an incredibly important bill. As I explained in my contribution, while the bill does cover a number of aspects, I am concerned about whether it is strong enough on the issue of trafficking. I also think the government should have used the report that already exists to steer this legislation, especially around the issue of trafficking. I take Mrs Coote's point that this would delay the bill in terms of amendments to the Confiscation Amendment Act 2010. However, the Labor Party has agreed to a reporting date of 8 December.

The other thing is that we should be using these committees to actually review legislation. That was the entire purpose for which they were set up. We should be able to do quick turnarounds on bills. This is an important bill, and the extra scrutiny can make it much better than it currently is.

Ms MIKAKOS (Northern Metropolitan) — The Labor opposition will be supporting the motion. As Ms Hartland has explained, we had some concerns about unduly delaying the commencement of the bill, particularly with the provisions relating to the confiscation legislation which do need to start operating early next year. However, we have suggested a way forward that I am pleased Ms Hartland has agreed to, which is to have a reporting date of next sitting week.

As I indicated in my contribution to the second-reading debate, we think there are a number of unanswered questions around the operation of this bill, particularly issues arising out of the Drugs and Crime Prevention Committee report into sex trafficking, which was tabled last year, that have failed to be picked up by the government and that could be addressed by the Legal and Social Issues Legislation Committee. We believe this is a relatively straightforward and short bill which could be looked at in the period between this sitting week and the next sitting week, and therefore it is quite reasonable to expect that the committee would be able to conduct investigations in that period of time.

We also want to put on the record that the Legal and Social Issues Legislation Committee is yet to be convened since this Parliament has been in operation. We supposedly had support from all parties in the last Parliament to introduce this model of separate legislation and references committees which would enable bills to be looked at on a case-by-case basis, in the same way that the Labor government supported the trialling of the Legislation Committee in the previous Parliament. We enabled a number of bills to go to that committee, and I believe that process value-added to the work of those bills and enabled this house to be better acquainted with the provisions of the bills that went before that committee.

We had a lot of commentary by members of the coalition yesterday afternoon around the Legal and Social Issues References Committee meeting not proceeding last night, so it is galling that we now have the possibility of them opposing a bill being referred to the Legal and Social Issues Legislation Committee, which would have the ability to consider this bill further. We will be supporting the motion for those reasons.

Hon. W. A. LOVELL (Minister for Housing) — The government will not be supporting the motion. We acknowledge that the Greens have brought forward their amendments in good faith and in good spirit, but we will not be supporting this referral motion because the reporting date of 8 December is actually the final day of the final sitting week for the year. This bill is time dependent in terms of amendments to the confiscation legislation. If amendments to this bill needed to be made, the date of 8 December would not allow those amendments to be made and for the bill to be passed through both houses of Parliament in time for the amendments to the confiscation legislation to be made. The government will therefore not be supporting the motion.

Ms HARTLAND (Western Metropolitan) — We either have upper house committees that can look at legislation or we do not. This government came into office on the basis of proposing transparency and showing how it would work. A little while ago I was told that a reporting date of March would be too late because the bill needed to align with the confiscation legislation, and now I am told the date is too short. We either have these committees and have scrutiny or we do not. This represents a problem we have with legislation that comes through this house that is incredibly important.

The Greens rarely do this. We do it for legislation we think is incredibly important but that needs to be improved because it does not quite work yet. That is the whole point of the committees. I therefore do not understand why the government is yet again refusing to allow scrutiny of legislation. I repeat what Ms Mikakos has said: the committee concerned has not met since it was set up. If the government refuses to allow legislation to be referred to the committee, why do we have the committee?

House divided on motion:

Ayes, 17

Barber, Mr	Pakula, Mr
Broad, Ms	Pennicuik, Ms
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr
Elasmar, Mr	Somyurek, Mr
Hartland, Ms	Tarlamis, Mr
Leane, Mr	Tee, Mr (*Teller*)
Lenders, Mr	Tierney, Ms (*Teller*)
Mikakos, Ms	

Noes, 19

Atkinson, Mr	Kronberg, Mrs
Coote, Mrs	Lovell, Ms
Crozier, Ms	O'Brien, Mr (*Teller*)
Dalla-Riva, Mr	O'Donohue, Mr
Davis, Mr P.	Ondarchie, Mr
Drum, Mr	Petrovich, Mrs
Elsbury, Mr (*Teller*)	Peulich, Mrs
Finn, Mr	Ramsay, Mr
Hall, Mr	Rich-Phillips, Mr
Koch, Mr	

Pairs

Jennings, Mr	Davis, Mr D.
Viney, Mr	Guy, Mr.

Motion negatived.

Committed.

Committee

Hon. W. A. LOVELL (Minister for Housing) — I seek permission for Mrs Coote to join me at the table.

Leave granted.

Clause 1

Ms MIKAKOS (Northern Metropolitan) — I wish to raise a number of issues on the purposes clause; I am just flagging that for the minister's benefit. The first issue that I wish to raise relates to the establishment of a task force. I note that in a media release dated 12 October, and I will quote from it, the Minister for Consumer Affairs said:

> Victoria Police and Consumer Affairs Victoria are working together with other agencies and have set up an illegal brothel task force, involving local councils, Australian Federal Police, the Department of Immigration and Citizenship and the Australian Taxation Office.
>
> This task force, a coalition election commitment, has already commenced operation.

I am seeking the minister's confirmation that the task force has commenced its work.

Hon. W. A. LOVELL (Minister for Housing) — I can confirm for the member that the task force has been established and it has commenced its work.

Ms MIKAKOS (Northern Metropolitan) — I want to get some further clarification around that. How many meetings has the Victorian government participated in since the commencement of this task force?

Hon. W. A. LOVELL (Minister for Housing) — I am unable to confirm that number. The task force is chaired by Victoria Police, and therefore the member would have to refer her questions to Victoria Police and not to us in the committee stage.

Ms MIKAKOS (Northern Metropolitan) — I find that to be a quite puzzling response. The government is responsible for whole-of-government activities, including those involving VicPol (Victoria Police), so I would expect the minister to be able to address these issues. Certainly if she is unable answer here today, I would hope that she would take the question on notice and provide a response to me at a later date. But I will move on.

The other issue arising from the minister's answer is that I am seeking that she advise me who is the VicPol representative on the task force. Are they at an assistant commissioner level?

Hon. W. A. LOVELL (Minister for Housing) — I can advise the member that the rank of the chair of that task force is superintendent — that is, the VicPol representative on it, not the chair.

Ms MIKAKOS (Northern Metropolitan) — I would have thought that if the government was serious about tackling these issues, as it purports to be in the second-reading speech for this bill and in the media release, it would put someone very senior to represent Victoria Police on this intergovernmental task force, such as an assistant commissioner, so I am surprised that a superintendent is on the task force. I mean no disrespect to the individual officer concerned, but I think that a more senior person would have been warranted to represent Victoria Police. Who is the

coordinating minister that the Victoria Police representative is responsible to report back to for the work of the task force?

Hon. W. A. LOVELL (Minister for Housing) — It is the Minister for Police and Emergency Services.

Ms MIKAKOS (Northern Metropolitan) — Given that is the case, I now take the minister back to her earlier answer that I should refer any issues to do with Victoria Police to Victoria Police directly and that somehow the government is not responsible for the work that this person purporting to represent the Victorian government on the task force is doing. I find the minister's answers really quite perplexing in the light of the answer we have just received that the coordinating minister is in fact the Minister for Police and Emergency Services.

Hon. W. A. LOVELL (Minister for Housing) — The task force is a police task force, and the number of meetings that the member asked about before is an operational matter for the police. She then asked who is the minister they report to, and the minister they report to is the Minister for Police and Emergency Services, Peter Ryan. The number of meetings that a task force of the police holds is not a matter for the minister but an operational matter for the police.

Ms MIKAKOS (Northern Metropolitan) — Perhaps we are getting our task forces confused here. I referred to the media release from the Minister for Consumer Affairs where there is a reference to a whole-of-government task force that would also involve federal agencies — the Australian Federal Police and the Department of Immigration and Citizenship and also local government. The media release says:

> This task force … has already commenced operation.

I am not talking about an internal VicPol task force; I am talking about a whole-of-government task force involving federal agencies and local government. I want to know who the representative is on that task force for the Victorian government, who they report back to in the government and whether it has started doing anything.

Hon. W. A. LOVELL (Minister for Housing) — The task force is exactly the same task force. It contains representatives from across government and representatives from local government and the other agencies that the member mentioned, but it is not a ministerial task force where ministers are represented. It is a whole-of-government task force and its membership is made up of representatives from across the government and from other agencies.

Ms MIKAKOS (Northern Metropolitan) — I understand that; that was my expectation. Is the superintendent that the minister referred to earlier the representative of Victoria Police on the task force that we are now talking about?

Hon. W. A. LOVELL (Minister for Housing) — Yes.

Ms MIKAKOS (Northern Metropolitan) — And, just for the purpose of clarity, this superintendent reports back to the Minister for Police and Emergency Services as to the work of this broader, whole-of-government task force?

Hon. W. A. LOVELL (Minister for Housing) — Yes.

Ms MIKAKOS (Northern Metropolitan) — Will this task force be making any public reports in relation to its activities?

Hon. W. A. LOVELL (Minister for Housing) — It will be an operational matter for the police.

Ms MIKAKOS (Northern Metropolitan) — I think it will make the minister's life easier if she gives yes or no answers. The minister seems to somehow think the government is not responsible for the work of Victoria Police in an intergovernmental agency. I take her latest response to be a 'no'.

Mr O'Brien's media release refers to the Australian Federal Police and other federal agencies. Can the minister advise what the ranks are of the federal representatives on this task force — for example, what is the rank of the Australian Federal Police officer on the task force?

Hon. W. A. LOVELL (Minister for Housing) — I am not aware of the rank of that officer, but we will provide that information to the member later.

Ms MIKAKOS (Northern Metropolitan) — It would be very helpful if we could be provided with further information on the composition of the membership of the task force in relation to the various agencies that are represented — —

Hon. W. A. Lovell — We said we would provide the rank of the police officer. That is what the member asked for.

Ms MIKAKOS — Yes, but I am now asking the minister about another issue. I am asking the minister to

provide information on the full composition of the task force in terms of who the representatives are and their various positions across various agencies.

Hon. W. A. LOVELL (Minister for Housing) — I will endeavour to provide that to the member later.

Ms HARTLAND (Western Metropolitan) — My matter is not directly related to the task force, but one of the major recommendations of the Drugs and Crime Prevention Committee's inquiry into people trafficking for sex work is that there needs to be a whole-of-government unit. The committee recommended:

> … that the government should establish a whole-of-government sex industry regulation, policy and coordination unit. The office should be located under the responsibility of the Attorney-General in the Department of Justice.

It seems the task force that has been set up does not actually fit with what has been recommended in the report. I am wanting to know whether it is the intention of the government to set up such a multi-agency task unit.

Hon. W. A. LOVELL (Minister for Housing) — We are here to discuss legislation before us and not the recommendations of that report. That report is being considered, and the government will provide a response to that report in due time.

Ms HARTLAND (Western Metropolitan) — I believe this report goes to the very heart of the legislation. It is information I would like to know about. I have spoken about it extensively during the second-reading debate. It is a reasonable question that the government should be able to answer. Is the government going to set up such a unit or not?

Hon. W. A. LOVELL (Minister for Housing) — Members will be informed on the responses to that report when the government tables its response.

Ms HARTLAND (Western Metropolitan) — When will the tabling of that response occur?

Hon. W. A. LOVELL (Minister for Housing) — The report is being considered at the moment; the response will be tabled when it is completed.

Ms HARTLAND (Western Metropolitan) — Can we have an estimate of when it will be completed? The minister has been in government for a year. This is a very important piece of work. Can the minister give me an estimate of when it will be tabled?

Hon. W. A. LOVELL (Minister for Housing) — No, I am not prepared to give an estimate. I am not the minister responsible for that response. It will be responded to in due time; it is being considered at the moment.

Ms HARTLAND (Western Metropolitan) — I find it very difficult to understand why the department cannot tell us when the response will be signed off and when it will be presented. It is a pretty simple question that involves why, when or how this will happen.

Hon. W. A. LOVELL (Minister for Housing) — My previous answer stands.

Ms MIKAKOS (Northern Metropolitan) — I want to move on to other issues. As I flagged at the outset, I have a number of issues that arise from clause 1. It is easier for the minister and proceedings of the house if we deal with them sequentially so that other members have an opportunity to contribute to these issues.

There is the issue of police resources. As I indicated in my speech during the second-reading debate, the opposition is concerned that the government has not, as yet, publicly given any indication as to the level of police resources that will be dedicated to enforcing the provisions of this bill when specifically dealing with the issues of both illegal brothels and sex trafficking. I ask the minister if she can provide those further details about the level of police resources that will be dedicated to this task. I note that the Police Association has also expressed concerns about this issue.

Hon. W. A. LOVELL (Minister for Housing) — The level of need for a police response to this legislation will vary from region to region. I imagine that police in the St Kilda area are already highly engaged in responding to this type of work. The coalition went to the election with a commitment to increase police numbers across this state by 1700. Every region of the state will benefit from additional police from that election commitment. The additional police will assist in responding to this new legislation.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister for that answer. Like Ms Hartland I want to refer to the Drugs and Crime Prevention Committee's report. It is highly relevant to the purposes clause of this bill. Unless there are adequate police resources, this bill is really meaningless. I particularly want to refer to the report finding that:

> There is a clear and close connection between sex trafficking and the legal and unregulated sex industry.

The committee made a specific recommendation that 'trafficking in persons be regarded as a higher priority policing issue'. This was recommendation 8 of that bipartisan report. I ask the minister: has the government had any advice as to the estimated number of illegal brothels and trafficked women that exist in Victoria?

Hon. W. A. LOVELL (Minister for Housing) — I am advised that we do not have that number at hand, and I am not prepared to make a guess.

Ms MIKAKOS (Northern Metropolitan) — I would not want the minister to make any guesses on anything. Is the minister able to provide the answer to my question at a later date?

Hon. W. A. LOVELL (Minister for Housing) — This is an area where statistics are notoriously unreliable, and I do not think there would be any benefit gained from trying to estimate the number. The gain will be made on this legislation coming into effect, identifying the illegal brothels and driving them out of business.

Ms MIKAKOS (Northern Metropolitan) — With respect, I strongly disagree with what the minister has just said. I cannot understand how the police are going to, as the minister said, drive out the illegal brothels if no work has been done within government to get a handle on exactly the extent of the problem we are talking about here. I accept that the committee's report stated that it was very difficult to quantify the exact number of trafficked women in Victoria, or indeed in Australia.

I want to move away from the issue of the number of illegal brothels now to the number of trafficked women. Page 29 of the committee's report deals with evidence from an organisation called Project Respect, which I spoke about in my contribution earlier. Project Respect had documented approximately 104 trafficked women in Victoria. Its evidence was that it had had direct contact with 17 women and it had been made aware of a further 87 women through sex industry sources. In its evidence it stated that it believed that this did not include other women who had not been referred to Project Respect, but I guess that gives us a bit of an idea of the number of trafficked women in our state who might be involved.

I refer also to page 28 of that report, which deals with evidence around Department of Immigration and Citizenship cases. The report states:

> Between 1999 and 31 December 2007, the Department of Immigration and Citizenship (DIAC) referred 221 matters (relating to 208 people) about trafficking in persons to the Australian Federal Police (AFP). 196 of these referrals (relating to 174 persons) related specifically to the sex industry.

That is Australia-wide data, so my question is: does the government have any advice on the estimated number of trafficked women in Victoria?

Hon. W. A. LOVELL (Minister for Housing) — As the member identifies, the report says 'approximately'; it is very difficult to know the exact numbers. If we know those numbers, I agree with Project Respect that there are probably more women out there we do not know about.

Brothels hardly hang up a shingle out the front and say 'We are an illegal brothel' or 'We have 23 illegally trafficked women working on our premises'. I would say that those statistics are a blight on the former government, which did not do anything to address the plight those women were in. This legislation seeks to stamp out illegal brothels and this type of activity in Victoria.

Ms MIKAKOS (Northern Metropolitan) — On the contrary, the previous government took a number of steps to deal with the issue of sex trafficking. First and foremost, it identified that there was a problem and gave a reference to the Drugs and Crime Prevention Committee. The minister, however, has refused to give any indication to the house as to when there is going to be a response to the committee's very comprehensive and wide-ranging recommendations to address this problem. I would be very concerned if the government were saying that not only was there no time frame for when that report will be responded to but also that it does not have advice that it is prepared to provide to the house about the extent of this problem. Are we meant to just put our faith in the hands of the government and trust that it is going to do something to address this problem?

I take great exception to what the minister has just said. If she just wants to have a cheap shot in the course of answering questions in the committee stage of legislation, she is really not treating this bill with the seriousness I think it deserves and responding to quite important questions that should be responded to. As I said, if the minister is unable to answer the questions today, the opposition would be very happy for her to provide answers at a later date.

Hon. W. A. LOVELL (Minister for Housing) — The member is right in identifying that this is a very serious issue, but she is making allegations against a government that has been in power for just under

12 months. The report the member keeps referring to is a report card on the former government's achievements — or lack of achievements — on this issue.

The ACTING PRESIDENT (**Mr Elasmar**) — Order! Are there any further questions on clause 1?

Ms HARTLAND (Western Metropolitan) — I have questions in relation to licensing. Can the government guarantee that nobody suspected of being associated with human trafficking has a licence for a current legal brothel?

Hon. W. A. LOVELL (Minister for Housing) — Licences are a matter for the licensing authority and not for the government, but I can confirm for the member that for a licence to be granted or cancelled there is a burden of proof. Therefore, unless there is proof, a licence application would neither be rejected nor cancelled on an allegation. There has to be proof that that person was engaged in some activity that prevented them from being a licensed brothel operator.

Ms HARTLAND (Western Metropolitan) — What investigations are taken to assess the fitness of someone to hold a brothel licence, considering the example I gave in my contribution to the second-reading debate today of someone who currently holds a legal brothel licence but has been implicated in trafficking and other associated offences but has not been charged? How does the licensing authority decide on — or prove or disprove — the reputation of someone who holds a licence?

Hon. W. A. LOVELL (Minister for Housing) — As the member identified, the person she referred to has not been charged, so there is no proof against that person at the moment. In granting a licence the Business Licensing Authority (BLA) must consider whether the applicant or applicant's associates are of good repute, having regard to character, honesty or integrity; whether the applicant has sufficient financial resources to ensure the financial viability of the business; whether the applicant has sufficient business ability to establish and maintain a successful business; whether the applicant has arrangements in place to ensure the safety of staff; whether the applicant has arrangements in place to ensure compliance by staff with any conditions on the licence; and whether the business structure is transparent to ensure that all associates are readily identifiable.

Ms HARTLAND (Western Metropolitan) — The minister just mentioned the phrase 'of good repute'. While I accept that this person has not been charged, I think their reputation is tarnished, so how was that person given a licence? How is it that someone who has been associated with trafficking can continue to operate a legal brothel?

Hon. W. A. LOVELL (Minister for Housing) — I do not think that is a matter for us to thrash out here; this is not a court of law to convict or to cast any judgement on the character of that person. We do not know the details of the case, and this is not the place for this question to be thrashed out.

Ms HARTLAND (Western Metropolitan) — I would say it is exactly the place for it to be thrashed out, because we are enshrining legislation that talks about issues around licensing and a person who can have a licence for a legal brothel. We are aware that trafficking occurs in Victoria, and we are aware that there have been a number of brothels over many years which have been involved in trafficking. Some people have been convicted and some people have not, but those brothels continue to operate and people continue to make money from trafficking women, so I think the issue of who is a fit and proper person to hold a brothel licence is a very important question that goes to the absolute heart of this legislation.

Hon. W. A. LOVELL (Minister for Housing) — The question Ms Hartland posed was about an individual applicant. We do not have the details of that case, and it would not be appropriate for us to discuss individual applications in this place; it is a matter for the Business Licensing Authority. I can inform the member that for an applicant to be granted a licence a person must not have been convicted or found guilty within the previous five years of an indictable offence in Victoria or elsewhere which in the opinion of the BLA renders the applicant ineligible to hold the licence. The person must not within the previous five years have had a sex work service provider licence cancelled. They must not have had an associate who has been convicted or found guilty within the previous five years of an indictable offence in Victoria or elsewhere which would in the opinion of the BLA render the applicant ineligible to hold a licence. They must not have been insolvent, under administration or in personal bankruptcy, and they must not be a represented person under the Guardianship and Administration Act 1986. The individual licensing of brothels or granting of licences for brothels is an operational matter for the BLA.

Ms HARTLAND (Western Metropolitan) — I have one more question on licensing. Can the government guarantee that no current licence-holder has a known

associate who is suspected of or known to be involved in organised crime?

Hon. W. A. LOVELL (Minister for Housing) — I am sorry. I am not aware of every single licence-holder in the state, and I am not prepared to comment on that issue.

Ms HARTLAND (Western Metropolitan) — Again, this question goes to the very heart of this legislation and is about licensing. I do not believe that was an appropriate answer, and I would like an answer.

Hon. W. A. LOVELL (Minister for Housing) — I suggest that if the member has any evidence that will confirm that someone should not be holding a licence, then she should provide that evidence to the BLA.

Ms HARTLAND (Western Metropolitan) — That is an interesting issue. What is the process for someone who believes they have evidence that someone does not have a good reputation? How do they go to the BLA and say. 'I believe this person is involved in trafficking. I believe this person has an associate who is involved in organised crime'? I am a bit concerned that it is going to be left up to the public to do this rather than the government, which should be enforcing this.

Hon. W. A. LOVELL (Minister for Housing) — There is a hotline on the Consumer Affairs Victoria website to which those matters can be reported. When evidence is reported Consumer Affairs, police or local government can commence an inquiry.

Ms HARTLAND (Western Metropolitan) — Does the hotline accept anonymous information?

Hon. W. A. LOVELL (Minister for Housing) — Yes, it does.

Mr LEANE (Eastern Metropolitan) — I want to take into account the minister's earlier response in divorcing the report produced by the Drugs and Crime Prevention Committee in the last term. Having had the luxury of being on that committee at the time, I can say that that report put in a recommendation that there should be a lead agency to oversee the sex work industry. The question I would like to understand is: was the decision to implement Victoria Police as the lead agency in this particular bill formulated on advice from Victoria Police or advice from Consumer Affairs Victoria or advice from local councils?

Hon. W. A. LOVELL (Minister for Housing) — It was actually an election commitment. The shadow minister at the time consulted with a range of agencies before deciding on his commitment.

Ms MIKAKOS (Northern Metropolitan) — Just before I move on to other issues in clause 1, I want to mention the point regarding police resource issues that was referred to earlier. The opposition did actually seek a briefing from the Minister for Police and Emergency Services around the issue of police resources; both the shadow minister for consumer protection and the shadow minister for police made that request. A briefing on the bill was offered by Consumer Affairs Victoria, but there was no briefing agreed to or offered by the police minister specifically on the concerns that we have about police resources — concerns that are shared by the Police Association.

With that comment I want to move on to the issues around victim support and support services. Recommendations 19 to 24 of the Drugs and Crime Prevention Committee inquiry deal with a whole range of issues relating to greater support of women in brothels. I have already expressed my concerns about the delays in responding to that inquiry report, so I will not harp on that. I do want to specifically raise some issues around victim support. Inner South Community Health Service has run a two-year pilot project for the redirection of sex workers who have sought assistance to exit sex work at the street level and in brothels. Anecdotal reports so far show that there has been a high rate of success. It has been particularly successful in offering a path out of sex work for the most marginalised sex workers on the street sex work beat. There was a terrific report on this program in the *Melbourne Weekly Port Phillip* on 26 October. The article says that the health service:

> … had achieved outstanding results, with 31 per cent of participants having reduced or ceased sex work, and 23 per cent having reduced or ceased drug use or accessed drug treatment.
>
> In addition, 65 per cent of participants had been provided with emotional support such as counselling, 42 per cent had enrolled in study or a course, 27 per cent had received housing support, 23 per cent had accessed employment services, and 19 per cent were volunteering or running their own businesses.

The concern that I wish to raise is that funding for this program, as I understand it, has only been secured until June 2012. It would be a great tragedy if this program fell through because of government agency change. The health service is quite concerned that because of the change of lead agency from Consumer Affairs Victoria to Victoria Police this project is now at risk of not being continued. I understand that Victoria Police has indicated that the funding for the program falls outside its role. I guess this is just one example of how the changes to the lead agency may well have broader implications than those the government has considered.

That is why it is important that those opposite develop a whole-of-government approach and take on board the inquiry's recommendations. I am seeking from the minister confirmation that there will be continued funding for this successful program beyond June 2012.

Hon. W. A. LOVELL (Minister for Housing) — In November 2009 the former government did provide $230 000 for a one-year pilot. The Baillieu government renewed and increased funding for this project and provided $300 000 for a further 12 months. Future funding is currently under consideration.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister for her response, but that is not a concrete, tangible commitment. I would certainly hope that the government would move quickly to allay the concerns that those running this service have about the future of the program. This is just one example of what could happen with the changes to the lead agency, and I am just wanting to highlight that there may well be other programs that are affected in a similar way by changes to the lead agency. This is particularly concerning if Victoria Police has the view that funding of these types of victim support services is outside the scope of its work.

I want to move on to the issue of Project Respect. Project Respect received funding from the previous Labor government. It made a budget submission earlier this year. I wrote to Minister Wooldridge in support of this funding submission, and I copied in other relevant ministers. Project Respect requires some core funding to expand the nature of its work, and I ask whether the state government will support core funding of this organisation in a way similar to that which the federal government announced yesterday.

Hon. W. A. LOVELL (Minister for Housing) — There is a budget process that happens every year, and I would suggest that Project Respect make a further submission, as it is entitled to do.

Sitting suspended 12.59 p.m. until 2.03 p.m.

Business interrupted pursuant to order of Council.

ABSENCE OF MINISTER

Hon. D. M. DAVIS (Minister for Health) — I advise the house that the Minister for Planning, Mr Guy, will be absent from question time today for family reasons.

QUESTIONS WITHOUT NOTICE

Nurses: enterprise bargaining

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. Yesterday, while the Minister for Employment and Industrial Relations was prepared to talk about the government's policies in relation to private sector industrial relations, he did not take up the opportunity to talk about public sector industrial relations, so I ask specifically in relation to the nurses dispute: can the Minister for Health rule in or rule out the desirability and the preparedness of the government to enter into a consent arbitration process in the current nurses EBA (enterprise bargaining agreement) negotiations?

Hon. D. M. DAVIS (Minister for Health) — I am very prepared to comment and update the house on the progress of the nurses EBA. I will not go into every precise negotiating detail of the EBA. What I will say is that as the EBA has progressed and there have been a number of rulings from Fair Work Australia, the government and Victorian hospitals have become quite concerned that a number of union officials in the ANF (Australian Nursing Federation) union have been advising — —

Hon. M. P. Pakula — This ANF union thing's not working, mate; it's not working.

Hon. D. M. DAVIS — I have got to say the ANF union has had a number of officials advising members of that union that they are in some way not bound by the rules that are put out by Fair Work Australia. We live in a country where our industrial rules are run by the commonwealth government through its Fair Work Act 2009, and the fair work act governs the behaviour of both employers and employees in the workplace. It is very important that both employers and employees obey the rules and the decisions of the independent umpires. I know that in 2007 the then Premier, John Brumby, and the then Minister for Health, Daniel Andrews, the current Leader of the Opposition in the Assembly, made the point that the nursing union needed to obey the rules laid down by the independent umpire. I make the point that it is very important that the ANF union obey the rules that are laid down by legitimate bodies that are legislated by the commonwealth Parliament for the purposes of regulating industrial activity in this country.

Mr Jennings — What about consent arbitration?

Hon. D. M. DAVIS — Let me be very clear here. I would say that you need to have the ANF union

indicate that it is prepared to obey the laws of the land and the rulings of industrial tribunals.

Mr Jennings — You don't think they will?

Hon. D. M. DAVIS — One would be concerned about whether the ANF union would obey the rules if it got a ruling in certain types of arbitration, arbitration that did not in any way bind it. One would be concerned if the ANF were to choose what rulings it wanted to accept and what rulings it did not want to accept. Where there is arbitration and decisions are made by industrial tribunals you would want to be convinced that a particular union, the ANF union in this case, was prepared to obey the rules of the independent umpire.

It is a concern that the independent umpire's rules are being flouted, and I am happy to provide some additional figures to the chamber. I can inform members that as of the middle of the day today 273 beds have been closed by the ANF union due to industrial action, and 108 Victorians have had their surgery cancelled today due to the actions of the ANF union. The idea that you could close one-third of the beds in the state and not impact on the safety of patients — —

Mr Jennings — One-third? Two hundred and seventy-three is one-third?

Hon. D. M. DAVIS — The ANF union has carried a resolution to close one in three beds in the state. The safety of patients would be at risk if one in three beds were closed. The ANF union should obey the decisions of the independent umpire and open the beds.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — My supplementary question is: given that the minister has talked about the willingness of the union to comply with the arbitration orders of Fair Work Australia, does he have a view about whether the government is prepared to comply with the arbitration orders of Fair Work Australia if they come through a consent arbitration process?

Hon. D. M. DAVIS (Minister for Health) — The government, as you would expect, is prepared to abide by the laws of the land and the rules that are put out by industrial tribunals. I can indicate that this week this government, through the Victorian Hospitals Industrial Association and the 86 health services, is prepared to negotiate with the ANF union. Conciliation is occurring this week through the Fair Work Australia process, and we seek a situation where that conciliation proceeds constructively. But that is not helped by the flouting of laws and rules made by tribunals and courts for the benefit and safety of patients. The ANF union is prepared to flout laws against the interests of patients.

Questions interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! I draw the attention of the house to the fact that we have a visitor in the gallery who has two connections with this place. The first is a daughter serving in the Parliament in Georgie Crozier. The second association he has with this house is that he served here as a Deputy Leader of the Liberal Party in government when he was a member for Western Province from 1973 to 1985. He was the member for Portland in the other place from 1985 to 1988. Of course I am referring to the Honourable Digby Crozier. We welcome him here today.

Mr Jennings — Unfortunately the first circumstance was not enough to get him mentioned; the second was.

The PRESIDENT — Order! If Mr Jennings's mother comes into the gallery and he alerts me, I may well extend a greeting to her.

Mr Jennings — In fact it would be a resurrection. It would be extremely noteworthy.

The PRESIDENT — Which is why I would make the greeting.

QUESTIONS WITHOUT NOTICE

Questions resumed.

Vocational education and training: outdoor recreation program

Mr DRUM (Northern Victoria) — My question is to the Minister for Higher Education and Skills, Peter Hall, and I ask: is the minister aware of any recent reports of training providers offering significant financial incentives to enrol students in state government-funded training programs, and if so, what has he done about it?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mr Drum for his question, because not only do I want to give him an answer on this very important issue but I want to share this advice with other colleagues in the house. The matter that

Mr Drum has raised is a serious matter, because it has been brought to my attention in the last two days that members of a number of suburban sporting clubs, their friends, and in fact anyone at all because the flyer says the more the merrier, have been encouraged to enrol in a certificate IV training program in outdoor recreation.

While that may sound fine on the surface, the flyer claims that this is a training program valued at almost $5000 but delivered to those who enrol at no cost at all. It also makes the claim that this program will be delivered in 15 hours over 10 sessions. Moreover, and very disturbingly, it suggests that not only is this program delivered at no personal cost to those who enrol but that each person will be given $500 in cash and their sporting club will be given $1000 as well. However, it suggests that they need to enrol quickly because the Victorian government is changing the funding rates as of 1 January next year and the incentives may then not be as generous.

Members can imagine my outrage when I learnt of this, because while the Victorian training guarantee gives somebody who is wishing to upskill an absolute right to participate in such a scheme, and it is true that the public cost of supporting such a training program is of the order of $5000, that $5000 is not provided from the public purse for the purposes of giving a cash benefit of $1500 of that $5000 to others, nor is it intended to fund just 15 hours of training. Consequently there is no doubt in my mind that this is a rip-off of the public purse, and I have taken urgent actions to address it.

Before I outline those actions, I advise that my other concern about this particular provision is that, as members would know, the Victorian training guarantee supports upskilling. If a person enrols in a certificate IV course in outdoor recreation, they disqualify themselves from support under the training guarantee for anything equivalent to a certificate IV or below. That means that if later on somebody wanted to do a traineeship or any other certificate-level training, they would not be eligible for government support. By taking part in this particular scheme, encouraged to do so by people who seemingly want to make a material profit out of it, they may well jeopardise their vocational options into the future.

As soon as we found out the name of the group that was offering this scheme, I required Skills Victoria to summons the group, and it met with them yesterday. Payment under the 2011 service agreement has now been suspended. There will be a full and formal independent audit of the operations of this provider next week. I have also alerted the Victorian Registration and Qualifications Authority to the matter as that is the body that registers training organisations in this state. I am advising people, by way of this statement in the Parliament today, to think carefully about enrolling in such programs, particularly as doing so may disqualify them from further government support for other training programs.

The whole matter validates the need for some of the recommendations on fees and funding put forward by the Essential Services Commission. It also raises the issue of quality, which is something I am determined to address.

Nurses: enterprise bargaining

Mr TARLAMIS (South Eastern Metropolitan) — My question is for the Minister for Health. Can the minister identify the number of bed closures, if any, at Monash Medical Centre, within the Southern Health network, that have occurred during the past two weeks of the nurses enterprise bargaining dispute?

Hon. D. M. DAVIS (Minister for Health) — We could find the number, but I would have to take that question on notice. What I can tell Mr Tarlamis is that 273 beds were closed around the middle of the day today and 108 surgeries have been cancelled. I know that a number of surgeries have been cancelled at Southern Health, and that is likely to have an impact on patients. Surgeries have also been cancelled elsewhere in the state.

I think there would be great concern amongst members of this house with the large number of bed closures that have been enforced by the ANF (Australian Nursing Federation), which reached almost 1000 at its peak before the first Fair Work Australia order to outlaw protected action. But further, the unprotected action order, in addition to the protected action order, is clearly now being flouted by the ANF union, including a number at Southern Health.

Supplementary question

Mr TARLAMIS (South Eastern Metropolitan) — I thank the minister for his answer, and I welcome those figures on the Monash Medical Centre. Can the minister also outline the number of bed closures at Dandenong, Casey and Frankston hospitals, which are also part of the Southern Health network?

Hon. D. M. DAVIS (Minister for Health) — Can I just correct the misapprehension by Mr Tarlamis; Frankston is not part of Southern Health. It is actually part of Peninsula Health.

Mrs Peulich — He is new to the region.

Hon. D. M. DAVIS — He is new to the region, but nonetheless I take it on good faith. I will be happy to find out that information for him, but I can indicate that beds were closed at Peninsula Health by the ANF union. I know a number of those beds have been opened in recent days, which I have certainly welcomed publicly. I have welcomed particularly those nurses who have been determined to obey the rules of the courts and the industrial tribunals and to open the beds in the interests of patient safety. A number of those nurses have been acting in the interests of their patients, and I welcome the actions of those nurses, including a number who have faced significant pressure from ANF officials against opening the beds and complying with the orders of the industrial tribunals.

Skin cancer: SunSmart campaign

Mrs KRONBERG (Eastern Metropolitan) — My question without notice is to the Minister for Health, who is also the Minister for Ageing, the Honourable David Davis. I ask: can the minister inform the house how the Baillieu government is helping Victorians to be SunSmart?

Hon. D. M. DAVIS (Minister for Health) — I am pleased to announce to the house that the Parliament was very fortunate to host Her Royal Highness, the Crown Princess Mary of Denmark, at Parliament House today. I was joined in welcoming Princess Mary by Mr Jennings, the Premier, Mr Andrews and a number of other MPs as well as some members of the VicHealth board. It has been a significant day. Princess Mary has a strong commitment to sun protection, particularly as it has become a problem in the country of which she is the Crown Princess.

The Victorian government will provide SunSmart with support to the tune of around $1 million to implement a new SunSmart campaign this summer. This campaign is obviously timed to have maximum impact as we lead into the summer period. The campaign will send a clear message to Victorians that excessive exposure to sun can be dangerous, unhealthy and life threatening. The figures clearly show the incidence of skin cancer is significant. The 'Dark Side of Tanning' campaign has been successful over a number of years, and I acknowledge the bipartisan nature of the focus on skin cancer protection.

Today, though, I particularly want to put on record and refer to the Wes Bonny testimonial advertisements, for which the Victorian government and SunSmart are indebted to New South Wales authorities. They lay out the story of Wes Bonny, who was aged 26 when he died in 2010 as a result of melanoma. The advertisements will air this summer as part of the skin cancer prevention program. I particularly note the presence of Wes Bonny's parents at the launch, and the tragic story they told and to which the advertisements relate. Wes was aged 23 when diagnosed with melanoma on his neck, but tragically within three years he had died. That campaign is being led by the Bonny family, who have been prepared to tell their story on camera. His brother, his mother and his father have been prepared to talk about what happened to Wes. The campaign supports the need for Victorians to take the step of protecting themselves from the sun.

I was also particularly heartened by the generous interaction that occurred between the Princess and the family of Wes Bonny. She spent almost 20 minutes talking to them about their experience. She has a strong commitment to skin cancer prevention in her own country, which is prepared to learn from other approaches, and obviously she has a strong history with Australia.

This skin cancer prevention message will receive significant support this summer, and the launch of the campaign today by the Crown Princess is an important step. I congratulate her on visiting the Parliament and on her warm interaction with the Bonny family.

Nurses: enterprise bargaining

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. I congratulate the government on its involvement in the program set out by the minister in his previous answer, but I hope he does not use it as an opportunity to not answer my question, which relates to the confidence that he has in the numbers he has used in question time today — the 273 beds that he says are closed because of industrial disputation. He asserts that 1000 beds were previously closed by the ANF (Australian Nursing Federation) in its protected action in the industrial dispute. What provides the minister with the confidence to assert those numbers that he has not only repeated to the chamber but which appear in the media and which have also been reported to Fair Work Australia and the Federal Court?

Hon. D. M. DAVIS (Minister for Health) — I am confident of the numbers. They are provided to me by the department and they are related to departmental processes and analysis. I also make the point that the concern about the safety of patients and the closures of beds by the ANF union has been strongly accepted by Fair Work Australia, which initially made an order to suspend the protected industrial action that the ANF was undertaking. It made that on the basis of patient

safety and the risk to patients that was occurring with the closure at that point of many more hundreds of beds than today.

Equally, Fair Work Australia was also asked, through an action by the Victorian Hospitals Industrial Association (VHIA), representing 86 Victorian health services, to rule on the unprotected action, and it made an order about the unprotected action and said it should stop. Indeed it said it should stop until 9 December; Commissioner Jones put a date on that.

The evidence was led by the VHIA. It was provided in part by the department and in part by the health services. Evidence was provided under oath by a number of key health officials, including CEOs, senior nurses and others involved in the administration of hospitals. In the case of the section 418 order, that evidence was not challenged by the ANF union; it was accepted by the ANF union.

The point I make clear to Mr Jennings and the opposition is that in 2007 great concern was expressed by the then health minister, Daniel Andrews, about the failure of the ANF union to lift bans. In fact on 22 October 2007 the ABC reported the then Victorian health minister as saying that:

> … if bans are not lifted by tomorrow morning, the IRC could issue a fine and hospital management could ask for Federal Court intervention.
>
> 'You can't have a situation where the decisions that go your way are fine and proper, but the decisions that don't go your way you can thumb your nose at', he said.

The truth is that Mr Andrews was correct then. In 2007 the ANF union was thumbing its nose at the then government, the then health minister, the then Premier and the then ministry that was in charge of the state. The ANF union has continued that behaviour in this current dispute.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — The minister has asserted — and he says that evidence was given on oath at Fair Work Australia — that in fact 273 — —

Hon. D. M. Davis interjected.

Mr JENNINGS — In that case, 256: that was the number that he was confident about. Many times during the course of the year the minister has been asked in the chamber and through the media about the total number of hospital beds in Victoria, and he has been unable to answer that question. Is it necessary to get him on oath in the Federal Court and ask him what is the number of hospital beds in Victoria, or will he finally tell us the number of hospital beds that are open, given that he can clearly tell us how many beds have been closed?

The PRESIDENT — Order! I will let the minister answer on this occasion, but I must say that that supplementary question goes beyond and in quite a different direction to the original question. It raises an entirely different matter. Nevertheless, on this occasion I will allow it through to the keeper.

Hon. D. M. DAVIS (Minister for Health) — I might add that the fair work ombudsman has also been auditing the bed closures across the state that have been enforced by the ANF. I do not have his figures available, but I know that in 2007 the *Age* reported on the call for nurses to stop the unlawful action and stated that Mr Andrews said the government was prepared to talk right throughout the night.

Mr Lenders — On a point of order, President, the question was specifically regarding the number of beds in Victoria as a base for how many were closed. The minister is now quoting a previous minister from a previous government on a separate matter. He was asked about the number of beds, and he is debating the answer.

The PRESIDENT — Order! I am inclined to uphold the point of order, because the material the minister is leading now in his answer to the supplementary question has already been provided to the house this very day in previous answers to questions. In that sense I see it as debating the answer rather than addressing the information that Mr Jennings sought in his question. I point out, however, that of course I have no ability to tell the minister how to answer his question. The minister has 24 seconds left, so he may well be about to come down with the information sought.

Hon. D. M. DAVIS — I have to say that the ANF union ought to reopen the beds that have been closed. I know that if you walk through our public hospitals now, you will see triangles that say 'Closed by the ANF'; you will also see signs up on the wall that say 'Closed due to industrial action'. The ANF signs are very visible throughout our hospital system. I suggest that Mr Jennings get out a bit more, and he will see that there are many beds that have been closed by the ANF union that ought to be opened in the interests of patients.

Information and communications technology: government policy

Mr P. DAVIS (Eastern Victoria) — I direct a question without notice to the Minister for Technology, the Honourable Gordon Rich-Phillips, and I ask: can the minister inform the house of any new developments in the technology sector which highlight Victoria's national and international competitiveness?

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I thank Mr Davis for his question and his continuing interest in the competitiveness of the Victorian technology sector and in particular the ICT sector. Yesterday I told the house about the way in which the Victorian ICT sector has developed over the last 20 years to become an important and competitive part of the Victorian economy. The ICT sector in Victoria directly employs around 87 000 people, contributes around $29 billion to the Victorian economy and generates more than $2.5 billion in exports. It has been a great success story for the Victorian economy over two decades.

Yesterday I outlined the Victorian government's new ICT policy, Victoria's Technology Plan for the Future, and the way in which the government is going to drive further investment in ICT and also, importantly, use ICT to leverage productivity improvements in the broader economy. Mr Davis's question today goes to the issue of competitiveness. One of the great indicators of competitiveness in the ICT sector in Victoria and indeed Australia is our capacity to attract new jobs and new investment. I am delighted to inform the house that in the last two weeks more than 215 new jobs in the ICT sector in Victoria have been announced.

Last week I was privileged to attend the opening of the new Attachmate Group offices in South Yarra. The Attachmate Group is the 12th largest software company in the world and the owner of the well-known Novell networking operation. Attachmate has established its Asia-Pacific headquarters in South Yarra and will contribute 40 new ICT jobs to Victoria.

Following that announcement we had a further announcement from the leading Chinese ICT company VanceInfo, which has announced it will make Melbourne its Australian and New Zealand headquarters, contributing 100 new local jobs to the Victorian economy by the end of 2012.

The week prior to that Data#3 opened a new integration centre at Braeside. I know the member for Mordialloc in the other place, Ms Wreford, was delighted to be there for the opening of that centre, which will contribute 25 new jobs to Victoria. Yesterday I was again delighted to announce that the Australian professional services firm Cordelta has committed to creating an additional 50 new jobs in Victoria by the end of 2012.

These are fantastic announcements for the ICT sector in Victoria. They are fantastic announcements for the Victorian economy and the Victorian community, and they build on the very strong record of this government in attracting investment in the ICT sector. These announcements build on job announcements such as those made by Juniper Networks earlier this year and DB Results and the opening by the Premier of the new IBM research and development laboratory a couple of weeks ago, which is going to contribute 150 new research jobs in the ICT sector.

There is a great story to tell about ICT in Victoria. We continue to grow in terms of investment and jobs, and the Victorian government is very proud to continue to support the growth of the ICT sector.

Nurses: enterprise bargaining

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. On a number of occasions during the course of the last couple of weeks the minister has ruled in or ruled out a number of industrial options that are available to the government and the Victorian Hospitals Industrial Association (VHIA). I know Alec Djoneff, on behalf of the association, has also ruled some things in or out. Can the minister take the opportunity to rule in or out the option of the government pursuing personal damages against individual nurses or individual officials of the ANF (Australian Nurses Federation)?

Hon. D. M. DAVIS (Minister for Health) — As the member correctly intimates, the 86 health services, through the VHIA, have taken a number of industrial actions against the ANF union. Unfortunately the ANF union has not followed through with that. Let me explain perhaps for the chamber's benefit and for Mr Jennings's benefit. We live in an industrial environment that is set by Fair Work Australia. Let me quote from 2007 in the sense that it would be helpful to lay out some of the industrial framework so that we can understand how this works. In 2007 the then Minister for Health and current Leader of the Opposition in the Assembly, Mr Andrews, said:

> If at that point, the nurses union continues, not only to thumb its nose at the Industrial Relations Commission —

a precursor to the current arrangements —

> but to thumb its nose at the Federal Court, that will be a matter for the Federal Court to deal with.

Are members getting the drift? He went on to say:

> You know, this is not about using WorkChoices. This is about following WorkChoices. I don't get to choose the bits of the commonwealth law that I like and the bits that I don't like.

That is what Mr Andrews said. He said he was a minister in the Victorian Parliament overseeing hospitals and working with the 86 health services and that he lived within an industrial framework. He said he did not get to choose the bits he liked and the bits he does not like. He said he had to live with the law as it is. The problem that Mr Andrews faced in 2007 was that the ANF union would not be similarly bound by the laws and rules of industrial tribunals.

Now the current government, the 86 health services, the VHIA and importantly Victorian patients, who are having their operations cancelled and their beds closed, face the ANF union defying the laws and rules. It is defying the decisions of independent courts, industrial umpires who have decided that it is dangerous to close almost 1000 beds and to propose to close 3000, 4000 or 5000 beds in our system. Closing that enormous number of beds was the ANF's intention; that is what its members voted for.

Mr Jennings — You said it was 273.

Hon. D. M. DAVIS — That was today, but earlier they had almost 1000 closed. The motion at their meetings was to close one in three beds in the Victorian system. What I want to understand from Mr Jennings and Mr Andrews is whether they agree with abiding by the law.

Mr Jennings interjected.

The PRESIDENT — Order! Mr Jennings has asked a question, and he will have an opportunity to ask a supplementary question provided I keep him in the house. I do not think we need him continuing to push the question that he has already put on the record. As I said, he will have another opportunity, which is the supplementary question. The minister without assistance.

Hon. D. M. DAVIS — There are a number of questions. Mr Andrews at his press conferences this week has been very slippery and unable to answer very directly a simple question: should the ANF union follow the law — —

Mr Lenders — On a point of order, President, question time is when a member of Parliament asks a minister a question. You cannot direct the minister, but the minister in his answer is asking questions not just of the shadow minister but of a former minister. What I ask you, President, by way of point of order, is to ask the minister to answer the question put to him on government administration rather than debate via a reverse question to a former minister an event in 2007 that is in Mr Davis's mind. I ask that he not debate the question or ask another one, but that he answer it on his administration.

Hon. D. M. DAVIS — On the point of order, President, it is important to understand the history. There are precedents for this. There is a very similar pattern being followed in these disputes, and that is helpful — —

The PRESIDENT — Order! That is debating the point of order. I indicate that whilst I accept some of Mr Davis's explanation in the context that history might well inform the house in regard to similar circumstances that now confront the government and that he is dealing with in administrative terms, I nevertheless have some support for the point of order raised by the Leader of the Opposition, because the information just led by Mr Davis has been led by Mr Davis in each of his answers on this topic today. The house is already fully informed of those historic parallels. Therefore there is a validity in the argument put by Mr Lenders by way of point of order that Mr Davis is now debating the matter, because we are crossing the same ground we went over earlier. I ask Mr Davis to move on to some other more contemporary matters in terms of the government's handling of this issue.

Hon. D. M. DAVIS — What is important here is that the commonwealth law laid out in the Fair Work Act 2009 is what frames what can occur in an industrial environment. It is concerning that the ANF union continues to flout the laws and the rulings of industrial tribunals that have been legitimately arrived at through evidence. I am concerned about those. Any arrangements that flow from that would be required to be within those laws. I can only agree with what Daniel Andrews said in 2007. He said:

> I implore the nurses union to cop the decision of the independent umpire. Let's keep on talking but at the same time, let's take these bans off, let's reopen these beds.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — President, you would have noticed that I complied with your direction to me. I would encourage the minister to comply with the direction and also to comply with the

expectation that he would answer the question, specifically whether he is prepared to choose to use the provisions that relate to personal damages. He, as a minister, has that option, and on his track record he may be a minister who is actually reluctant to see personal damages pursued. I am giving him the opportunity to demonstrate that in the exercising of his portfolio responsibilities.

Hon. D. M. DAVIS — Nobody wants to see individual employees with penalties or damages of any type. That is certainly my view, but the best way here is for the ANF union to comply with the rules, to lift the bans and to reopen the beds, as has been asked for by Fair Work Australia. It is additionally true that the fair work ombudsman has his own set of powers and own set of provisions, and he has those under the commonwealth Fair Work Act 2009.

Hon. M. P. Pakula interjected.

Hon. D. M. DAVIS — He can actually make a series of decisions. He is an independent officer, and he may well take various actions. That would be a matter for him as an independent officer under the commonwealth act to take the steps that are required. What I would say, though, is that it is important that we go back to 2007 and understand that the then health minister sought to take nurses to the Federal Court.

Children: early childhood infrastructure

Mr ONDARCHIE (Northern Metropolitan) — My question today is for the Minister for Children and Early Childhood Development. Can the minister advise the house of any recent actions undertaken by the Baillieu coalition government to facilitate the improvement and expansion of early childhood infrastructure in Victoria?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I thank the member for his question and his ongoing interest in early childhood issues in Victoria, particularly in his electorate of the north-west metropolitan area.

Mr Lenders — There is no north-west. It is Northern Metropolitan Region.

Hon. W. A. LOVELL — It is Northern Metropolitan Region, but it is the north-west Department of Human Services region; anyway, I was in Mildura last week. During my visit to Mildura I was delighted to announce the opening of the Baillieu government's record investment in children's infrastructure, a $26 million funding grant round for the Children's Facilities Capital program. This is the largest single-year investment in children's infrastructure in the history of this state. I am proud of this investment and proud that the Baillieu government has delivered it. It includes $16 million in state funding and $10 million from the national partnership agreement on early childhood education budget, which is money provided to the state to use at our discretion in the implementation of universal access of 15 hours of kindergarten, which we are working towards.

The election commitments by the Baillieu government to deliver $2 million to the Grovedale early learning hub, $1 million to Barwon Heads kindergarten and $500 000 to the Torquay kindergarten will be delivered as part of this year's Children's Facilities Capital program. We have also increased the value of grants that children's centres can apply for. We have lifted the value of these grants by 50 per cent, so for integrated children's services the grants will be up to $1.5 million, which will be available to children's services and local government bodies that wish to build an integrated children's centre. The grants for renovations and refurbishments have also been lifted by 50 per cent to $300 000 for upgrades and extensions. Details are now available on the department's website, and I encourage eligible centres to apply.

Wind farms: health effects

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Health. Has the minister directed his department to conduct any research or any review of research in relation to the possible public health impact of wind farms? If yes, when will it be released? If not, why not?

Hon. D. M. DAVIS (Minister for Health) — I think the chamber will understand that there is a broad public debate on the health effects of wind farms on communities and individuals. For the benefit of the house as much as Mr Barber, who probably knows this material, the Senate has recently looked at a number of these matters, and the National Health and Medical Research Council also made some recent statements about the health effects of wind farms. I have had discussions with my department about the health effects of wind farms. I have also met with a number of community groups about the health effects of wind farms. There are a number of views about this. I do not believe the matter is fully settled, and I think there are a number of points to be further discussed on this issue.

Supplementary question

Mr BARBER (Northern Metropolitan) — I thank the minister, who declined to answer either yes or no to

my question. There are 1322 approved but not yet built wind turbines in Victoria. Actually you can scratch 15 off that total as a result of a decision by Moyne Shire Council earlier this week. There is an extraordinary public campaign being waged, making claims based on pseudoscience and in some cases superstition. That campaign is being carried on even by members of this chamber.

Hon. D. M. Davis interjected.

Mr BARBER — Is it not the case that the minister will not request such a review from his department because he knows that, based on medical evidence, the current standards that his government has put in place in relation to noise and the limits on noise are in fact adequate to protect human health?

Mr Viney — On a point of order, President, during the course of the question, I noticed Mr David Davis telling members on this side to shush. I am wondering where in the standing orders he has the role of President.

Hon. D. M. Davis — On the point of order, President, I was not trying to be unhelpful. I was actually just trying to hear Mr Barber's question clearly, and if he would be minded to repeat it, I would welcome that.

The PRESIDENT — Order! On the point of order, I think Mr Davis was quite within his rights to ask for some quiet from the opposition benches whilst that question was being put. He was having difficulty hearing the introductory remarks of Mr Barber; in fact I was also having some difficulty with that. I have to say that today there has been a fair bit of background noise, with a lot of conversations going on around the chamber. At one point during the previous question a small group of members were laughing fairly loudly behind the Hansard staff, and I wondered whether that was impeding Hansard's coverage of the proceedings. I do not uphold the point of order, and I do not think Mr Davis was in any way being impolite in that he was simply trying to hear Mr Barber.

I think the part of the question Mr Davis had difficulty hearing contained the numbers Mr Barber was referring to in his introductory remarks. I think he was suggesting 322 turbines were already there — or 323?

Mr BARBER — Thirteen hundred and twenty-two.

The PRESIDENT — Order! You see? Therein is the problem. Mr Barber might just give us that statistic again as part of his introductory remarks so that Mr Davis is then able to answer the question.

Mr BARBER — Thank you, President. I was actually having trouble hearing myself when I was speaking due to a noisy campaign that continues from my left. On this issue of wind farms, there are 1322 approved but not yet built wind turbines in the state of Victoria. If the turbines were creating a significant hazard to human health, I would have thought the minister and his department would have been all over it. He seemed to indicate that he has not requested any such review from his department, and I put it to the minister that in fact he is well aware that the medical evidence — —

The PRESIDENT — Order! Okay. I think we got the rest of the question. I thank Mr Barber.

Hon. D. M. DAVIS (Minister for Health) — As I would indicate, in that first —

Mr Barber interjected.

Hon. D. M. DAVIS — Let me finish. I am not the expert in this area.

Mr Barber interjected.

Hon. D. M. DAVIS — What I am trying to lay out quite fairly is that a number of sources of information have come to me about these matters — —

Mr Barber — From your department?

Hon. D. M. DAVIS — I have spoken to people in my department. I am also aware of a number of community groups that have put information to me about the health effects of wind farms. I am also aware of information that has come from the Senate and other sources. I am further aware of important health bodies such as the National Health and Medical Research Council, which has taken a number of positions — initially quite a strong position and more recently a less strong position. I would consider that there is a balance to be struck between a precautionary approach and one that enables development of various types to occur in a reasonable way. I think the government's policy does strike some balance.

The PRESIDENT — Order! The minister's time is up.

Vocational education and training: awards

Mr O'DONOHUE (Eastern Victoria) — My question is to the Minister for Higher Education and Skills, Minister Hall. Can the minister inform the house of any outstanding Victorian achievements in the

vocational education and training sector that have been recognised nationally?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mr O'Donohue for his question. I am pleased to have the opportunity to talk about excellence in terms of both providers and people who are the recipients of some excellent provision of training in Victoria. The Australian Training Awards event will be held tomorrow night in Brisbane. The training awards are the national peak awards for the vocational education and training sector and provide an opportunity to acknowledge and reward organisations and individuals for their outstanding contributions to skilling Australia.

Members may recall that earlier in the year I spoke about some of the Victorians who received Victorian awards for their contributions to training. I mentioned that those people would qualify for entry into the Australian awards. And so it is that a number of Victorian individuals and organisations will be in the running for the national awards to be announced in Brisbane tomorrow evening. Six of those are people seeking to win individual awards: Jessica Pendlebury from GOTAFE, Lisette Mill from South West TAFE, Stephanie Dalton from GippsTAFE, Amanda Divola from Bendigo TAFE, Colin Wilson from Holmesglen and Scott Robinson from Victoria University. These six young people have demonstrated extraordinary talents in terms of their skills in the vocational area.

A further individual, who people may well know of, is Peter Coyne. He is currently with Crown College and is also a member of the Victorian Skills Commission. He has been making an outstanding contribution towards training in this state for a long time. Peter was the winner of the leadership in quality award in the Victorian Training Awards and will compete in that section in the Australian Training Awards tomorrow evening.

In addition to those individuals, there are organisations, both private and public — in particular Flexible Training Solutions, South West TAFE, SPC Ardmona, Bendigo Senior Secondary College and the Sandy Beach Centre — that will be in the running for awards in Brisbane tomorrow evening.

I am sure I speak on behalf of all members in this chamber as I wish each of those individuals and organisations well, and I trust the excellent talents of providers and recipients of training in Victoria will be acknowledged and recognised through success in the awards tomorrow evening.

QUESTIONS ON NOTICE

Answers

Hon. D. M. DAVIS (Minister for Health) — There are no answers to questions on notice today. However, in response to the matter raised by Mr Pakula a day or so ago, I can indicate that I followed up those questions and an answer will be provided to each and every one of them.

SEX WORK AND OTHER ACTS AMENDMENT BILL 2011

Committee

Committee resumed.

The DEPUTY PRESIDENT — Order! The committee will resume on clause 1.

Ms MIKAKOS (Northern Metropolitan) — I recall that before we adjourned for the lunch break I was asking the minister some questions around Project Respect and funding for that organisation's work. I do not believe the minister responded to my question.

The DEPUTY PRESIDENT — Order! Would the minister like to summarise briefly so we can bring the committee up to speed on where we are at? Perhaps she could briefly outline her comments.

Hon. W. A. LOVELL (Minister for Housing) — Before lunch the member indicated that Project Respect put in a budget bid last year. There is a budget every year; there is a budget process this year, and Project Respect should resubmit a funding bid to that budget process.

Ms MIKAKOS (Northern Metropolitan) — I thank the minister for that response. I certainly understand what the process is, I just find this disappointing, given that the coalition's election statements around illegal brothels talked about how it was going to crack down on sex slavery. It has not only failed to commit additional core funding to Project Respect's work, but 15 months down the track it still has not responded to the Drugs and Crime Prevention Committee's report. I will conclude — —

Hon. W. A. Lovell — We have not been in government for 15 months.

Ms MIKAKOS — That is correct.

Hon. W. A. Lovell interjected.

The DEPUTY PRESIDENT — Order! The minister will have an opportunity to respond.

Ms MIKAKOS — The coalition has been in government for almost 12 months. As I said earlier, this report was tabled in June 2010, so I would have thought that was ample time for the government to respond to it. Given that the coalition made some comments about this in its election statements seeming to suggest that it was a priority, it is really disappointing that the government has not committed any additional funding to Project Respect and we are still waiting for its response to the inquiry report.

Hon. W. A. LOVELL (Minister for Housing) — The member indicated that this report was tabled in June 2010. I note that the former government, her own party, had five months to respond to it and it did not. We have been in government for less than 12 months.

Ms Mikakos interjected.

Hon. W. A. LOVELL — Part of this legislation deals with some of the recommendations — 4, 10 and 19 — of that report. The report as a whole is under consideration and a response will be tabled. The former government could have tabled a response within the five months for which it was still in government, but it did not.

Ms MIKAKOS (Northern Metropolitan) — I find that to be an extraordinary answer. The minister knows that governments have six months to respond to parliamentary committee reports, but the election intervened. I wish Labor had had an opportunity to respond to the report, because it would have meant that we were still in government and able to take some action in this area. I think it is a very poor excuse from the minister, but I am happy to move on to other issues.

Ms HARTLAND (Western Metropolitan) — I have a question on clause 1. The bill includes confiscation provisions. These provisions will not affect the people who own the buildings that house brothels, because they do not have a licence under the act. What action will the government take to get rid of the loopholes for building owners? This is a real problem where someone owns a building that a brothel is in. They are getting extraordinary amounts of money but they are taking no responsibility for what is happening inside the building. If someone's licence is suspended, a new manager comes in and the landlord keeps on saying it is not their fault. I think there is a real loophole in the legislation. How will the government address that problem?

Hon. W. A. LOVELL (Minister for Housing) — The question presumes you can change a licensee overnight, and that is not actually the case. A new licensee has to go through all the checks that go along with becoming a licensed brothel. It is not just a matter of choosing some fly-by-nighter to come in the next day. There is a process that has to be gone through with all the checks and balances of appointing a new licensee.

Ms HARTLAND (Western Metropolitan) — Perhaps I did not explain myself well. I understand what the minister is saying, but I am talking about the person who owns the building but who may not have anything to do with the business; they just rent out the building.

Hon. W. A. Lovell — The landlord?

Ms HARTLAND — Yes, the landlord. They are obviously making large amounts of money. Once a brothel is in a building, it continues to be a brothel no matter what has gone on beforehand. I think there needs to be some responsibility on the landlord. There is no action against the landlord, and to me, that seems to be a loophole.

Mr Leane — Deputy President, I direct your attention to the state of the house.

Quorum formed.

Hon. W. A. LOVELL (Minister for Housing) — The processes for forfeiture of a licence do not discriminate between a property that is owned and operated by the same person or a property where there is a landlord and an operator. If an offence occurs within a property, the licence is subject to forfeiture, regardless of whether there is a landlord-tenant arrangement or an owner-operator arrangement. There is still the risk that the permit to operate a brothel on those premises could be forfeited if an offence occurs within them.

Ms HARTLAND (Western Metropolitan) — I will follow up on that. It is my understanding that this actually already exists in relation to illegal brothels — the owner of the building is prohibited from renting the building for a period of time. It seems to me that that actually provides a precedent. I am not sure why the same does not occur in relation to a legal brothel.

Hon. W. A. LOVELL (Minister for Housing) — I may not have been clear in regard to the information I provided in my last answer. When I talked about forfeiture, it was not in relation to the licence, it was in relation to the property. A licensed or unlicensed brothel would no longer be in operation on the property and it would no longer be in the possession of the

owner. The property would be subject to forfeiture under the Confiscation Act 1997.

Ms HARTLAND (Western Metropolitan) — Am I correct in saying that it would actually be confiscated from the landlord?

Hon. W. A. LOVELL (Minister for Housing) — In a situation where there are illegal activities on the property, such as the trafficking of women, then it could be subject to forfeiture under the Confiscation Act 1997.

Clause agreed to; clauses 2 to 6 agreed to.

Clause 7

The DEPUTY PRESIDENT — Order! I invite Ms Hartland to move her amendment 1.

Ms HARTLAND (Western Metropolitan) — Sections 48 and 48A of the Sex Work Act 1994 relate to the disciplinary action against someone holding a licence under the act. The impact includes altering, cancelling or suspending the licence. One of the grounds for taking disciplinary action is set out in section 48(3)(f)(iii), and that is if the licence-holder has been charged with an offence under schedule 3 of the act.

Hon. W. A. Lovell — I ask the member to continue, but I cannot hear her.

Ms HARTLAND — I think something is wrong in the chamber today.

Hon. W. A. Lovell — The sound is echoing when conversations are happening around us.

Ms HARTLAND — No worries. Does the minister want me to start again?

Hon. W. A. Lovell — Yes, that would be good.

Ms HARTLAND — I refer to my amendment 1. Sections 48 and 48A of the Sex Work Act 1994 relate to disciplinary action against someone holding a licence under the act. The impact includes altering, cancelling or suspending the licence. One of those grounds for taking disciplinary action is set out in section 48(3)(f)(iii), and that is if the licence-holder has been charged with an offence under schedule 3 of the act. Schedule 3 contains very serious Commonwealth Criminal Code offences like slavery, sexual servitude, deceptive recruiting for sexual services, human trafficking including trafficking children and debt bondage offences. These are amongst the offences that also cause an automatic cancellation of a licence under section 47 if the licence-holder is convicted or found guilty.

My amendment 1 would have the effect of preventing any unnecessary delay in commencing action to suspend the licence after those sorts of charges are laid. Without this amendment to this clause, there would be a delay of 30 days — we have talked about these type of actions; I think a 30-day delay is fairly serious — or the time or expense of making a special application for exceptional circumstances.

If charges were laid, the police would overcome many of the barriers set out in the inquiry report. For example, they would need to be satisfied that there is a prime facie case and a reasonable chance of conviction. They have needed to overcome the reluctance of victims to come forward — they fear being punished or deported. They may be simply so traumatised that they are unable to remember key events or situations. Considering the nature of charges and the quantity of work that must be undertaken before charges can be laid, there is no reason to delay the process of suspending the licence.

The DEPUTY PRESIDENT — Order! I want to clarify with Ms Hartland that she has formally moved her amendment 1.

Ms HARTLAND (Western Metropolitan) — I move:

1. Clause 7, after line 22 insert —

‘( ) After section 48(5) of the **Sex Work Act 1994 insert** —

“(5A) Despite subsection (5), if an application for a disciplinary inquiry relies on the ground set out in subsection (3)(f)(iii), the inquiry may start at any time.”.’.

I am sorry, Deputy President.

Ms MIKAKOS (Northern Metropolitan) — I indicate that the Labor opposition will be supporting Ms Hartland’s amendment 1. The reason we are supporting it is, as Ms Hartland has explained, that it would expedite the suspension of a licence where very serious charges have been laid, including sexual servitude charges. I hope the coalition, given its often-stated claim when making election promises about clamping down on illegal brothels, would support such an amendment.

Hon. W. A. LOVELL (Minister for Housing) — The government respects the spirit in which this amendment has been moved, but we will not be

supporting it. We believe the amendment is redundant because the existing legislation already has intent in it. The act already allows for the 30-day delay between an application for an inquiry and the inquiry itself to be waived if VCAT (Victorian Civil and Administrative Tribunal) is satisfied there are exceptional circumstances. Accordingly, if a licensee is charged with a relevant offence, the applicant, the director of CAV (Consumer Affairs Victoria), the Chief Commissioner of Police or the local council can request the 30-day delay be waived.

However, the 30-day period before an inquiry commences assists the applicant to finalise material to put before VCAT. As such, removing the 30-day period may inadvertently hinder inquiries in relation to whether there are grounds for taking disciplinary action against a licensee. In the event that urgent action is required to be taken against a licensee, the director of Consumer Affairs Victoria has licence suspension powers under section 106D of the Fair Trading Act 1999.

Committee divided on amendment:

Ayes, 18

Barber, Mr	Pakula, Mr
Broad, Ms (*Teller*)	Pennicuik, Ms
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr
Hartland, Ms (*Teller*)	Somyurek, Mr
Jennings, Mr	Tarlamis, Mr
Leane, Mr	Tee, Mr
Lenders, Mr	Tierney, Ms
Mikakos, Ms	Viney, Mr

Noes, 20

Atkinson, Mr	Koch, Mr
Coote, Mrs	Kronberg, Mrs
Crozier, Ms	Lovell, Ms
Dalla-Riva, Mr	O'Brien, Mr
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Ondarchie, Mr
Drum, Mr	Petrovich, Mrs
Elsbury, Mr (*Teller*)	Peulich, Mrs
Finn, Mr	Ramsay, Mr (*Teller*)
Hall, Mr	Rich-Phillips, Mr

Pair

Elasmar, Mr	Guy, Mr

Amendment negatived.

Clause agreed to.

New clause

The DEPUTY PRESIDENT — Order! I now call on Ms Hartland to move her amendment 2, which is her proposed new clause to follow clause 7 in relation to suspension of a licence pertaining to brothel operations. This proposed new clause directly tests her amendments 4 to 13. It only tests part of Ms Hartland's other proposed new clause to follow clause 8, which is amendment 3, therefore Ms Hartland is free to move her amendment 3 regardless of the outcome of this amendment.

Ms HARTLAND (Western Metropolitan) — I move:

2. Insert the following New Clause to follow clause 7 —

'A Disciplinary powers of Tribunal

At the foot of section 48A(7) of the **Sex Work Act 1994 insert** the following note —

"Note

Section 74A provides that it is a condition of a permit that the use or development of land for the purposes of the operation of a brothel must cease during any period of suspension of a licence.".'.

Amendment 2 clarifies section 48A, and it provides a note referring to the permit conditions set out in amendment 3. Amendment 3 makes changes to section 74 of the act. Section 74 is in part 4 of the act and deals with planning controls on brothels, including planning permits under the Planning and Environment Act 1987. Section 74A stands to prevent a site being used or developed as a brothel unless a licence under the Sex Work Act 1994 is also held. The effect is to extend those provisions so that if the licence is suspended or cancelled, the use of the permit must cease during that period. The new clause provides that those conditions are taken to be included in all such permits. This is a reasonable and logical extension of the existing provisions and fits in with the intent of the section as it stands, which is to link the planning permit to a licence.

Ms MIKAKOS (Northern Metropolitan) — The state Labor opposition will be supporting this amendment.

Hon. W. A. LOVELL (Minister for Housing) — The government will not be supporting this amendment. It is redundant because it is already an offence to operate without a licence or while a licence is suspended, even if a planning permit has been issued. Operating without a licence or while the licence is suspended is punishable by five years jail and/or a 1200 penalty unit fine under section 22 of the act. Currently a 1200 penalty unit fine is more than $146 500, so it is a significant penalty.

It is also an offence under section 21A of the Sex Work Act 1994 to operate without a planning permit, and that

is punishable by three years jail and/or a 360 penalty unit fine, which is nearly $44 000. Under section 77 of the Sex Work Act 1994 failure to comply with the requirements of a planning permit is also punishable by a fine of 1200 penalty units. As we established earlier, that is more than $146 500. This amendment is not needed because it is already well covered under the act.

Ms HARTLAND (Western Metropolitan) — I believe it is required because I think it strengthens the act, and that is why I have moved it.

Committee divided on new clause:

Ayes, 18

Barber, Mr (*Teller*)	Mikakos, Ms
Broad, Ms	Pennicuik, Ms
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr
Elasmar, Mr	Somyurek, Mr
Hartland, Ms	Tarlamis, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Tierney, Ms (*Teller*)
Lenders, Mr	Viney, Mr

Noes, 20

Atkinson, Mr	Koch, Mr
Coote, Mrs	Kronberg, Mrs
Crozier, Ms	Lovell, Ms
Dalla-Riva, Mr	O'Brien, Mr (*Teller*)
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P. (*Teller*)	Ondarchie, Mr
Drum, Mr	Petrovich, Mrs
Elsbury, Mr	Peulich, Mrs
Finn, Mr	Ramsay, Mr
Hall, Mr	Rich-Phillips, Mr

Pair

Pakula, Mr	Guy, Mr

New clause negatived.

Clause 8 agreed to.

New clause

Ms HARTLAND (Western Metropolitan) — I move:

Insert the following New Clause to follow clause 8 —

'**A Conditions on permits for licence applicants**

(1) In section 74A of the **Sex Work Act 1994**, for "a condition that that use or development must not commence unless and until the person is granted the licence." **substitute** "the following conditions —

(a) the use or development must not commence unless and until the person is granted a licence;

(b) the use or development must cease during any period of suspension of the licence.".

(2) At the end of section 74A of the **Sex Work Act 1994 insert** —

"(2) A permit referred to in subsection (1) that does not contain the conditions required by that subsection is taken to include those conditions.".'

Amendment 3 makes changes to section 74A of the act, which relates to the permit for the use or development of land for the purposes of the operation of a brothel. It is to extend it for licences suspended or cancelled. In my mind it is quite straightforward, and the reason I am going to continue with this — and I will divide on it — is that the previous amendment only partially tests this amendment. The obvious reason for doing this is to attempt to strengthen the act and make it easier for action to be taken.

Ms MIKAKOS (Northern Metropolitan) — The state Labor opposition will be supporting this amendment.

Hon. W. A. LOVELL (Minister for Housing) — This amendment would create a new condition on a brothel planning permit which would prohibit the use or development of land for the operation of a brothel while the brothel licence is suspended. The government will not be supporting this, because the amendment is redundant for many of the reasons that the amendment we have just dealt with was redundant. It is already an offence to operate without a licence or while a licence is suspended, even if a planning permit has been issued. Operating without a licence or while a licence is suspended is punishable by five years jail or a fine of 1200 penalty units under section 22 of the act. As we discovered in the answer to the last question — and this is basically the same answer — that amounts to over $146 500 at the moment.

It is also an offence under section 21A of the Sex Work Act 1994 to operate without a planning permit. That is punishable by three years jail and/or a fine of 360 penalty units, which is nearly $44 000. Under section 77 of the act failure to comply with the requirements of a planning permit is also punishable by a fine of 1200 penalty units, or over $146 500. We believe the current provisions are adequate and address the intent of this amendment, so we will not be supporting the amendment.

Ms HARTLAND (Western Metropolitan) — I would not have put up these amendments if I thought the bill was strong enough. I do not believe there is a strong intent to act on this issue, and all I am trying to do is make sure that this bill is as good as it can be. This is one of the very reasons why I said we should send it

to the legislation committee to make sure we have got it exactly right, but the government refuses to do that.

The DEPUTY PRESIDENT — Order! As members know, I have a passing interest in a book called *Erskine May*, and on page 418 of the latest edition it reads:

> A member going into the wrong lobby through inadvertence —

in the House of Commons they vote in lobbies —

> is bound by the vote actually given.

I know that members may have an interest in the result of a previous division. The above rule would apply, but only after the doors were locked.

Committee divided on new clause:

Ayes, 18

Barber, Mr	Mikakos, Ms
Broad, Ms	Pennicuik, Ms
Darveniza, Ms (*Teller*)	Pulford, Ms
Eideh, Mr	Scheffer, Mr
Elasmar, Mr	Somyurek, Mr
Hartland, Ms	Tarlamis, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Tierney, Ms (*Teller*)
Lenders, Mr	Viney, Mr

Noes, 20

Atkinson, Mr	Koch, Mr (*Teller*)
Coote, Mrs	Kronberg, Mrs
Crozier, Ms	Lovell, Ms
Dalla-Riva, Mr	O'Brien, Mr
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Ondarchie, Mr
Drum, Mr	Petrovich, Mrs
Elsbury, Mr	Peulich, Mrs
Finn, Mr	Ramsay, Mr
Hall, Mr (*Teller*)	Rich-Phillips, Mr

Pair

Pakula, Mr	Guy, Mr

New clause negatived.

The DEPUTY PRESIDENT — Order! The minister would like an opportunity to answer some questions that were put earlier in the committee stage.

Hon. W. A. LOVELL (Minister for Housing) — Some questions were asked around a number of meetings and the representatives on the management group which we were unable to answer earlier as we did not have the information on hand. To answer Ms Mikakos's question about how many meetings the group has held so far, there have been two meetings of the group in 2011 and there have also been two subcommittee meetings in 2011.

Ms Mikakos asked about the rank of the Victoria Police representative in that group, and the rank is superintendent, operations support department. She also asked about the full composition of the group and the ranks of its members. As we have just said, Victoria Police chairs the group. The superintendent, operations support department, reports to Assistant Commissioner Andrew Crisp. Other members of the group are: a superintendent from the Australian Federal Police, representatives from Consumer Affairs Victoria, the chair of the Business Licensing Authority, a representative from the Department of Immigration and Citizenship, the CEO of the Municipal Association of Victoria, representatives of the Australian Taxation Office and invitees as necessary from the Victorian Department of Health.

The DEPUTY PRESIDENT — Order! All remaining amendments in my view have been tested by the earlier divisions; therefore, unless there are other matters that members wish to raise, I will put the question that clauses 9 to 25 stand part of the bill.

Clauses 9 to 25 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

PUBLIC INTEREST MONITOR BILL 2011

Second reading

Debate resumed from 10 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. M. P. PAKULA (Western Metropolitan) — I am pleased to rise to speak on the Public Interest Monitor Bill 2011 and to indicate that the opposition will not oppose the bill but will be seeking amendments to clauses 19 and 20 of the bill in the same form that we sought them in the other place. Those amendments would have the effect of removing the requirement for the Public Interest Monitor to report to the minister, instead creating an obligation for the monitor to report directly to the Parliament.

I am grateful to my colleague the member for Altona in the other place, who has gone through the features of the bill in some detail, but for the benefit of the Council, the bill establishes a principal public interest

monitor and a deputy public interest monitor. The Public Interest Monitor, or PIM — I think I will use the shorthand form for the balance of my contribution — is about representing the public interest at hearings on applications for covert investigative and coercive powers, so it is a very important role.

The opposition concedes that it is important that law enforcement authorities and corruption authorities have those coercive powers and those telephone intercept powers, but it is equally important that there be a balance, and the balance is provided by having an individual or an organisation which represents the public interest and ensures that those very significant powers are not abused and are not granted in circumstances where they should not be granted.

PIM will represent the public interest in those applications, whether they be for telecommunications intercepts, surveillance devices, covert searches, preventive detention, prohibited contact orders or coercive powers orders, and PIM will have a role wherever there are applications for extensions of, variations to or revocations of those orders. It is important to note that those powers relate not just to integrity bodies but to law enforcement bodies as well.

The bill that is before the house will not be able to commence full operation until the commonwealth approves the telecommunications interception powers for the Independent Broad-based Anti-corruption Commission. During the committee stage of the debate on the Independent Broad-based Anti-corruption Commission Bill 2011 on Wednesday morning I recall asking Minister Dalla-Riva when those telecommunications interception powers would be granted by the commonwealth. I also recall there being a conversation with those in the advisers box, which I thought was a good sign. I thought it was likely that we would get a response, and it was quite encouraging. But the minister returned to the table and said, 'The commonwealth will issue those directives in due course'. We are none the wiser at this stage as to when that might be. We do not know when the government expects it to be, but for the Public Interest Monitor to have the ability to properly exercise the powers in this bill those commonwealth approvals are required. We are none the wiser as to when that might be given.

In regard to the rest of the details of the bill, I do not feel compelled to repeat them, but it is the case that an annual report has to be provided to the responsible minister and that has to be tabled within 14 sitting days. Again, that is the same model for reporting that operates in Queensland. I will come back to PIM reports going to the minister and having to be tabled within 14 sitting days somewhat later in my contribution, because it is the subject of the amendments that the opposition plans to move. We think they are very important.

We do not see that there is any necessity for the minister to have any real role in the operation of the Public Interest Monitor. In fact we think the relationship ought to be one between the monitor and the Parliament rather than one between the monitor and the minister. There was a slip made by the minister — perhaps Freudian, perhaps intentional or perhaps he just did not know the rules of the organisation he said he was presiding over. When he first announced the bill he indicated that the Public Interest Monitor would be directed by him. It was some hours later that the minister had to front the media again to retract those comments — —

Mr Ondarchie — Correct them.

Hon. M. P. PAKULA — Mr Ondarchie says, 'Correct them'. It depends on what the basis of the original mistake was as to whether it was an error or whether it was what the minister believed to be the case until he was told otherwise by other people — —

Mr P. Davis — He misspoke.

Hon. M. P. PAKULA — Mr Davis says, 'He misspoke'. I am sure Mr Davis has had conversations with Mr McIntosh that he recalls, and I am glad that some members recall their conversations better than other members of the government. It goes to one of the reasons why integrity measures such as these are so important. As I have said in this house on many occasions, we have a government that was elected on a promise to be open, transparent and accountable, not secretive and spin free, yet time and again we are seeing examples — in every sitting week and in just about every week between every sitting week — of the government's credentials on transparency, accountability and integrity being beaten, battered and torn away.

Just yesterday we saw another example of ministers being asked specific questions in the Parliament and their response being, 'I have acted appropriately at all times'. There has not yet been an example, or not one I can recall, where a minister has been presented with a difficult set of circumstances and has explained what has gone on beyond an assertion of proper behaviour. Ministers do not say, 'Your assertion is wrong because this is what really happened. These are the facts as I present them to the Parliament. These are the facts as I present them to the media'.

We had the situation here with Mr David Davis over the 500 Club donation. 'I have acted appropriately', he said, and refused to answer any questions about what went on. The Deputy Premier has said about the Weston-Tilley affair, 'I have acted appropriately', but he has given no detail as to what went on. The Minister for Environment and Climate Change was asked yesterday whether or not he absented himself from cabinet. He refused to answer any questions and asserted that he had acted appropriately at all times.

The Premier was asked — —

Mr Ondarchie — He was asked and he answered.

Hon. M. P. PAKULA — No, he did not.

Mr Ondarchie — Yes, he did.

Mr O'Brien — On a point of order, Acting President, there is latitude in a second-reading debate, but this has become a rant. It is not to do with the PIM bill, and I would ask you to draw the member back to the bill.

Hon. M. P. PAKULA — On the point of order, Acting President, I say to Mr O'Brien, 'Nice try'. If he had been here in the last term of Parliament, he would have heard members of the then opposition go on and on about members of the government for a lot longer than the minute and a half that I have been going on about this so far.

Mr Ondarchie — It seems longer.

Hon. M. P. PAKULA — Maybe it does, Mr Ondarchie, but I am winding up the point. The point is this: it is not good enough for ministers of the government to adopt the Bart Simpson defence of 'I didn't do it. Nobody saw me do it. You can't prove it. I wasn't there'. When ministers are presented with serious questions about propriety, it is not good enough for them to just assert that nothing happened; it is not good enough for the Speaker of the Legislative Assembly to protect ministers by refusing to let members of the opposition ask questions; it is not good enough — —

Mrs Petrovich — On a point of order, Acting President, the member is reflecting on the Speaker of the Legislative Assembly.

Hon. M. P. PAKULA — On the point of order, Acting President — —

The ACTING PRESIDENT (**Ms Crozier**) — Order! I am afraid I was speaking to the attendant and did not hear what Mr Pakula was saying. Mr Pakula should continue with his point of order.

Hon. M. P. PAKULA — My point of order is that what I said was a statement of fact. The fact is that the Speaker has refused to allow members of the opposition to ask questions of ministers. It is a statement of fact.

Mrs Petrovich — On the point of order, Acting President, the member has suggested that the Speaker was preventing questions being asked by members of the opposition.

Mr P. Davis — On the point of order, Acting President, it is quite clear that reflections on the Presiding Officer of the house are out of order. Mr Pakula is reflecting on the Speaker of the Legislative Assembly, and that is clearly out of order. There has been a consistent view in this place that reflections on presiding officers are entirely inappropriate.

Hon. M. P. PAKULA — On the point of order, Acting President, if members say there is a reflection on the Speaker, I am happy to withdraw any reflection. I am not happy to withdraw a reference to the facts of what has occurred. I do not know whether the objection is to the word 'protect' — —

The ACTING PRESIDENT (**Ms Crozier**) — Order! I think Mr Pakula is starting to debate this point. I suggest there was a reflection on the Speaker, and I ask him to withdraw.

Hon. M. P. PAKULA — I withdraw the reference to the Speaker protecting members. If that is the reflection — —

Mr P. Davis — Just withdraw!

Hon. M. P. PAKULA — I do not know what I am being asked to withdraw.

The ACTING PRESIDENT (**Ms Crozier**) — Order! I would ask Mr Pakula to withdraw the comments he made reflecting on the Speaker in the other place.

Hon. M. P. PAKULA — I withdraw the reflection. Aren't we touchy!

The ACTING PRESIDENT (**Ms Crozier**) — Order! I ask Mr Pakula to come back to the substance of the debate and continue with his contribution.

Hon. M. P. PAKULA — I am happy to do so, Acting President. I note how touchy members of the government are about their ministers, whether it be the

conduct of question time, whether it be their own conduct in question time, whether it be their refusal to front the media, whether it be hiding out with media advisers for hours and then releasing prepared statements. I understand why they are touchy about all that, and why confidence in accountability mechanisms in this state have been eroded from the very lofty ambitions that this government set for itself when it came to office a year ago.

We could not possibly have heard more than we heard from Mr Baillieu throughout 2010 about how a new era of openness, transparency and accountability would dawn on the state of Victoria in the event that a Baillieu government were elected. The promises could not have been more profound; they could not have been stronger, and one by one they have been whittled away. They have been ignored. They have been jettisoned by the government, and it will take some time to again build up trust in a government that has not lived up to its promise to be open, transparent and accountable.

A public interest monitor will not protect Victorian institutions, like the office of the chief commissioner, like the office of the Director of Public Prosecutions, from the kinds of political interference they have been subjected to in the last 12 months.

Mrs Petrovich interjected.

Hon. M. P. PAKULA — However, the office may at least, Mrs Petrovich, have the ability to create some confidence in the integrity measures and the decision making by authorities that seek interception and other kinds of coercive powers.

Our problems with the bill in its current form, and the reason we are seeking amendments to it, primarily revolve around the fact that the minister will receive reports from the monitor 14 sitting days prior to them being tabled in Parliament. I do not think it does public confidence in the workings of PIM any good at all for the public to know that in some circumstances the minister is sitting on these reports for months and months. Just to illustrate that, if the minister were to receive a report from the public interest monitor on the day after the final sitting day this year — that is, on 9 December — it would not be tabled in the Parliament until nearly the end of April. What possible justification is there for the minister to be sitting on a report for four and a half months before the Parliament sees it? To have a situation where the minister will have this report, will be able to mull over it and goodness knows what else, for months and months, prior to it being tabled in the house, does not provide the sort of confidence and transparency to which the government says it is committed.

We think the government should have drafted a bill which had within it a provision which ensured that there could be absolutely no perception that a report of the public interest monitor was vulnerable in any way to any kind of ministerial influence before being tabled in the Parliament. With all the best intentions in the world, if a minister gets a report on one day and the Parliament gets it three or four months later, then the perception that can arise is that in some way or other there have been alterations, or some other kind of ministerial influence, before it has been tabled in the Parliament. Frankly, the opposition wants to avoid that perception being created. It wants to avoid any kind of situation where there can be a lack of confidence in the independence and transparency of the Public Interest Monitor.

It is incumbent on the government to explain why on earth there should be any necessity for the minister to have that report for three or four months before the Parliament does. It is incumbent on the government to make that explanation. It is not the case with reports from the Auditor-General or the Ombudsman. There is no obvious reason why the minister needs to have reports of the Public Interest Monitor for 14 sitting days before they are presented to the house. Even reports from Mr Merkel as part of the gambling licences review are only in the possession of the minister for seven sitting days before they are tabled in the Parliament. Reports of the Public Interest Monitor ought to be tabled directly in the Parliament and not sit in the office of the minister for 14 sitting days, or three or four months, before they come here.

We would also make the point that whilst PIM is important, equally the coercive or covert powers can be very important as well, and not just in regard to the probing of public officials. We know that without the covert powers of the Office of Police Integrity, the omni shambles that was the Tilley-Weston affair would never have come to light, so they are important too, just as are the monitoring powers of PIM. It is thus crucial that PIM does not delay the work of law enforcement bodies in circumstances where there is urgent action that they need to take.

The other point I make is that the approval statistics for the use of these powers show that few applications have been denied. Some have attempted to suggest that that means there has been a lack of proper oversight. I suggest to the house that it could equally demonstrate that the applications have been appropriately made, well thought out, well drafted and in the proper form. I

do not think it is a proper reflection on the activities to date or of the individuals or law enforcement bodies that have been engaged in those processes. The fact that there has been a large number of applications with a small number of denials does not of and by itself demonstrate a lack of proper oversight. I do not think that proposition follows from that fact at all, particularly in an environment where there is no suggestion — no credible suggestion, at least — that tribunal members and judicial members have not had absolute regard and applied absolute scrutiny to those applications. I am sure if anybody had evidence that any tribunal member or judicial authority had not applied scrutiny or rigour to these applications, they would bring that evidence forward. It is equally right to say that there is no evidence that phone taps have been approved in Victoria in a way that is contrary to the public interest.

Having said all that, we think it is appropriate that the Public Interest Monitor be created and that it be independent. We think it has an important role to play in ensuring that there is proper oversight of organisations that have extensive powers, including the power to create situations that might deny people their reputation, livelihood or liberty. However, for the Public Interest Monitor to be truly independent, its primary relationship from a governmental point of view ought to be with the Parliament and not with the minister. That is why we will move our amendments, and we hope they find support across the house.

Mr O'BRIEN (Western Victoria) — It is with pleasure that I rise to speak on the Public Interest Monitor Bill 2011, which is a bill to establish a principal public interest monitor (PIM) and deputy public interest monitors and to confer functions on those public interest monitors under the Major Crime (Investigative Powers) Act 2004, the Surveillance Devices Act 1999, the Telecommunications (Interception) (State Provisions) Act 1998 and the Terrorism (Community Protection) Act 2003. The establishment of a Public Interest Monitor is an important step in the rollout of the government's new integrity reforms, many of which we have debated this week — and we will continue to debate them during the conclusion of the debate on the Victorian Inspectorate Bill 2011.

PIM will provide an additional check and balance on the significant powers available to bodies such as the Office of Police Integrity, Victoria Police, the chief examiner and other government agencies with the power to apply for warrants. PIM will also be able to apply the investigative powers to be bestowed on the Independent Broad-based Anti-corruption Commission (IBAC). PIM will appear at applications by law enforcement and integrity bodies for surveillance device warrants, telecommunication interception warrants, covert search warrants, preventative detention orders, prohibited contact orders and approvals of emergency authorisations. PIM will represent the public interest at application hearings by testing the content and sufficiency of the material relied upon in the application and the circumstances of the application. PIM will represent the public interest that must be served in those applications.

It is another example of guarding the guards, to pick up the phrase that is often used in relation to checks and balances. In this case PIM would do so by making sure the important coercive powers necessary to utilise what I suppose are some of the benefits of modern technology — benefits that nonetheless intrude on privacy — are not abused. It will act in the public interest but within a regime of appropriate secrecy or covertness so that the evidence that is sought to be obtained is not tainted by the involvement of a public interest test. That is why this is an important piece of legislation. It has been well put together by the ministerial and departmental staff who have worked together on this as well as on the other pieces of legislation that make up the government's integrity reforms. They have carefully constructed a process whereby the public interest can be represented without the consideration of these issues interfering with the obtaining of important evidence through the exercise of the powers for which the application is being made.

PIM will assist judges, magistrates and administrative appeal tribunal members by appearing at hearings of applications for the use of those powers. PIM will be able to ask questions of the applicant and cross-examine witnesses. PIM will also make submissions to the judicial officer or tribunal member on the appropriateness of the application. There will be one principal public interest monitor supported by the deputy public interest monitors, and they must be lawyers. The bill contains several exclusions — appropriate persons who will not be public interest monitors but will hold suitable prosecution titles. The Public Interest Monitor will be established as soon as practicable after the bill is passed. The role of PIM is critical to Victoria's integrity system. It is vital that PIM perform its tasks independently.

In answer to Mr Pakula, the minister's introduction of the Public Interest Monitor is in response to the Ombudsman's report. It is fair to say that, whilst there may be questions Mr Pakula may wish to ask the present government, there are many equally important questions that need to be and have been asked about the

administration of the former government, and we need look no further than the report of the Victorian Ombudsman tabled yesterday, which lists failures in oversight and governance at a cost of some $1.4 billion in a number of projects over the term of the former government

I turn specifically to the important findings in paragraphs 60 and 61 on page 17 of that report. It says that there has been a lack of leadership on a number of projects and states:

> One project manager explained that senior officers have their careers vested in the success of these projects and are therefore reluctant to admit defeat. There was also an often unfounded optimism that success was just around the corner and that renewed commitments would see outcomes delivered. Against this backdrop there was a tendency to continue rather than terminate a project or contract, which brought public scrutiny and criticism — not to mention significant wasted expenditure.
>
> In a number of projects I examined — myki, HRAssist, the integrated court management system (ICMS), for example — serious consideration was given to cancelling the contracts and re-evaluating the projects.

I turn for example to paragraph 347, which relates to the myki project when the previous speaker was the minister. It states:

> I also note the comment by the vendor in its submission to DOT in December 2010 that 'in April 2010 in a meeting with the TTA, [we were] asked to present options to "slow" the project down and delay the removal of the Metcard equipment until after November 2010'.

Hon. M. P. Pakula — You have delayed it for another two years — what are you talking about?

Mr O'BRIEN — That is a question that you need to answer, Mr Pakula, because that is what you authorised.

Hon. M. P. Pakula — No, I didn't.

Mr O'BRIEN — Okay, there is an answer. That is his first answer.

Mr Ondarchie — On a point of order, President, I think Mr Pakula is suffering from premature interjection today because — —

The ACTING PRESIDENT (**Ms Crozier**) — Order! What is Mr Ondarchie's point of order?

Mr Ondarchie — I am asking whether he could be restrained from interrupting so we can hear the lead speaker for the government.

The ACTING PRESIDENT (**Ms Crozier**) — Order! There is no point of order. I ask Mr Pakula and Mr O'Brien to direct their comments through the Chair.

Mr O'BRIEN — Thank you, Acting President. If we are looking at this process of accountability and governance and a lack of rigour or scrutiny, let us apply some quickly to the decisions that were made.

Hon. M. P. Pakula interjected.

Mr O'BRIEN — I note the answer that, no, he did not authorise — —

Hon. M. P. Pakula — I said publicly it would not be taken out until Easter 2011.

Mr O'BRIEN — That is another statement I am happy to have put in *Hansard*.

Hon. M. P. Pakula — I said it in the media.

Mr O'BRIEN — Thank you. Let us see what the report says. It states:

> The state election was held in November 2010. When questioned, a witness from the TTA stated that 'the choice of words by [the vendor] was poor … a new CEO, a new chair and a new minister had recently been appointed and the message to [the vendor] was not to present any further releases which were not fully tested and robust … they did not wish to be on the front pages of the newspapers again'.

That is transparency, accountability and openness in governance!

Hon. M. P. Pakula — Mate, have a look at how many times I was on the front page about myki.

Mr O'BRIEN — A lot of times, Mr Pakula, but did you have the option to cancel the contract, and did you do that? Will Mr Pakula answer that question?

Hon. M. P. Pakula — You are asking me questions in Parliament?

Mr O'BRIEN — The member will not answer that one. I will turn to the bill. It is easy to apply standards that the government did not apply — —

Hon. M. P. Pakula — You had the option to cancel it too, but you have dug in.

Mr O'BRIEN — Picking up Mr Pakula's interjection, whatever options we have had have been a lot more restricted than the options that were available to his government for a project that blew out from some $200 million to the price that is now being paid. I am straying, and I will return to the bill.

Hon. M. P. Pakula — Yes, and you are wrong, too; it was never $200 million.

Mr O'BRIEN — Or whatever the original estimate was.

Hon. M. P. Pakula — Yes, $1 billion.

Mr O'BRIEN — Or $1 million? Or $100 million? I do not think it was $1 million.

Hon. M. P. Pakula — It was $1 billion.

Mr O'BRIEN — That was another estimate.

In relation to the surveillance processes, we will also allow public interest tests in applications in relation to surveillance devices, warrants and authorisations, retrieval warrants, assistance orders and emergency authorisations under the Surveillance Devices Act 1999. This will also operate in relation to telecommunication interception warrants under the commonwealth Telecommunications (Interception and Access) Act 1979, subject to commonwealth approval; covert search orders; preventative detention orders and prohibited control orders; and coercive power orders under the Major Crimes (Investigative Powers) Act 2004. The Public Interest Monitor will also have a role in applications for retrievals and variations and extensions of those warrants, which are important steps that can be taken.

The Public Interest Monitor will be assisted by relevant judges, magistrates or Victorian Administrative Appeals Tribunal members in appearing at the hearings of applications for those warrants. At those hearings public interest monitors will be able to ask questions, cross-examine witnesses and make submissions to the court on the merits of the warrant application and any terms and conditions that ought to be imposed.

Briefly in relation to the suggestion from the opposition that the referral should go straight to Parliament, as was proposed by way of an amendment circulated in the lower house, this bill provides for an appropriate level of independence of public interest monitors for them to be able to carry out their important tasks. As has been stated, they are to be appointed by the Governor in Council for a fixed term. They can be removed from office only if the Governor in Council forms a view that they are unfit to hold office. They are not subject to the Public Administration Act 2004, and they are also required to avoid any conflicts of interest.

The bill requires the principal public interest monitor to provide an annual report that will include a summary of the performance of the functions of PIM and the public interest monitors and statistics on the applications made, withdrawn and refused. The bill provides that the annual report will be tabled in the Parliament by the minister within 14 sitting days after receiving the report. That is the same process that currently exists for the commissioner of law enforcement data security, the child safety commissioner, the privacy commissioner and the public sector standards commissioner.

The proposed amendments sought to alter this process to provide that the Public Interest Monitor must table reports directly to Parliament. However, the tabling of reports directly to Parliament is generally required only in relation to extraordinary powers of independent officers of the Parliament, officers who receive referrals directly from the Parliament or officers who can be removed only by the Parliament, such as the Ombudsman; the Auditor-General; the director, police integrity; the special investigations monitor; the Commissioner of the Independent Broad-based Anti-Corruption Commission, subject to the Governor's assent to that bill; and the Victorian Inspectorate's Inspector, subject to that position coming into effect if the bill is passed later this afternoon.

The reporting mechanism in the first instance to the minister, who must then table the report in Parliament within 14 sitting days after receiving the report, is an appropriate mechanism. For those reasons the government will not be supporting the opposition's proposed amendments. It is an important oversight provision. It will assist in establishing the broad suite of policies that will restore integrity to government, including governance and management. Therefore I commend the bill to the house.

Ms PENNICUIK (Southern Metropolitan) — The Public Interest Monitor Bill 2011, which we are now debating, is an important piece of legislation. It enables public interest monitors to appear on behalf of the public and represent their interests. It will be used for applications for various covert investigation and coercive power orders and will provide further safeguards for applications for these orders. The functions of the public interest monitors (PIMs) are to appear at application hearings to test the content and sufficiency of information and the circumstances of the application, to ask questions of the person giving information on the application and to make submissions on the appropriateness of approving the application and any other functions conferred by law.

Under clause 3 of the bill the public interest monitors will oversee the following applications before and during hearings: coercive powers of Victoria Police and the chief examiner under the Major Crimes

(Investigative Powers) Act 2004 — and it is interesting that we were just talking about another amendment to that act and the contempt of the chief examiner earlier today — surveillance device warrants, retrieval warrants, assistance orders and approvals of emergency authorisations by Victoria Police, the Office of Police Integrity, the Department of Primary Industries, the Department of Sustainability and Environment and the Australian Crime Commission when applying for warrants regulated under the Victorian Surveillance Devices Act 1999.

It will also oversee telecommunications interception warrants by Victoria Police and the Office of Police Integrity under the commonwealth Telecommunications (Interception and Access) Act 1979, subject to other necessary commonwealth legislative amendments which will be required before this act can actually come into operation, which is why it does not have a date of proclamation in clause 2. PIMs will also oversee covert search warrants, preventative detention orders and prohibited contact orders by Victoria Police under the Terrorism (Community Protection) Act 2003.

A PIM or deputy PIM will also be involved in applications for extensions, variations and revocations of orders and warrants. It is an extensive piece of legislation with important oversight functions. The types of orders and applications that it oversees are outlined in clause 3.

The Greens will support this bill, but we do have some questions about it. There are various opinions about the role of the Public Interest Monitor and whether it is needed or whether the courts are able to fulfil those functions as they stand currently.

I note that the minister in his second-reading speech talked about applications for telephone interceptions. He said that all 424 applications by Victoria Police and the Office of Police Integrity were approved in the last year and that in the last year no agency's application has been refused. In relation to surveillance device warrants he stated that 421 of the 423 applications in the last three years were approved. I am not sure if that is implying that because they were approved, something is wrong. It may be that the court heard the arguments put by the applicants and found that the applications were warranted.

I followed that up and looked at the Victoria Police annual report 2010–11, pursuant to the Surveillance Devices Act 1999, regarding applications for surveillance devices during that period, which was referred to by the minister in his second-reading speech. I looked at the two warrants that were refused. The first application was refused by Justice Coghlan on 1 February due to lack of evidence implicating the target in the offence. That written decision was to be supplied by Justice Coghlan in due course; I have not seen that decision. The second application was refused because conversations to be monitored were between a solicitor and the target. The refusal was based on solicitor-client privilege, which seems reasonable. So even though only two were refused, very good reasons were given for refusing them. An argument could be put that the courts are fulfilling the role well, as they always have. Having said that, we understand the arguments for having a Public Interest Monitor, and we will be supporting this bill but with some queries.

One of the queries goes to the appointment of the public interest monitor and deputy monitors by the Governor in Council. I will not go into too much detail, because people can read the long debate we had on the Independent Broad-based Anti-corruption Commission (IBAC) about the appointment of such officers — officers of the Parliament, heads of statutory authorities and persons such as public interest monitors. It is our view that these positions should be appointed by an independent office or a commissioner of public appointments, as exists in the UK. Public interest monitors should be appointed in that way. We have stated that many times and have moved a motion in the Parliament about it.

As I said in my contribution to debate on the IBAC bill, I feel that the establishment of such a body would be an enhancement to what the government is trying to achieve, which is enhancing the whole integrity system across Victoria. Removing those important public sector appointments from the government and putting them in the hands of an independent office for public appointments would be a good step forward for Victoria. I note that a PIM cannot be appointed for a term longer than three years, and that is a good thing.

Part 3 of the bill goes to the functions of the Public Interest Monitor. In some ways these are straightforward, in that a PIM will:

> … appear at any hearing of a relevant application to test the content and sufficiency of the information relied on and the circumstances of the application …

and basically represent the public in questioning whether or not the application should be approved. One of the questions about that which has been raised with us by the Federation of Community Legal Centres and has been raised in other conversations and debates in the community is about the role of the Public Interest Monitor in actually overseeing the compliance of the

applicant, be that the police or IBAC or any other agency that has the power to apply for one of these orders or warrants, with the terms of the order or warrant.

Is the role of the Public Interest Monitor only in the actual application of the order? PIM has a role in the revocation of orders as well, but it is not clear whether PIM has a role in monitoring compliance with the bit in between — that is, when the order is in place and the surveillance device is in place and surveillance is being carried out. I will be asking the minister a question about that, because it is an important role which does not appear to be in the bill. However, I am not sure whether that precludes PIM from acting in that way.

Clause 16 requires PIM to avoid actual and potential conflicts of interest. Of course that almost does not need to be said, but it is good that it is in the bill. Clause 17 establishes strong confidentiality requirements for PIMs, including those who have left office, for the obvious reason that people in that position have access to very confidential information that they should not disclose either while in the position or later.

Clauses 19 and 20 are important, because they go to the issue of who PIM reports to. Under this bill PIM reports to the minister. This relates to what I have said before about enhancing integrity and keeping things at arms-length from the government, particularly when we are dealing with an important oversight body such as this. PIM will be a very similar body to SIM (special investigations monitor). SIM is required by section 30P of the Surveillance Devices Act 1999, for example, to inspect the records of Victorian law enforcement agencies using surveillance devices under a warrant or emergency authorisation in order to determine the level of statutory compliance by the agencies and its law enforcement officers. SIM has a role in monitoring compliance with orders, which does not appear to be part of PIM's role. SIM also reports directly to Parliament. I would have thought that the Public Interest Monitor was a similar organisation, even though technically the monitor is not an officer of the Parliament — —

An honourable member interjected.

Ms PENNICUIK — Perhaps the public interest monitor should be as an officer of the Parliament, as is the special investigations monitor. The public interest monitors will be carrying out and subsuming the roles of the special investigations monitor, who is an independent officer of the Parliament. These are important issues in terms of maintaining the independence of the role in the sense that PIM both be and be seen to be totally independent of the government. At the moment that is not the case and it cannot be seen to be the case, given the PIM role is not that of an independent officer of the Parliament and involves reporting to the minister. I think it would be better if PIMs were independent officers of the Parliament.

In terms of monitoring the use of surveillance devices, telephone intercepts and coercive powers, it is also unclear what is the crossover between the role of the Victorian Inspectorate and that of the Public Interest Monitor. That is not clear partly because we do not have the full range of the provisions of the integrity system that the government is in the process, let us say, of setting up.

Part 5 of the bill amends the Major Crime (Investigative Powers) Act 2004 to enable PIMs involvement in proceedings under that act. Under part 2 of that act Victoria Police, for the chief examiner, can make an application to the Supreme Court for a coercive powers order to investigate an organised crime offence. The amendments to the principal act contained in part 5 of this bill give PIMs a role in any hearings relating to applications for and extensions, variations and revocations of coercive powers orders. As noted, it seems PIM will have no role in overseeing the operation of those orders, as is the case at the moment.

Part 6 amends the Surveillance Devices Act 1999 in a way similar to that involving the amendments just mentioned to the Major Crime (Investigative Powers) Act 2004. These provisions apply where Victoria Police, the OPI, the Department of Primary Industries, the Department of Sustainability and Environment and the Australian Crime Commission, when applying for warrants regulated under Victorian legislation, make applications for warrants, orders or authorisations under the Surveillance Devices Act 1999. Clauses 32 to 42 set out all the obligations of PIM that are part of applications, determinations and revocations involving the various organisations that can make applications for surveillance device warrants, retrieval warrants, assistance orders and emergency authorisations et cetera.

Clause 42 amends section 30K of the Surveillance Devices Act 1999, entitled 'Report to judge or magistrate', to require a chief officer of a law enforcement agency to report to a judge or magistrate as to whether PIM was notified of the revocation of a warrant by the chief officer and the reasons the device is no longer needed. Under this amendment a judge or magistrate who receives a report can ask PIM to make

submissions as to how the information record is used. PIM can make submissions in person or by phone, fax, email or in any other reasonable way. The bill also allows applications to go ahead in the absence of PIM if the application is an emergency one and PIM cannot be contacted in the time frame. However the relevant information would immediately or as soon as practicable be sent to PIM.

In part 7, clause 43 inserts a new part dealing with the functions of the Public Interest Monitor in the Telecommunications (Interception) (State Provisions) Act 1988. Part 8 inserts a new part in the Terrorism (Community Protection) Act 2003 that allows PIM to be notified of applications under that act for covert search warrants, preventative detention orders, extensions of preventative detention orders, variations or revocations of preventative detention orders, prohibited contact orders or variations or revocations of prohibited contact orders. That is actually very welcome, because those provisions — for example, the preventative detention orders, which have secrecy attached to them — are controversial. To have the Public Interest Monitor involved in overseeing applications for those measures is good.

Clause 52 amends the Ombudsman Act 1973 to provide that nothing in that act authorises the Ombudsman to inquire into or investigate any administrative action taken by a PIM. This will put PIM into a position similar to that of the Director of Public Prosecutions, courts, judges, magistrates, the Auditor-General, local government, the Victorian Electoral Commission and a few others.

I mentioned that one of the issues we have is whether PIM is able to oversee compliance with conditions of warrants or orders. I would be interested to hear if government speakers could reply to that. If not, I will ask the minister the question during the committee stage. I have to say again that it is difficult to make a full assessment of every detail of the bill without having the full package of the Independent Broad-based Anti-corruption Commission, the Victorian Inspectorate and the Public Interest Monitor to see how they relate to each other and how they interact with the integrity bodies that are already up and running in the state of Victoria. I think that is still an ongoing issue. With those comments, the Greens will support the bill.

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the Public Interest Monitor Bill 2011 and, before I speak on it, I point out that the opposition has already declared that it is not opposing the bill.

The provisions of the bill include details of the role of the Public Interest Monitor in applications for telecommunications, interceptions, surveillance devices, covert searches, preventive detention, prohibitive contact orders and coercive power orders. There is also a provision regarding the regulatory procedures around the terrorism powers that exist currently. The Public Interest Monitor will also have a role in relation to applications for extensions, variations, revocations and retrievals of orders already granted by other integrity bodies. The bill provides for the establishment of a principal public interest monitor and deputy public interest monitors who, according to the requirements of this legislation, will have legal qualifications. They will be appointed for a three-year term by the Governor in Council. Their role will be principally to represent the public's interest.

It is true that applications for covert operations and phone tapping have increased in recent years, but I wonder whether by applying yet another level of bureaucracy there may be a capacity to impede or hinder the process of a critically important law enforcement operation when time is of the essence. At present the judiciary is responsible for giving assent to applications made by law enforcement agencies for covert investigations. The bill implies that our own well-established integrity bodies are insufficient or incompetent to continue their current role without an additional layer of scrutiny but are themselves exempt from the jurisdiction of the Ombudsman Act 1973 and the Whistleblowers Protection Act 2001.

The bill also proposes to incorporate an annual report mechanism, which will go directly to the minister and not to this Parliament in the first instance. The public interest monitors should be able to report without fear or favour and stand independent and apart from the political system. Having said that, I support the amendments to be proposed by Mr Pakula.

Mr P. DAVIS (Eastern Victoria) — It is a delight to have the opportunity to join in the debate on the Public Interest Monitor Bill 2011. I want to make some very brief remarks because I think it behoves us to recognise that this is one of three pieces of legislation in the Parliament in the current context of establishing the integrity system which the Baillieu government took to the 2010 election. In 2010 the government issued a policy statement titled *Victorian Liberal Nationals Coalition Plan for Integrity of Government*, which went to a number of principal proposals in relation to integrity in government. In addition there was a detailed policy statement in relation to the Independent Broad-based Anti-corruption Commission (IBAC). One of the issues that has emerged is the complexity of

ensuring that all the powers requisite for proper oversight of the integrity mechanisms are in place, and indeed that that oversight protects the public interest. Hence we come to the bill today.

The bill seeks to ensure that, consistent with the position of government, as part of the matrix of oversight and integrity of legislation the enforcement bodies, such as they are, are subject to robust oversight. In relation to that oversight it is clear that there are opportunities in relation to protecting the public interest for the appointed principal public interest monitor (PIM) or deputy PIMs to assist in relation to applications that come before state and federal judicial officers and the Administrative Appeals Tribunal, to which I will refer in a moment.

For me in particular it is interesting to note in relation to telecommunications interception warrants, that in 2010 alone Victoria Police and the Office of Policy Integrity made 424 applications and that, in fact, none of the applications were refused. I think that statistic on its own merits makes the case that we need to ensure that the public interest is protected. Given the coercive and investigatory powers that will be introduced in subsequent legislation for the establishment of IBAC, there is a need for another layer of scrutiny and public interest monitoring and, in effect, protection. PIMs will also apply in the case of the investigatory powers to be bestowed on the Independent Broad-based Anti-corruption Commission. In relation to IBAC and other agency applications, PIMs will be able to ask questions of the applicant and cross-examine witnesses. PIMs will also make submissions in relation to the appropriateness of an application.

I think it will be useful for me to summarise some of the points that have been made during the course of debate. Without wanting to provoke the ire of the shadow minister, who led the debate, I noted an inconsistency in the approach to making a case for the opposition's position. Its argument was on the one hand to say it was going to support the legislation but on the other hand to use the opportunity to go on a what is sometimes described in this place as a rant about various aspects of the bill and to reflect in inappropriate parliamentary terms on members in another place. I was delighted when the Presiding Officer in this place ensured that the proper standards of parliamentary debate were maintained. At the risk of provoking a response from the opposition, I mention just one word — Justin. If one is going to talk about integrity, let us talk about that one word, 'Justin'. I am sure the member on the other side understands precisely what I am alluding to, and I will not invite further debate on that point.

Ms Pennicuik, representing the Greens, assumed that the public interest monitor would assume the functions of the special investigations monitor, and that is clearly not the case. I had an intervening discussion with Ms Pennicuik while another speaker was on their feet. I tried to understand the point that Ms Pennicuik had made. What I need to say quite precisely about the role of the special investigations monitor (SIM) is that the government has publicly committed that the Victorian Inspectorate will assume the role of the SIM in relation to the pieces of legislation that facilitate the operation of the special investigations monitor. Is that okay?

Ms Pennicuik — Yes.

Mr P. DAVIS — Ms Pennicuik raised issues during her contribution to the debate. She is having some challenges trying to assemble the jigsaw of the complex matrix of the oversight arrangements under the various arrangements put in place by the Victorian Inspectorate Bill 2011, the Independent Broad-based Anti-corruption Commission Bill 2011 and the Public Interest Monitor Bill 2011. What I have just said is that clearly the role, which was raised by Ms Pennicuik, of the accountability and function of the special investigations monitor will be taken up by the Victorian Inspectorate, which will assume that role in relation to legislation over which the special investigations monitor operates.

Having said that, I want to generally move on to a summarising point — that is, this bill is critical in terms of protecting the public interest and ensuring the matrix of oversight arrangements is in place to ensure that we have the highest level of integrity and scrutiny of all of those mechanisms that will allow Victoria to regain and recover the position which we perhaps once held when we were seen to be the state that was completely free of any unethical and corrupt behaviour in government. Unfortunately the last few years of the previous administration raised some questions.

For that reason members of the Liberal Party and The Nationals, in an earlier debate this week, at about 3.30 in the morning, said that from about 2004 we were advocating to pick up the policy principle of putting in place the equivalent of an IBAC in the Parliament, including when moving motions in this house, and in the public space. I am delighted, I have to say, that a motion I moved in this chamber in June 2004 has at long last come into effect with the implementation of the integrity of government proposals that the Parliament is considering.

Considering the committee stage is next — we have been advised that there are some proposed amendments

to this bill that will be moved by the opposition, which, I understand, there will be some debate about in the committee stage — and that there is a further bill relating to the IBAC arrangements, the Victorian Inspectorate Bill 2011, which has to be discussed in a committee stage today, I think I would be doing a kindness to all concerned if I completed my remarks by urging all members of the house to support the second-reading motion of this bill. I believe that will be the case so we can then go on to the committee stage.

Motion agreed to.

Read second time.

Committed.

Committee

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I request leave for Mr O'Brien to join me at the table.

Leave granted.

Clause 1

Ms PENNICUIK (Southern Metropolitan) — During the second-reading debate I raised the issue of the ability of the public interest monitor, who is called 'a monitor', to monitor compliance with orders as opposed to overseeing applications for orders and warrants and applications for revocation. I refer to the bit that is in between — that is, the implementation or operation of an order or warrant. It seems I have not expressed myself well enough. The SIM (special investigations monitor) is in place to monitor compliance; the Victorian Inspectorate will be put in place, and it looks like it will monitor compliance or subsume the role of the SIM, including in relation to the new IBAC (Independent Broad-based Anti-corruption Commission). It is an expanded role. The SIM does not have this role now, because there is no IBAC in place.

My question is: why would the role of overseeing compliance not rest with the Public Interest Monitor (PIM)? It has been put to us in submissions by members of the legal community that that was the appropriate role for the Public Interest Monitor, if and when the role of the special investigations monitor is wound down because of the new system coming into place. That is my first question on clause 1.

Mr P. DAVIS (Eastern Victoria) — I may be able to expedite the discussion. If I understand the point that Ms Pennicuik is seeking to tease out, she is expressing a view that there are stakeholders who perhaps have a misconception about the role of the Victorian Inspectorate and the role of PIM. There is a conflation of what these bodies do. In simple terms, if I could be a little agricultural about it, I would describe PIM as being an advocate as opposed to having an oversight function. The Victorian Inspectorate is the body which has the oversight function, as opposed to PIM, which stands in the public interest, as per the title, and which then provides an advocacy function in relation to applications before any tribunal or any jurisdiction where that application is made.

The conceptual difference here is between the notion of oversight and the notion of advocacy. In short, that would be a rudimentary way of disseminating the difference in perception. I understand why there would be a different construct or perception around that issue, and it may be that the minister would like to add to those remarks.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Mr Davis was correct. The Public Interest Monitor will not interfere with the investigative procedures of Victoria Police. The role of the Public Interest Monitor is to assist judges in determining whether or not an application should be approved. PIM provides front-end accountability.

Ms PENNICUIK (Southern Metropolitan) — I thank the minister and Mr Davis for their explanations and clarifications of the questions that have been put to me. I will make sure people are apprised of them, and maybe they will have a response.

Clause agreed to; clauses 2 to 18 agreed to.

Hon. M. P. PAKULA (Western Metropolitan) — I move:

1. Clause 19, lines 9 and 10, omit "give the Minister" and insert "prepare".

I wish to speak very briefly to this amendment. I covered this ground during the second-reading debate. It is the view of the opposition that it would be more appropriate for the Public Interest Monitor to report directly to the Parliament rather than to the minister. We see no need for the minister to have the report of PIM for 14 sitting days before it is viewed by the Parliament. In certain circumstances that could mean a delay of up to four and a half months before the Parliament receives the report the minister has had. At other times it will obviously be less than that, depending on the sitting schedule. We think moreover that the relationship ought to be one between PIM and the Parliament. We just see no need for, if you like, a

third wheel to be involved, that being the office of the minister. The effects of the amendments are all to ensure that the reports are laid before the Parliament rather than that occurring after they have been in the possession of the minister for 14 sitting days.

The DEPUTY PRESIDENT — Order! Just before I call the minister, I should have indicated to Mr Pakula that I am advised that his proposed amendment 1 is a test of his proposed amendment 2 to clause 19 and amendments 3 to 7 to clause 20. Therefore if Mr Pakula wants to speak to any of the other relevant amendments, that is fine.

Hon. M. P. PAKULA — No.

The DEPUTY PRESIDENT — Order! We will be working on the basis that consideration of amendment 1 will be a test of all remaining amendments proposed by Mr Pakula.

Ms PENNICUIK (Southern Metropolitan) — The Greens will support the amendment put forward by Mr Pakula. It is our view that the government is in a process of setting up a new integrity system for Victoria. I think that right from the start any major organisation set up in that particular process should be at arm's length from the executive government in its first establishment and forever after, and that is why I suggest that appointments not be made by the Governor in Council on the recommendation of the minister but that there be an independent public body to do that, and that reports from these major bodies go straight to the Parliament and not to the minister. For that reason we will support the amendment.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank the members for their points raised in terms of the amendments proposed in committee by Mr Pakula. The principal public interest monitor is required under the bill to provide an annual report that will include a summary of the performance of the functions of public interest monitors and statistics about applications made, withdrawn and refused. I am advised that the current process under the bill is the same process that exists for the commissioner for law enforcement data security, the child safety commissioner, the privacy commissioner and the public sector standards commissioner.

The amendment seeks to alter this process to allow the principal public interest monitor the ability to table the annual report directly in the Parliament. I remind members that the ability to table an annual report directly in the Parliament is an extraordinary power generally confined to independent officers of the Parliament, officers who can receive referrals directly from Parliament or officers who can only be removed by the Parliament, such as the Ombudsman; the Auditor-General; the director, police integrity; the special investigations monitor; and, in future, the Commissioner of the Independent, Broad-based Anti-corruption Commissioner and the Inspector of the Victorian Inspectorate.

The DEPUTY PRESIDENT — Order! If there is nothing further, I will put Mr Pakula's proposed amendment 1 to clause 19, which is as I said a test of all his subsequent amendments to both clause 19 and clause 20.

Committee divided on amendment:

Ayes, 18

Barber, Mr	Mikakos, Ms
Broad, Ms	Pakula, Mr
Darveniza, Ms (*Teller*)	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms	Tarlamis, Mr
Jennings, Mr	Tee, Mr (*Teller*)
Leane, Mr	Tierney, Ms
Lenders, Mr	Viney, Mr

Noes, 20

Atkinson, Mr	Koch, Mr
Coote, Mrs	Kronberg, Mrs
Crozier, Ms	Lovell, Ms
Dalla-Riva, Mr	O'Brien, Mr
Davis, Mr D.	O'Donohue, Mr (*Teller*)
Davis, Mr P.	Ondarchie, Mr
Drum, Mr (*Teller*)	Petrovich, Mrs
Elsbury, Mr	Peulich, Mrs
Finn, Mr	Ramsay, Mr
Hall, Mr	Rich-Phillips, Mr

Pair

Somyurek, Mr	Guy, Mr

Amendment negatived.

Clause 19 agreed to; clauses 20 to 54 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

LIQUOR CONTROL REFORM FURTHER AMENDMENT BILL 2011

Second reading

Debate resumed from 10 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Mr ELSBURY (Western Metropolitan) — The community puts a great deal of trust in those who hold liquor licences in this state. We expect them to act responsibly in delivering a product which, if abused, can lead to social issues and violence. At the same time the community recognises that with proper regulation and if the correct processes are used in supplying alcohol, celebrations can be remembered and good times had.

This bill will introduce a 5-star rating system with associated incentives for licensees to encourage responsible management of their businesses in supplying alcohol to the public. Similarly, a demerit point system will be used to keep track of any infringement of the regulations surrounding liquor supply.

This bill will recognise cottage industry brewers and wine producers by modernising the existing regime surrounding vignerons. It will close any loopholes, ensuring that if an outlet is supplying packaged liquor, it is required to hold the correct packaged liquor licence. The star rating system will encourage greater self-management of licensed venues, ensuring that they adhere to the laws and regulations placed upon those serving liquor. If an incident occurs, then a star is lost in the rating system, and this will lead to a higher licence fee being inflicted on the licensee. Conversely, if a licensed premises does not incur an infringement, then they will be rewarded with lower fees and an increase in their star rating.

This system will assist in dealing with the issues over the long term by using a carrot-and-stick approach, because enforcement by the industry is the best way to ensure compliance. Demerit points will also be used to deal with non-compliance incidents covered in sections 108(4), 119 and 120 of the Liquor Control Reform Act 1998. These offences relate to the presence on licensed premises of minors or intoxicated persons. Each incident will incur one demerit point. If a venue reaches 5 demerit points, a 24-hour suspension of the licence is able to be inflicted. If the venue reaches 10 demerit points, a 7-day suspension will be used as a penalty. If a venue operator does not get the message, a 28-day suspension will be inflicted upon the accrual of 15 demerit points.

A demerits register will be established by the Victorian Commission for Gambling and Liquor Regulation so that licensees can be notified of an infringement and the number of infringements they have accumulated. Similarly, the Victorian Commission for Gambling and Liquor Regulation will be authorised to publish demerit points and star ratings of all licensees so people have full information about the performance of a licensed venue. This bill creates the new regulation powers needed for the star-rating scheme to be prescribed in the Liquor Control Reform Regulations 2009.

The Liquor Control Reform Further Amendment Bill 2011 introduces a new beer and wine producers licence which allows supply of the licensee's own product to any other licensee; the supply of the licensee's own product from the licensed premises for off-premises consumption; the supply of any liquor, including the licensee's own product, from the licensed premises for on-premises consumption; and the supply of the licensee's own product by way of email, telephone, facsimile transmission, internet or other electronic communication, including where supply includes delivery. A producer can apply for an additional component to the licence to allow for supplying their produce at a second venue, be that a cellar door in the main street or a market or festival. This new beer and wine producers licence replaces the vignerons licence and reflects the growth of farmers markets and the interest this government has in promoting business in tourism regions.

Some circumstances may permit producers gaining the beer and wine producers licence. These include where the licensee grows their own fruit and makes the liquor themselves; where the licensee grows their own fruit and the liquor is produced somewhere else in circumstances where the licensee has financial responsibility for its production, such as leasing fermentation equipment or contracting out the production; where the licensee buys fruit from someone else and produces their own liquor from it either on site or with financial responsibility for the production of the wine elsewhere — and that would be very important during times where you have a drought affecting a crop or you have had some other sort of event occur which has greatly damaged a crop — or where the licensee brews their own beer on the licensed premises or has a financial responsibility for its production elsewhere.

I will move on now to packaged liquor. Packaged liquor should be sold under the appropriate packaged liquor licence. Unfortunately there have been instances in which an outlet using a general licence has sold packaged liquor exclusively. A general licence costs $831 per year, while a packaged liquor licence incurs a

fee of $1662. At the moment this applies to eight outlets. However, to avoid planning issues related to packaged licence applications, these outlets will be required to pay the higher fee amount while maintaining general licences in name. In the future licence applications will be dealt with to ensure that the inequity in fee between the two licences does not disadvantage those who have taken up the packaged liquor licence option.

This bill will also assist in the live music area. Live music is not just entertainment; it employs thousands of people who wish to share their art with an audience. Musos can hone their skills, play original pieces and develop a name for themselves in the pub and club scene. In August a report by Deloitte found that live music contributes over half a billion dollars each year to the Victorian economy, which sounds much better than the previous government could ever do. One of the objectives of the bill is to make amendments to reflect the importance of live music in licensed venues. Imagine if live music had not been allowed in a country like Ireland; we would not have U2. I like their music, so I would be quite upset if Bono and The Edge were not around. Licensed venues play their part not only in being a place of entertainment but in spreading culture.

We can all agree on the importance of observing Anzac Day as a mark of respect for the sacrifice our servicemen, servicewomen and members of the merchant navy have made and continue to make for the security of our nation. This is why when in opposition the coalition supported amendments to the act to prohibit the sale of liquor between 3.00 a.m. and 12 noon on 25 April. Unfortunately those restrictions do not include BYO permits, and this fault will be amended. However, RSL venues will remain exempt, so servicemen and servicewomen who belong to those clubs will still be able to enjoy each other's company, have a quiet drink after going to the march in their local town or city or even, if so inclined, have a bit of a tipple after the dawn service.

The current act prohibits venues intended primarily for the use of minors from obtaining a liquor licence. On the whole this is not a bad idea, but when undertaking legitimate fundraising activities these restrictions have caused unintended issues. Under the Liquor Control Reform Further Amendment Bill 2011 such premises may obtain a licence from the Victorian Commission for Gambling and Liquor Regulation if the commission is satisfied that the application does not pose a risk of supply of alcohol to minors. As a government we have also brought in secondary supply laws, which will be vigorously enforced at such events.

The previous government made amendments that removed the director of liquor licensing's ability to allow bottle shops to trade on Good Friday and Christmas Day. This restriction was not understood, and a number of venues have been 'allowed' — and I say that with some emphasis — to trade on those days. These venues and others have shown a desire to serve their customers on those days to provide one last bottle of wine for Christmas dinner or a bottle of brandy for the pudding. Amendments in this bill attend to these issues.

The bill ties up a few loose ends that have developed over the years and undertakes house cleaning of the act. In item 8 of schedule 2 of the act there is a reference to section 114(d), which was repealed, and the bill replaces that with a reference to section 114(2). Section 11A(6) of the act refers to section 11(4), which was repealed last year, and it will now make reference to section 11(5).

Alcohol regulation is important, and other measures the government has undertaken include an $800 000 investment in the Step Back. Think. campaign to try to deal with issues of violence inside and outside licensed venues. It is about taking responsibility for ourselves, taking a step back and not making a rash decision when we have had a few too many. As mentioned earlier, the government has acted against the secondary supply of alcohol to minors. We feel the decision should be made exclusively by a parent, in consultation with their young adult or teenager, as young people approach an appropriate age to access alcohol. The steps taken in the Liquor Control Reform Further Amendment Bill 2011 provide for improved regulation, and it goes without saying that I support the bill.

Mr SCHEFFER (Eastern Victoria) — The opposition will not be opposing this legislation, and I flag at the outset that I would like the bill to go into committee briefly. I have a few questions to ask the minister on clause 18 of the bill.

As Mr Elsbury indicated, the bill seeks to amend the Liquor Control Reform Act 1998 to do four things: to introduce a demerit point system for licensees and permittees; to introduce a new licence type for wine and beer producers; to recognise the importance of live music in the objects of the act; and to make some other minor and technical arrangements. The bill for the most part does implement the coalition's election commitments — which is why the opposition is not opposing the legislation — to introduce a 5-star rating system and a demerit point system for licensees and permittees, to recognise the importance of live music and to introduce, as I say, this new category of wine

and beer producers licence to replace the vignerons licence which currently exists.

By way of background I take the house back to the watershed report, tabled in the Parliament in 2006, of the parliamentary Drugs and Crime Prevention Committee on its inquiry into strategies to reduce harmful alcohol consumption, which was undertaken in 2004. I found on reviewing that report in preparation for considering this legislation that its recommendations and contents are as relevant today as they were five and a half years ago. That is because the inquiry delved into the many issues involved in alcohol consumption and laid bare many of the serious questions that arise for the community when alcohol is consumed in excess without regard for one's own or other people's wellbeing.

The grim reality is that after tobacco, alcohol is the second-most common cause of preventable deaths, and amongst many sections of our community it is not even thought of as a drug. The Drugs and Crime Prevention Committee's inquiry found that we need to change our attitudes to the consumption of alcohol, which is of course a product that is embedded in Australian and Victorian culture. The committee supported the view that real and lasting cultural change would require a wide range of coordinated economic, social, environmental and community approaches that challenge the prevailing cultural norms about alcohol and alcohol-related problems.

It found that while harmful alcohol consumption is in many ways structural, it is the responsibility of individuals to learn to use alcohol responsibly, and it is also the responsibility of the industry and of outlets to ensure that the supply of alcohol is managed with an eye to the public good. The committee also found that the state plays a critical role in the development and enforcement of laws and regulations in the interests of community wellbeing.

The use of the term 'harmful alcohol consumption' to some extent overlooks the fact that no level of alcohol consumption is actually good for you, contrary to many public perceptions. It is just that if alcohol is consumed in moderation, people get by because they figure the impact on their health and safety is acceptable. Successive governments have tackled these issues, and the debate on this legislation is an opportunity to put some of the issues into perspective.

The previous Labor government well understood the enormity of the social costs of harmful alcohol consumption, which is why the Bracks government gave the alcohol reference to the Drugs and Crime Prevention Committee in the first place and why its departments worked so hard and so thoroughly on the 165 recommendations that the committee made. In May 2008 Restoring the Balance, Victoria's alcohol plan which was to take us up to 2013, in part grew out of the Drugs and Crime Prevention Committee's work. Restoring the Balance contained some 35 actions in the areas of health, community education and liquor licensing and enforcement, as well as specifically working on alcohol-related harm.

One of the important things we learnt — and I certainly learnt this through my work with the Drugs and Crime Prevention Committee on the alcohol inquiry — was that there is no silver bullet and that social and cultural change require many approaches. Labor's Restoring the Balance action plan developed approaches to educating the community about the effect of alcohol consumption on increasing the potential for violent behaviour.

There was also a campaign to raise public awareness of what individuals themselves can do to take responsibility for themselves and take care of other people. The Good Sports program was another Labor initiative that has been very effective in assisting sporting clubs to create safer, more family-friendly environments. I remember talking to operators of sports clubs who were amazed at how their clubs became more frequented by local families and community members when they took a firmer stand on controlling alcohol consumption. They found that the community expected them to take control, not just give in to worse and worse behaviour as patrons drank more and more and got rowdier and rowdier, often frightening children and making others uneasy.

Labor also established the Safe City taxi ranks, extended train and bus services — including late-night services — and made changes to planning regimes, ensuring that local councils keep an eye on the density and location of outlets and the safety around licensed premises. Labor also strengthened police powers, especially in entertainment precincts, where troublemakers can be banned for periods of up to 72 hours and, with the approval of a court, up to 12 months.

Labor made changes to licensing conditions, introducing a risk-based licensing structure which meant that the greater the risk of harm a premises posed to its clientele, the higher its licensing fee. We also increased the number of compliance inspectors and doubled the penalties for supplying liquor to intoxicated customers and for permitting drunk and disorderly persons to be on the licensed premises, to name just a few of the very many initiatives that were introduced

over the last decade. In many ways the provisions in this bill continue the thrust that was adopted by the previous Labor government and, to be fair, governments before that. I certainly compliment the government for introducing this bill, because it does take us forward.

As I said earlier, the bill introduces a demerit point system for licensees and holders of permits and a new type of licence for wine and beer producers. It recognises the important role of live music in entertainment spots. Basically the demerit system is a point system where compliance breaches incur a demerit point, which is a fine or payment on the part of the licensee. A demerit point can be exacted for supplying alcohol to intoxicated persons, supplying liquor to minors or permitting minors on the premises at all. This approach has proved effective on our roads, and I see no reason why it could not be successful in licensed premises. As I said, when we are in the committee of the whole I will seek some clarification on proposed section 86H of proposed part 4A, but we will come to that by and by.

The provisions in the bill also enable the introduction of a 5-star rating system, whereby licensees can achieve status and a fee discount by actively complying with licensing regulations. This is an excellent idea in principle, and the opposition will wait to see the details of the scheme the government plans to introduce through regulatory changes. The new type of licence that has been devised for wine and beer producers will enable them to supply liquor as wholesalers, in the form of packaged liquor, for on-premises consumption and for direct sale to the public. As I understand it, there will be only one license required for all types of supply and sale.

I believe that the measures contained in this bill will be welcomed. As I indicated earlier, they follow the incremental steps that successive governments have introduced and that have made some difference in reducing harmful alcohol consumption. But alcohol remains the cause of a great number of harms to the health and wellbeing of members of the community. It contributes to and is a major cause of family violence, violence and bloodshed on our streets, road trauma, many diseases that reduce life expectancy and quality of life, and it costs the Australian community around $8 billion a year out of a national budget of around $300 billion, which is a very significant amount. On the other hand, the production of alcohol and its marketing and sale is important to the economy, and many people have deep cultural attachments to this drug that are not easily removed. Then again many of us felt the same way about tobacco, yet over many years of consistent work we have been able to make it less acceptable than it was.

Ms HARTLAND (Western Metropolitan) — This is a very straightforward bill that the Greens will be supporting. I will not go over the technical details because the two previous speakers have done that. However, there are two provisions in the bill I would like to comment on which I thought were particularly good. The first is the simplification of licensing and permits for vignerons and small beer producers. When we were debating similar legislation last year I spoke to a number of those people who explained how complicated it was to have to get new licences all the time. This bill will make it that much easier, and I think it is a really good idea.

The second one which attracts me a great deal is the demerit point system. While we still have risk-based licensing, the demerit point system will provide the opportunity — or the stick and the carrot — to make sure that licensed premises behave properly. I think a demerit point system is a good idea. With those few words, the Greens will support this bill.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 17 agreed to.

Clause 18

Mr SCHEFFER (Eastern Victoria) — My question relates to clause 18 which inserts new section 86H into the Liquor Control Reform Act 1998. Under this provision the minister may suspend, cancel or delay a suspension. I guess the opposition has some concern or disquiet that the discretion given to the minister in this section of the principal act may undermine public confidence in the demerit point system, and I am seeking some reassurance from the minister. My question is: can the minister give the committee some examples of where the cost to the community might outweigh the benefit of the suspension?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — In response to Mr Scheffer's question about new section 86H, basically I understand the point Mr Scheffer is making. The discretion that is provided to the minister in this regard is in recognition of the fact that it needs to be applicable to a variety of circumstances. Essentially the intention of this

provision is that it would apply in exceptional circumstances, where as Mr Scheffer said, the benefit outweighed the cost. An example of that would be an event at the MCG, the Boxing Day test or something like that, where the licensee had been subject to suspension but the public interest in having a licensee operating at the venue at an event like that outweighed the benefit of the suspension. It would be in only very exceptional circumstances at very significant public events where that provision would be used.

Mr SCHEFFER (Eastern Victoria) — I guess what flows out of that is whether the government will articulate or make public the conditions that might need to be satisfied for the minister to make that kind of determination. I understand the example the minister gave, which is fair and reasonable, but does the government or the minister intend to issue some document where there might be a checklist or something?

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — Going back to the earlier point, the intention of this section is for it to encompass circumstances as they may arise on an exceptional basis. The requirement of the provision is for the minister to be satisfied. Obviously this would be done in a context of public scrutiny. In the same way as the demerit points will be recorded on a website, a minister's decision to override a suspension would also be publicly recorded on a website. It would be done in the context of specific events at the time, and the balance has to be determined by the minister because it has to be to the minister's satisfaction. But, as I said, it would be done for significant events and it would be a public decision, because it would be recorded on the website where the demerit decision was recorded.

Mr SCHEFFER (Eastern Victoria) — I understand the issue of flexibility, that you cannot lock down every single contingency that might arise and that we charge ministers with the responsibility of exercising judgement, which is their job. I want to press the point that it is possible to set some parameters, such as in the example the minister gave, that would clarify for the public that the minister did not make just an arbitrary decision — because the licensee is a mate, for example. You would need some kind of objective test, as I have just put in response to what the minister said when responding to my earlier question. It may well be that a body of cases would start to be developed as each section was agreed to and that was put on the website. What I am asking is: would the government then pool that, so that we would start to get a profiling of what we are really talking about here, and so that there is some benchmark against which people can see that the demerit system is working fairly?

Mr O'BRIEN (Western Victoria) — I want to lend my voice briefly to this bill. I would like to lend my support, as a former licensee and as a supporter of live music, to the object in clause 1(c):

> to provide in the objects of the Act for recognition of the importance of live music.

That is in contrast to the previous regime where those factors were not considered. I would like to make that point very briefly. These factors will be considered, I imagine, but I will leave the minister to answer more fully.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — In response to Mr Scheffer, certainly the point he makes is a good one. The government does not envisage that there would be a large list of examples of this nature, because this is an exceptional circumstances provision and the type of example where it would be applied would be like the example at the MCG, as I described earlier. The provision would apply to circumstances of that magnitude and nature, so it would have a very limited application. Ultimately patterns could be developed around the individual cases, I guess, but we would not envisage that there would be many cases at all.

Clause agreed to; clauses 19 to 35 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

EDUCATION AND TRAINING REFORM AMENDMENT (SKILLS) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. P. R. HALL (Minister for Higher Education and Skills) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. P. R. HALL (Minister for Higher Education and Skills), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Education and Training Reform Amendment (Skills) Bill 2011.

In my opinion, the Education and Training Reform Amendment (Skills) Bill 2011 (ETRA skills bill 2011), as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The primary purpose of the ETRA skills bill 2011 is to amend the Education and Training Reform Act 2006 (ETRA) to:

(a) clarify that TAFE institutes and adult education institutions have the power to operate outside Victoria; and

(b) overcome gaps and technical problems in the existing ETRA that authorises work placements and to ensure WorkCover protection to students and their host employers.

Human rights issues

1. Human rights protected by the charter act that are relevant to the bill

The ETRA skills bill 2011 potentially engages the following human rights protected by the charter act:

Section 17: protection of families and children

Section 17(2) of the charter act states that every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

This charter act right is promoted by a number of proposed amendments in the bill. The amendments will correct technical matters in the ETRA which currently, but unintentionally, exclude some students from accessing work placements and WorkCover protection, on the basis of their age or the provider they are enrolled with. The amendments will enable more Victorian secondary and TAFE students (including some young people under 18 years) to participate in work placement programs with eligibility for WorkCover protection as a result.

It appears that the bill does not limit this right.

Section 24: right to a fair hearing

Section 24 of the charter act states that a party to a civil proceeding has a right to have the proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

The bill proposes to extend some provisions of the ETRA that apply to work placements. Currently, there are some gaps in the coverage of those work placement schemes as an unintended consequence of recent legislative changes.

One of the features of the existing legislation for work placements is that, while a student is actually on placement with an employer, the educational institution does not have a duty of care in relation to the care and control of the student, and the institution and its staff are not liable for a legal action for breach of such a duty. These rules are set out in sections 5.4.10 and 5.4.18 of the ETRA. The reason for these provisions is that it is not practicable for an educational institution or its staff to exercise care and control of students who are, during a placement arrangement, absent from the institution and actually under the supervision of the placement employer in that employer's workplace.

In extending the scope of work placement arrangements, the bill will also extend to the same extent the scope of the legal protection of educational institutions and staff during placements.

This change does not appear to limit the procedural right to a fair hearing of a civil proceeding. Rather, it is a change to the substantive law relating to the legal liabilities of educational institutions and their staff in relation to students.

Conclusion

I consider that the Education and Training Reform Amendment (Skills) Bill 2011 is compatible with the charter act.

The Hon. Peter Hall, MLC
Minister for Higher Education and Skills
Minister responsible for the Teaching Profession

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill proposes urgent amendments to the Education and Training Reform Act 2006 as it affects two issues in the higher education and skills portfolio.

The first set of amendments will clarify that TAFE institutes and adult education institutions may deliver programs and services outside Victoria, whether interstate or overseas. It had been thought, until recently, that these powers already exist in the act. On that basis, a number of TAFE institutes and adult education institutions conduct substantial operations outside Victoria, including maintaining campuses, delivering educational services online and undertaking other ventures on a commercial basis. These have been important parts of their functions, and have been generally supported.

However, recently doubts have arisen as to whether the current wording of the act is technically sufficient to authorise such activities. The bill will therefore make minor amendments to put beyond doubt the ability of TAFE institutes and adult education institutions to operate outside Victoria.

The second set of amendments are to the provisions that authorise the conduct of practical placements and work experience programs for students of vocational education and training providers, and work experience and structured workplace learning placements for students of secondary education providers.

As members may be aware, vocational education and training students undertake practical placements for the purpose of instruction and training in specific occupational skills. These placements are a formal part of many vocational education and training programs.

Under the Education and Training Reform Act 2006 and related provisions of the Accident Compensation Act 1985, students undertaking practical placements would be eligible under WorkCover in respect of workplace injuries during those placements. However, there are gaps in that coverage which this bill seeks to close.

The current act provides that students of vocational education and training providers registered with the state regulator, the Victorian Registration and Qualifications Authority (VRQA), can undertake practical placements. However, on 1 July 2011, a new commonwealth regulator of vocational education and training was established. It is called the Australian Skills Quality Agency, or ASQA. It is estimated that about half of vocational education and training providers in Victoria will be registered by ASQA. As a result, students of ASQA-registered providers may fall outside the provisions of the state legislation that provides WorkCover protection. The bill will make the necessary changes to state law to enable these students to undertake placements and have this protection. Complementary commonwealth regulations may be necessary for this to be fully effective.

The bill will also correct a cross-reference to the provision under which state-regulated providers are registered, to ensure that there are no gaps in eligibility for WorkCover of students of Victorian-regulated providers while on placements.

The bill also deals with work experience placements undertaken by secondary students who are enrolled in TAFE institutes and TAFE divisions of universities. In contrast to practical placements, the purpose of work experience placements is not formal occupational training. Rather, they provide a secondary student with experience of the workplace, as part of their general secondary education.

While most secondary students are enrolled at schools, there are a number who complete their final years of secondary education with TAFE providers or other secondary education providers that are not schools.

This bill therefore aims to ensure that secondary students at TAFE providers can undertake work experience in the same way as their contemporaries enrolled at schools, and to ensure that students of non-school secondary education providers are also covered. Students on these placements will have protection under WorkCover.

The bill also contains a number of validation provisions. These are designed to validate past actions of TAFE institutes and adult education institutions in conducting operations outside Victoria. They also ensure that students who undertook placements in the past, and their host employers, will have the same protection under WorkCover and other provisions of the legislation as if these amendments had been in force at that time. Although these validations relate to matters in the past, they are designed to legitimise actions that had been carried out in good faith at the time in the belief that they were authorised under the legislation. In the case of the validation of placements, the validation provisions are beneficial in nature.

While these amendments could be seen at one level as minor machinery amendments, their urgent passage is required to ensure that the operations of TAFE institutes and adult education institutions outside Victoria are not impaired, and to ensure that students can continue to undertake work placements with eligibility for WorkCover protection in the event of injury.

I commend the bill to the house.

Debate adjourned for Ms MIKAKOS (Northern Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 1 December.

TRANSPORT LEGISLATION AMENDMENT (MARINE SAFETY AND OTHER AMENDMENTS) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. M. J. GUY (Minister for Planning), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Transport Legislation Amendment (Marine Safety and Other Amendments) Bill 2011.

In my opinion, the Transport Legislation Amendment (Marine Safety and Other Amendments) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The bill makes a range of changes to the Marine Safety Act 2010 and other legislation designed to improve safety outcomes and increase the effectiveness of marine regulation.

The bill makes various amendments to the Marine Safety Act 2010 to facilitate the commencement of that act. Some of these include —

ensuring that persons operating hire and drive vessels are subject to the same duty of care as operators of recreational vessels;

facilitating better renewal procedures for marine licences and permissions;

enabling Victoria to recognise certificates issued by class societies and other international authorities;

establishing an accreditation scheme for persons providing services to the director, transport safety; and

providing regulation-making powers for the transfer of commercial certificates.

This bill extends the scope of the hoon boating scheme so that the sanctions of embargo, impoundment and forfeiture apply to the active pursuit of wildlife, as defined by various offences under the Wildlife Act 1975.

The bill also clarifies marine pollution responsibilities and cost recovery provisions by ensuring that the Secretary of the Department of Transport has the power to recover any costs incurred in marine operations where discharge of pollutants is successfully prevented.

The bill also adjusts the regulation of Victorian ports in response to the review conducted by the Essential Services Commission in 2009 into its price-monitoring regime for the sector. This includes repealing the Victorian channels access regime and refining the regulatory role of the Essential Services Commission.

The three-year sunset clause into regulation of towage at the port of Melbourne is repealed by the bill.

Human rights issues

In my opinion, the bill does not limit any human rights.

In respect to the extension of powers of seizure, impoundment, immobilisation and forfeiture to combat 'hoon boating' to certain marine wildlife offences, I am of the opinion that no charter right is limited. While the exercise of the powers may operate to remove an individual's proprietary rights, and the fair trial right in section 24(1) of the charter may be engaged, in my opinion, insofar as the provisions raise charter rights, the provisions are reasonable and proportionate.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006 because it does not raise any human rights issues.

Matthew Guy, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The bill makes a range of amendments to the Marine Safety Act 2010 and other legislation designed to improve safety outcomes and increase the effectiveness of marine regulation.

In particular, the bill extends the new hoon boating scheme to cover offences which endanger or harm marine wildlife.

The Marine Safety Act, passed by Parliament in September last year with the support of the coalition parties, then in opposition, is a substantial piece of legislation. Unfortunately the bill was rushed through the Parliament by the then Labor government without adequate opportunity for proper scrutiny. During the debate I was critical of the government's abuse of parliamentary process in relation to this act, so it is not surprising that a large number of amendments are now necessary.

Overwhelmingly, these amendments are practical measures that give better effect to the intent of the act and the marine safety regulatory scheme.

Proposed regulations to support the act are currently undergoing an exhaustive consultation process with all elements of the recreational and commercial marine sectors. While some finetuning is always required when major new regulatory regimes are being put into place, I can assure the Parliament and industry stakeholders that the coalition government is allowing adequate time to fully discuss the changes and get things right — for example, the formal consultation period on the proposed regulations was doubled from one to two months.

The extension of the hoon boating scheme to protect marine wildlife is the government's response to reports of a number of ugly incidents during the last boating season — tragically highlighted by the killing of a two-month-old dolphin off Portsea, apparently struck by a boat or jet ski.

The Wildlife Act 1975 contains a range of offences to protect marine mammals and other marine wildlife, and the bill brings these offences within the scope of the hoon boating provisions.

Modelled on the hoon driving laws, the hoon boating scheme was introduced from September 2010 when water police were empowered to place an embargo notice on a recreational vessel which had been operated in a dangerous manner and to order a person involved in operating a vessel dangerously off the water for up to 24 hours.

From 1 September this year, police were empowered to seize vessels, impound vessels and seek forfeiture of vessels.

This bill extends the scope of the hoon boating scheme so that the sanctions of embargo, impoundment and forfeiture apply to the active pursuit of wildlife, as defined by various offences under the Wildlife Act.

This means the hoon boating provisions will be able to be used by authorised marine wildlife officers.

Among the other amendments in the bill, some of the more significant changes include:

ensuring that operators of hire and drive vessels are covered by the same statutory duty of care as operators of recreational vessels;

allowing Victoria to recognise certificates that are recognised by the commonwealth; and

facilitating better renewal procedures for marine licences and permissions.

The bill improves consistency across the transport portfolio by aligning the regulatory framework for issuing marine infringement notices with the regulatory framework for other transport infringement schemes within the Transport (Compliance and Miscellaneous) Act 1983.

The bill also contains amendments to the regulation of Victorian ports in response to the review conducted by the Essential Services Commission in 2009 into its price monitoring regime for the sector. The bill:

repeals the Victorian channels access regime; and

refines the regulatory role of the Essential Services Commission.

Finally, the bill also makes a series of minor, miscellaneous and machinery changes to improve the operation of the marine and ports sectors.

These include:

repealing the sunset clause for regulation of towage services at the port of Melbourne;

transfer of marine pollution control functions back to the Department of Transport;

clarifying that the Secretary of the Department of Transport can recover costs incurred in marine pollution incidents where discharge occurs or is likely to occur;

establishing an accreditation scheme for persons providing services to the marine safety regulator; and

providing regulation-making power for the transfer of commercial certificates.

I commend the bill to the house.

Debate adjourned for Hon. M. P. PAKULA (Western Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 1 December.

CRIMINAL PROCEDURE AMENDMENT (DOUBLE JEOPARDY AND OTHER MATTERS) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011.

In my opinion, the Criminal Procedure Amendment (Double Jeopardy and Other Matters) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

This bill amends the Criminal Procedure Act 2009 to:

(a) reform the common-law rules against double jeopardy by providing that a person may be tried again in certain circumstances;

(b) improve early prosecution disclosure in summary proceedings;

(c) clarify that deemed convictions from an infringement notice form part of an offender's criminal record for the purposes of sentencing.

Human rights issues

Section 26: right not to be tried or punished more than once

The primary right engaged by the proposed double jeopardy reforms is the right not to be tried or punished more than once in section 26 of the charter act. The proposed exceptions to the double jeopardy rule impose a limitation on the right in section 26 of the charter act but in my view they do so in a way that can be demonstrably justified under section 7(2). In summary, this is because of the tightly defined circumstances in which retrials are permitted, the limited categories of offences which may be retried, and the procedural protections in the proposals which guard against abuse of process by police or prosecuting authorities.

The prohibition on double jeopardy is a longstanding common-law right. It has been recognised in major international human rights treaties as well as in the Victorian charter act. The fundamental purpose of the rule against double jeopardy is to ensure fairness to accused persons by ensuring that they are protected against being the subject of multiple prosecutions. It also protects the legal system by ensuring that there is certainty and finality to criminal justice processes. However, the right may be subject to reasonable limitations that can be demonstrably justified in accordance with section 7 of the charter act.

The limitations on the double jeopardy rule proposed in the bill are exceptions relating to: (1) fresh and compelling evidence; (2) tainted acquittals; and (3) administration-of-justice offences. I consider that, together, these exceptions serve purposes which are valuable and important. Their primary purpose is to ensure that individuals acquitted of serious crimes are not able to escape punishment where compelling new evidence of guilt emerges or where it is clear that the original acquittal was 'tainted' in some way by an orchestrated perversion of the original trial which resulted in the acquittal. The exceptions also achieve other important goals such as promoting community safety, fair hearings and just outcomes, the interests of victims of crime and public confidence in the criminal justice system.

The bill tightly defines the circumstances in which retrials may be allowed with respect to each of the three exceptions. In relation to all three exceptions to the double jeopardy rule, the DPP must apply to the Court of Appeal to set aside the previous acquittal or remove it as a bar to further proceedings. The Court of Appeal must be satisfied that one of the three exceptions applies and that a fair new trial is likely.

The 'fresh and compelling' evidence exception applies only to the most serious categories of offences, including murder, manslaughter, arson causing death, serious drug offences and serious forms of rape and armed robbery. In addition, the exception will only encompass evidence that is reliable, substantially and highly probative against the person that would not have been able to be produced by the prosecution at the original trial with reasonable diligence.

The extent of the tainted acquittal exception is also limited in various ways. For instance, it only applies to offences with a maximum penalty of 15 years imprisonment or more. Further, an acquittal will only be tainted if the Court of Appeal is satisfied that it is more likely than not that, but for the commission of the administration-of-justice offence, the accused person would have been convicted in the original trial. Similarly, the administration-of-justice offence exception is limited to indictable offences and the Court of Appeal must be satisfied that there is fresh evidence of the commission of an administration-of-justice offence by the accused in relation to the previous acquittal.

In addition, the bill builds in various procedural protections which guard against abuse of process by police or prosecuting authorities. Together with the specific limits with respect to each exception outlined above, these procedural protections ensure that the limitations on the rule against double jeopardy are reasonable. For instance, subject to an urgency exception, the bill provides that the police cannot carry out or authorise a police reinvestigation in relation to a person who has previously been acquitted of an offence unless the DPP gives written authorisation.

Slightly different considerations apply in considering whether the limitations on the right in section 26 of the charter act are demonstrably justified in relation to the three exceptions. In relation to the 'fresh and compelling' evidence exception, as the original acquittal was the result of a proper process based on the evidence available at the time, the limitation is more onerous to justify. However, because of the more limited scope of this exception and the importance of ensuring that individuals acquitted of serious crimes do not escape punishment altogether where compelling new evidence of guilt emerges, in my opinion the limitations are also demonstrably justified in relation to this exception.

In relation to the tainted acquittals and administration-of-justice exceptions, the original acquittal was the result of an improper process and the limitations on the right are more readily justified.

By ensuring that those who have committed serious offences are brought to justice, the limits on double jeopardy (i.e. the three exceptions) will promote community safety, fair hearings and just outcomes, victim rights and public confidence in the criminal justice system. This bill strikes an appropriate balance between the right of individuals not to be tried twice for the same offence and the public interest in ensuring that serious offenders are brought to justice.

Section 27: retrospective criminal laws

Clause 18 of the bill which inserts new section 441(4) in the Criminal Procedure Act 2009 does not engage section 27 of the charter act. Section 27 prohibits the retrospective application of criminal liability. The double jeopardy reforms do not change criminal liability. Rather, they change the circumstances in which a person may be tried and convicted of an offence.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006. Provisions of the bill engage with, but do not limit, the right conferred by section 27 of the charter act. The provisions of the bill that limit human rights under section 26 of the charter act are reasonable and proportionate.

Richard Dalla-Riva, MLC
Minister for Employment and Industrial Relations
Minister for Manufacturing, Exports and Trade

Second reading

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I advise that the bill was amended in the Legislative Assembly to include a reference to the offence of child homicide in clause 17. I move:

That the second-reading speech be incorporated into *Hansard*.

Motion agreed to.

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill reforms the common-law rules against double jeopardy by providing that a person may be tried again in certain circumstances. The bill also improves early prosecution disclosure in summary proceedings and clarifies that deemed convictions from certain infringement notices form part of an offender's criminal record for the purposes of sentencing.

Double jeopardy reforms

This bill delivers on the government's election commitment to reform the law on double jeopardy, based on a model approved by the Council of Australian Governments (COAG) in 2007.

The rule against double jeopardy is a longstanding common-law principle which provides that a person may not be tried for the same offence twice. Its purpose is to ensure that criminal proceedings can be brought to a conclusion and the outcome in a trial can be regarded as final. However, where a person has been acquitted, the rule against double jeopardy prevents that person from being retried even where important new evidence against them comes to light at a later date.

This bill represents a significant reform to the criminal law in Victoria. The bill reforms the common law so that a new trial can be allowed in three situations.

The first situation is where there is 'fresh and compelling' evidence against the person (for example, where new DNA evidence links a person to a murder or a person confesses to having committed a murder). The second situation is where the original acquittal was 'tainted' (for example, by the commission by the accused person or another person of an 'administration-of-justice offence' such as bribery of a witness or perjury). The acquittal will be tainted if it is more likely than not that, but for the commission of the administration-of-justice offence, the accused person would have been convicted in the original trial. The third situation is where there is fresh evidence that the accused person has committed an administration-of-justice offence in respect of an acquittal and the prosecution seeks to bring charges for that offence notwithstanding the acquittal.

The bill tightly defines the circumstances in which retrials may be allowed and builds in various safeguards with respect to the powers of police and the DPP as well as clear criteria to guide the Court of Appeal.

The bill provides that the police cannot carry out or authorise a police reinvestigation in relation to a person who has previously been acquitted of an offence if police propose to exercise certain powers that directly affect that person unless the DPP gives written authorisation. The DPP must be satisfied that the reinvestigation will, or is likely to, result in sufficient new evidence and that it would be in the public interest to authorise a reinvestigation, before giving authorisation. An exception is made where the police must act urgently to preserve evidence.

Because prosecuting a person for a second time is an exception to the rule against double jeopardy, an order of the Court of Appeal is required to set aside a previous finding that a person has previously been acquitted of an offence. The bill provides that the DPP may file a direct indictment but must apply to the Court of Appeal within 28 days for an order that the prosecution for the charge in the indictment may continue and for the court to set aside the accused's previous acquittal. Failure to apply to the Court of Appeal without an extension for good cause will mean that the proceedings are automatically discontinued. There are also limits on making multiple applications.

Finally, the bill contains clear criteria that the Court of Appeal must follow when determining whether to grant an application by the DPP. Firstly, the Court of Appeal must be satisfied that one of the three exceptions applies. Secondly, the court must be satisfied that a fair new trial is likely. In applying this test, a court must take into account the length of time since the offence has occurred and whether police or prosecution conduct has contributed to delay in bringing further proceedings.

Further, the bill ensures that retrial applications can be made only for appropriately serious offences. The relevant offences for each exception vary. For example, the 'fresh and compelling evidence' exception applies only to the most serious categories of offences, such as murder, manslaughter, arson causing death, serious drug offences, and serious aggravated forms of rape and armed robbery. The 'tainted acquittal' exception applies to a broader category of offences, with a maximum penalty of 15 years imprisonment or more. Finally, the exception for 'administration-of-justice offences' will apply with respect to trials for all indictable offences. The range of offences to which this exception applies is broader because prosecutions for some, but not all, administration-of-justice offences can already take place under the existing law.

Other amendments

The bill will also help to cut court delays by introducing amendments in the Magistrates Court to require the prosecution to make available basic information to the accused's lawyer. It is important to ensure that no cases are adjourned because information the prosecution has already prepared is not available at the first mention hearing. This will reduce the number of adjournments and therefore reduce delay in our court system.

The bill also ensures that where an infringement notice results in a deemed conviction, such as a drink-driving conviction, that conviction forms part of the offender's criminal record and is taken into account when a court is sentencing an offender.

Conclusion

This bill implements a key government election commitment. It will increase the ability of the criminal justice system to deliver effective and just outcomes by ensuring that persons acquitted of crimes are not able literally to 'get away with murder' or other serious crimes where compelling new evidence of guilt emerges or the original acquittal was tainted in some way.

I commend the bill to the house.

Debate adjourned for Hon. M. P. PAKULA (Western Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 1 December.

DOMESTIC ANIMALS AMENDMENT (PUPPY FARM ENFORCEMENT AND OTHER MATTERS) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. P. R. HALL (Minister for Higher Education and Skills) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. P. R. HALL (Minister for Higher Education and Skills), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters) Bill 2011 (the bill).

In my opinion, the Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters) Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The main purpose of this bill is to amend the Domestic Animals Act 1995:

(a) to increase the penalties for various offences under the Domestic Animals Act 1995 concerning non-compliant domestic animal businesses;

(b) to establish the Animal Welfare Fund and provide for payments into the fund from consolidated revenue to fund grants to animal welfare organisations;

(c) to provide a broader range of orders a court can make in relation to non-compliant domestic animal businesses;

(d) to insert a definition of 'community foster care network' to recognise organisations that arrange for foster housing of animals in private residences; and

(e) for other purposes.

The bill will also amend the Prevention of Cruelty to Animals Act 1986 to increase the penalties for cruelty and aggravated cruelty, and amend the Confiscation Act 1997 to provide confiscation of assets for certain breaches of the Prevention of Cruelty to Animals Act 1986.

Human rights issues

1. Powers to seize and dispose of dogs or cats

Clause 11 inserts new section 82A into the Domestic Animals Act 1995 which provides for the seizure of dogs or cats from an unregistered breeding domestic animal business. A breeding domestic animal business is defined as an establishment which carries out the breeding of dogs or cats to sell subject to certain thresholds regarding the number of fertile animals kept on the premises when breeding. The definition excludes premises that are a part of a community foster care network.

The provision grants an authorised officer the power to enter any premises on which a breeding domestic animal business is being conducted and seize a dog or cat if certain conditions exist. An animal seized under this provision is not recoverable.

As a person is being deprived of their property in the form of a dog or cat with no possibility of recovery, the right to property in section 20 of the charter act is engaged.

Right to property (section 20)

Section 20 of the charter act provides that a person must not be deprived of his or her property other than in accordance with law. A deprivation of property is permitted if the powers which authorise the deprivation are conferred by legislation or common law, are confined and structured rather than arbitrary or unclear, and are accessible to the public and formulated precisely.

In my opinion, this provision does not limit section 20 due to a number of reasons. The provision clearly sets out that the deprivation of property is only permitted to occur in a number of confined circumstances. These circumstances are:

(a) if the premises in question are not registered under section 47 of the Domestic Animals Act 1995 and a notice to comply has been issued requiring the premises to be registered and the authorised officer believes that the notice has not been complied with within the time specified; or

(b) if the registration of the premises has been revoked by the council or court order due to a failure to comply with the Domestic Animals Act 1995, its regulations, relevant code of practice or conditions of registration, or the person has been found guilty of an offence under the Prevention of Cruelty to Animals Act 1986; or

(c) the authorised officer reasonably believes that a person conducting the breeding domestic animal business has breached a prohibition order made by a court.

Given that the intention of the bill is to protect animals from poor breeding and welfare practices, the seizure of an animal in the above conditions will be reasonable as it will relate to a situation where the welfare of an animal is in question or the integrity of the domestic animal industry is threatened. Additionally, a decision to seize can be reviewed under both common law and pursuant to the Administrative Law Act 1978 (Vic).

Accordingly, I conclude that the right to property is not limited by this provision.

2. Power of court to make orders prohibiting ownership of dogs or cats

Clause 17 inserts new section 84WA into the Domestic Animals Act 1995 which, in relation to a person found guilty of conducting a domestic animal business on unregistered premises or not complying with the relevant code of practice, grants the Magistrates Court the power to make an order prohibiting that person from keeping or selling animals of a specified species or from conducting or working in a domestic animal business. The prohibition order remains in effect for 10 years unless a shorter period is specified by the court.

The making of such an order engages the right to privacy in section 13 of the charter act.

Right to privacy (section 13)

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

The right has been interpreted in comparative jurisdictions to comprise, to a certain degree, the right to establish and develop relationships with other people. For that reason, broad measures banning individuals from employment have been found to limit this right where they affect an individual's ability to develop relationships with the outside world to a very significant degree and create serious difficulties for them as regards the possibility to earn their living.

In my opinion, these orders do not present an arbitrary interference with a person's privacy. The order is discretionary and is only available against persons convicted of offences under the Domestic Animals Act 1995 that relate to improper conduct within the domestic animal industry or neglect or abuse of animal welfare. The order is limited to employment in the specific industry of a domestic animal business or the possession and selling of animals of a specified species, and can only extend for a maximum of 10 years following conviction. The order is subject to ordinary appeal processes.

Accordingly, I conclude that the making of prohibition orders to be compatible with the right to privacy in the charter act as such orders do not constitute the type of broad banning measures which might limit the right to privacy in section 13 of the charter act.

3. Presumption of innocence — reverse onus

Clause 25 more than doubles the penalty units for the offence of cruelty to animals in section 9(1) of the Prevention of Cruelty to Animals Act 1986. The offence contains a reverse onus in section 9(2) which allows an owner of an animal charged with cruelty to escape liability if the owner can prove that, at the time of the alleged offence, the owner had entered into an agreement with another person by which the other person agreed to care for the animal. A provision which places the onus on the accused to prove their innocence limits the presumption of innocence in section 25(1) of the charter act.

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

As this clause alters an existing provision with a reverse onus, it is necessary to justify the limit on the right to be presumed innocent caused by the operation of the reverse onus in the existing provision.

I am of the opinion that the limit is reasonable and justified in a democratic society for the following reasons. The burden of proof is imposed on the defendant in respect of establishing this defence, which only applies to certain instances of the offence that involves omissions of an owner of an animal that result in an act of animal cruelty. The purpose and effect of the defence is to provide the owner of an animal with an opportunity to escape culpability in the event that an act of cruelty is committed upon that animal and at the time it had been agreed that some other person was to care for the animal. The prosecution would still first have to prove the elements of the offence of animal cruelty.

The defendants seeking to rely on this defence will be owners of animals and therefore will be aware of the responsibilities and requirements for the proper care of animals. They will have knowledge of the requisite facts or documents needed to prove the existence of an agreement for another person to care for the animal.

The purpose of imposing a legal burden is to ensure the effectiveness of enforcement and compliance with the Domestic Animals Act 1995, by enabling the offences to be effectively prosecuted and to thus operate as an effective deterrent. The importance of this purpose is to prevent an owner from falsely claiming that another person was charged with taking care of the animal, which would be difficult and onerous for the Crown to investigate and prove to the contrary beyond reasonable doubt.

Although an evidential onus would be less restrictive upon the right to be presumed innocent, it would not be as effective because it could be too easily discharged by a defendant, leaving the prosecution in the difficult position of having to prove that the defendant had not entered into an agreement for another person to care for the animal. The inclusion of a defence with a burden on the accused to prove the matter on the balance of probabilities achieves an appropriate balance of all interests, bearing in mind, in particular, that the defendants will be owners of animals and can reasonably be expected to have taken steps to enable them to discharge their responsibilities of properly caring for their animals.

Accordingly, section 9(1) of the Prevention of Cruelty to Animals Act 1986 is compatible with the charter act.

4. Restraint and forfeiture of property on court order

Clause 27 inserts new section 13B into the Confiscation Act 1997 to provide that the offences of cruelty and aggravated cruelty in the Prevention of Cruelty to Animals Act 1986 be triggering offences for a charge-based restraining order or a discretionary conviction-based forfeiture order where the offences relate to the conduct of a domestic animal business.

The Confiscation Act 1997 provides for the confiscation of the proceeds and instruments of crime and property suspected to be tainted in relation to serious criminal activity. The regime, by its nature, engages a number of charter act rights as it contains strong powers that are primarily directed at confiscating persons' property. However, the strong powers are balanced by a range of appropriate safeguards designed to protect the individual rights of persons who may be subject to the scheme.

I refer to the statement of compatibility to the Confiscation Amendment Act 2010 which examined in depth the human rights issues arising out of the confiscation regime and concluded that while the regime limited human rights, the limitations are reasonable and demonstrably justified in a free and democratic society.

In my opinion, the inclusion of the offences of cruelty and aggravated cruelty to the application of the Confiscation Act 1997, where the offences relate to the conduct of a domestic animal business, is compatible and consistent with the justifications detailed in the statement to the amendment bill. The inclusion of these offences is also consistent with other offences already included in schedule 1 of the Confiscation Act 1997 that involve other forms of unlicensed use or abuse of animals. It is appropriate for the purposes of deterrence and disgorging ill-gotten gains that the courts have the discretionary power, subject to the safeguards in the Confiscation Act 1997, to restrain and forfeit property from which a person has profited whilst engaging in cruelty to animals.

Conclusion

I consider that the Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters) Bill 2011 is compatible with the charter act because although some provisions do engage human rights, these provisions do not limit these rights.

Peter Hall, MLC
Minister for Higher Education and Skills

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Domestic Animals Amendment (Puppy Farm Enforcement and Other Matters) Bill 2011 amends the Domestic Animals Act 1994, the Prevention of Cruelty to Animals Act 1994 and the Confiscation Act 1997. The bill will deliver the government's election commitments and public announcements to 'get tough on rogue puppy farm operators'.

Currently for a dog or cat breeder to be defined as a domestic animal business they must be an enterprise that is 'run for profit'. There have been a number of animal breeding establishments found to exercise poor welfare practices and to be non-compliant with the Code of Practice for the Operation of Breeding and Rearing Establishments. However, many of these have avoided prosecution because of the difficulty in proving that the business was selling animals for profit.

The prosecution history shows that very few cases are taken to court (five in 2009, two in 2010, and so far two in 2011). Of these nine cases:

four were struck out of court;

one was adjourned;

three have resulted in a fine; and

one resulted in a community-based order.

The low prosecution rate highlights the frustration and concern of councils that cases can be weak if they cannot prove 'run for profit'. Councils risk losing costs and so are unwilling to prosecute. This bill will substitute the requirement that the enterprise be 'run for profit' with a requirement that the enterprise 'sell dogs or cats'.

The bill will also change the definition of domestic animal business to capture breeding establishments with three or more fertile female dogs or three or more fertile female cats. This will apply to all breeders except members of an applicable organisation who will still be able to have up to nine animals before needing to register.

It has been found that some domestic animal businesses are choosing not to register or comply with the code of practice because the penalties are so low that it is economical for them to take the risk of being unregistered or non-compliant.

This bill will increase the following penalties:

the maximum penalty for conducting a domestic animal business not in compliance with the relevant code of practice will be increased from 10 penalty units ($1221) to 246 penalty units ($30 046) and a corporate offence of 600 penalty units ($73 284) is introduced;

the maximum penalty for conducting a domestic animal business on unregistered premises will be increased from 10 penalty units ($1221) to 164 penalty units ($20 031), again introducing a corporate offence of 600 penalty units ($73 284);

the offence of selling a 'pet shop' animal other than from a registered domestic animal business or from a private residence is increased from 10 penalty units ($1221) to 30 penalty units ($3664) and a corporate offence of 150 penalty units ($18 321) is introduced;

the offence of cruelty to an animal is increased from 120 penalty units ($14 657) to 246 penalty units ($30 046) and for aggravated cruelty the offence is increased from 240 penalty units ($29 314) to 492 penalty units ($60 093).

Tripling the penalty for the illegal sale of a 'pet shop animal', from anywhere other than a private residence or registered domestic animal business enhances the commitment to close down illegal commercial breeders. This protects the private individual who wishes to sell a litter of pups or kittens from home but prevents the larger seller from taking animals to markets or offering the animals for sale in a car park. There is also a major practice of wholesalers who purchase puppies from illegal breeders and then house them on premises to sell them on to a pet shop or export trader.

This bill will make it an offence for a person to advertise the sale of a dog or cat unless the microchip identification number of the animal or the council registered number for the domestic animal business is included in the advertisement or notice.

There is currently no court power to ban ownership of dogs and cats or impose conditions with regard to ownership or operation of domestic animal businesses. The bill provides for new court orders to ban ownership or impose conditions on a person with regard to the ownership of dogs or cats or for operating or working in a domestic animal business. The ban can be for a period of up to 10 years and can be imposed if found guilty of an offence associated with registration or the standard of conduct of a domestic animal business.

There is no general provision in the Domestic Animals Act 1994 to allow for the seizure and disposal of dogs or cats from a breeding establishment other than specific provisions such as those allowing seizure and destruction of restricted breed dogs. The bill will allow an authorised officer to enter a breeding establishment and seize dogs and cats if the premises are not registered following notices directing registration; where registration has been revoked; or where an operator has been found guilty of conducting a domestic animal business not in accordance with the relevant code of practice and a court has made prohibition orders against the operator.

The bill also provides for the giving away of these seized animals and for disposal in limited circumstances. The bill also provides for seizure of things and profits in specified circumstances and provides for bonds or security to be paid by owners of seized animals to councils to assist in the cost of maintenance, care, removal, transport and disposal of the dogs or cats.

The bill will allow council authorised officers to enter and inspect premises prior to registering them for the conduct of a domestic animal business to determine whether the premises comply with the relevant code of practice.

The bill sets out the details required to be included in a notice to comply that can be issued by an authorised officer if reasonable grounds exist that the person has committed an offence against the Domestic Animals Act 1994.

The bill establishes the Animal Welfare Fund to receive payments out of consolidated revenue. The bill provides for payments out of the Animal Welfare Fund for the making of grants to organisations that operate to:

provide for the welfare of animals; or

provide an 'animal shelter' service; or

provide education programs on responsible ownership of animals; or

provide services as a community foster care network for companion animals; or

provide animal relief services and use of facilities to the community during emergencies.

To remove the risk of liability for prosecution of shelters or pounds for possession of unregistered animals awaiting sale or rehabilitation, the bill will provide an exemption from the requirement to register an animal with a council where the animal is in a registered animal shelter or a pound.

As a way of recognising the role of community foster care networks that re-home dogs and cats, the bill defines an animal rescue organisation as a 'community foster care network' and excludes it from the requirement to register as a shelter. This will allow dogs and cats to be cared for in a private home without the requirement for compliance with the code of practice that applies to shelters and pounds whilst a permanent home for the animal is being sought.

I commend the bill to the house.

Debate adjourned on motion of Mr LENDERS (Southern Metropolitan).

Debate adjourned until Thursday, 1 December.

SERIOUS SEX OFFENDERS (DETENTION AND SUPERVISION) AMENDMENT BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (charter act), I make this statement of compatibility with respect to the Serious Sex Offenders (Detention and Supervision) Amendment Bill 2011.

In my opinion, the Serious Sex Offenders (Detention and Supervision) Amendment Bill 2011 (the bill), as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The main purpose of the bill is to enhance community safety by amending the Serious Sex Offenders (Detention and Supervision) Act 2009 (the principal act) and to make consequential and related amendments to other acts.

The bill will amend the principal act to —

allow police to dispense with the notice period required before filing a charge sheet for the offence of breaching a condition of a supervision order, in limited circumstances;

suspend the requirement for the secretary or the Director of Public Prosecutions to apply for a periodic review of an order if an application to renew the order has been filed, or the offender is being held in custody on remand;

modify the provisions of the act that apply to offenders subject to interim supervision orders;

clarify the existing information-sharing provisions and include additional relevant persons and relevant acts;

clarify provisions allowing a court to make interim orders on the basis that the material before it, if proven, would justify the making of an order and the ability of parties to dispute evidence;

amend the range of applications that enable the Director of Public Prosecutions to apply to the Supreme Court for an interim detention order; and

clarify the relationship between the act and the Disability Act 2006 and the Civil Procedure Act 2010.

Human rights issues

The bill alters the provisions of the principal act requiring the secretary or Director of Public Prosecutions to seek periodic review where an application to renew a supervision or detention order has been made, or where an offender is subject to an order and is in custody on remand. In my view, these amendments will reduce pressure on court time and resources, and do not limit human rights protected under the charter act because the principal act provides that an offender may seek leave to have an order reviewed at any time in accordance with section 68.

I have also considered the following human rights issues raised by the bill:

1. Information sharing

Clause 13, which amends section 189 of the principal act, will expand both the range of relevant persons with whom the secretary may share information about offenders and the relevant acts under which information may be shared. A provision which allows the sharing of personal information engages the right to privacy in section 13 of the charter act.

Right to privacy (section 13)

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

In my opinion, the extension of the sharing of information in this context does not limit the right to privacy as the disclosure of information will not be arbitrary. Information sharing with relevant persons is prohibited under the principal act, unless the person disclosing the information believes on reasonable grounds that it is necessary to enable a person to carry out a function under the principal act or other nominated relevant acts. Section 190 of the principal act contains a further safeguard requiring a relevant person to develop guidelines in relation to accessing of shared information to ensure that access to the information is restricted to the greatest extent possible without interfering with the purpose of the principal act or relevant acts referred to in section 189.

Accordingly, information exchanges will only occur where it is necessary to administer the scheme and ensure its consistency with other schemes. Additional relevant acts have been included in the bill because the consequences of prosecutions or other proceedings under these acts may result in orders, applications or proceedings that may impact on an offender's capacity to comply with the terms of an order made under the principal act.

In addition, the secretary may be in receipt of information that she reasonably believes would assist the Victorian child protection authorities to discharge their obligations to protect children and young people under the Children, Youth and Families Act 2008, or information that is relevant to a determination under the commonwealth Migration Act 1958 (where the offender is not an Australian citizen or permanent resident, and may be required to be detained in immigration detention). Such disclosure is consistent with provisions of the Information Privacy Act 2000 that permit disclosure of information where it is necessary to lessen or prevent a serious threat to public health, public safety or public welfare. The overall purpose of the collection of information under the principal act is to carry out functions to enhance the protection of the community. I am satisfied that the information is being shared under this provision for the same overall purpose of enhancing community protection.

2. Expansion of search power

Some offenders continue to be managed under orders made under the Serious Sex Offenders Monitoring Act 2005 and are residing at the residential facility established under the principal act, as required by the conditions of their extended supervision order. The transitional provisions of the principal act deal with the management of offenders still subject to orders under the Serious Sex Offenders Monitoring Act 2005, but there remain inconsistencies in their treatment compared with offenders subject to orders under the principal act. The bill resolves these inconsistencies, providing greater transparency and certainty of management of all offenders residing at a residential facility.

The bill expands the transitional provisions of the principal act contained in schedule 2 to include two additional provisions; section 142 (the power to search) and section 146 (the power to use force in certain circumstances). These amendments do not alter the overall operation of the scheme, but extend these particular management powers to offenders subject to orders under the Serious Sex Offenders Monitoring Act 2005 and accordingly, the expanded search power engages offenders' right to privacy.

Right to privacy (section 13)

Section 142 allows an officer to order a search of a part of a residential facility, an offender, a visitor to a facility or an offender's correspondence.

While section 142 does interfere with the privacy of persons who are subject to a search under this clause, the interference will not be arbitrary for the following reasons: the officer must reasonably believe that the search is necessary; the circumstances in which a search can occur are clearly specified in the legislation and tailored to ensure the power is not applied arbitrarily; the nature of the search is limited to a garment or pat down search; and finally, in relation to an offender's correspondence, the provision excludes the power to read letters in a range of important circumstances. Additionally, in my view, both staff and offenders, as well as visitors to residential facilities, would be aware of the highly regulated nature of the facility and thus have a lower expectation of privacy in that environment.

3. Disputing reports filed with applications for interim orders

Section 113 of the principal act provides that the offender, the secretary, or the Director of Public Prosecutions may file with the court a notice of intention to dispute the whole or any part of an assessment report, progress report or any other report filed with an application under the act. The court is then precluded from considering matters in dispute until they are able to be tested by the parties. Clause 9 of the bill amends section 113 to exclude applications for interim orders under part 4 of the principal act.

Clause 10 inserts a new section 113A into the principal act, providing that the parties may file with the court a notice of intention to dispute the whole or any part of any report made to the court or other report made to the court in relation to an application for an interim order under part 4. If the notice is filed prior to the determination of the application the court may give the party the opportunity to lead evidence on disputed matters and cross-examine the author of the report on its contents. The section then provides that where a notice is not filed the court is not required to give parties the opportunity to lead evidence on matters in dispute. The court will retain the discretion, in either case, to hear evidence making an interim order. A provision which restricts a respondent's right to lead evidence on disputed matters or cross-examine the applicant's witnesses engages the right to fair trial in section 24 of the charter act.

Right to fair trial (section 24)

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

The amendment will clarify the ability of the court to decide applications for interim orders under sections 53 and 54 of the principal act without the examination of witnesses unless a notice of intention to dispute is filed.

However, I consider the right to a fair trial not to be limited by this amendment because it applies only at the interim application stage, and a number of safeguards are in place to ensure that the offender is not unfairly disadvantaged. The amendment does not prevent the offender from testing the evidence against him or her, or from tendering competing evidence, so long as the notice is filed. The court will retain the discretion to control proceedings and may allow examination of witnesses where it deems it necessary to satisfy the requirements of sections 53 and 54 which set out the requirements for when a court may make interim orders.

In circumstances where an interim order is made without the respondent being given the opportunity to lead evidence on disputed matters, I note that an interim order cannot be made unless the court can satisfy the detailed criteria set out in the principal act and that an interim order cannot exceed four months (unless exceptional circumstances exist). Furthermore, the respondent's right to dispute evidence is still maintained at the final hearing, where both parties will have the opportunity to lead evidence, cross-examine report authors and fully investigate the opinions of witnesses.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities Act 2006, because, to the extent that some provisions may engage human rights, those provisions do not limit these rights.

Hon. Richard Dalla-Riva, MLC
Minister for Employment and Industrial Relations

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Since the Serious Sex Offenders (Detention and Supervision) Act 2009 (the act) came into force on 1 January 2010 the scheme has protected the community from the serious physical and psychological harm posed by serious sex offenders. This act protects the most vulnerable members of the community. The long-term harm caused by sexual offending not only has devastating impacts on the emotional wellbeing of victims but contributes to community anxiety and undermines our sense of community safety.

This government is committed to continuing the post-sentence supervision and detention of serious sex offenders because any degree of recidivism in this group of high-risk offenders cannot be tolerated and we recognise that it is imperative that appropriate legislative responses are available to protect the community and rehabilitate offenders.

In the 2010–11 financial year, there were 36 supervision orders made under the act. Twenty-one of these were new orders, and 15 resulted from the review of an existing order made under the preceding scheme, the Serious Sex Offenders Monitoring Act 2005.

A legislative response is one part of a suite of programs aimed at reducing the risk of reoffending by high-risk sex offenders through facilitating their identification, management and rehabilitation.

Another aspect of the response is safe housing for offenders. Corella Place provides transitional accommodation for sex offenders on post-sentence supervision where appropriate housing has not been found elsewhere in the community. The purpose-built residential facility has the capacity to accommodate up to 40 offenders and dedicated staff provide a specialist level of case management while monitoring offender compliance with their orders.

The aim of the Serious Sex Offenders (Detention and Supervision) Amendment Bill 2011 is to strengthen the Serious Sex Offenders (Detention and Supervision) Act 2009 by making a number of technical amendments.

In summary, these amendments will:

- modify the obligations that apply to offenders subject to interim supervision orders;
- suspend the requirement to apply for a review of an order if an application to renew an order has been made;
- suspend the requirement to apply for a review if the offender is held in custody on remand;
- clarify the process for making interim orders to increase flexibility and efficiency;
- allow nominated senior police to dispense with the notice period that is required if an offender is to be charged with the offence of breaching supervision order conditions;
- broaden and clarify the existing information-sharing provisions;
- amend the parts of the act that apply to offenders that are subject to orders made under the Serious Sex Offenders Monitoring Act 2005;
- clarify when interim detention orders can be made;
- clarify the relationship between the act and the Disability Act 2006 and the Civil Procedure Act 2010.

Turning now to each of the amendments contained in the bill.

Interim supervision orders

The time between the decision being made to apply for a supervision order and the order being made by a court can take several months. In order to manage the risk to the community posed by offenders who have reached the end of their sentence before this hearing, the act permits interim supervision and detention orders to be made. Interim supervision orders permit a court to put into place an interim management regime for the offender until such time that a full hearing is conducted. The bill will rectify an apparent oversight in the matters that are deemed to apply to this group of offenders by ensuring that:

- time spent in custody on remand will be taken into account in calculating the remaining period of the interim order;
- interim supervision order conditions do not apply to a person serving a sentence while in custody or held in custody on remand;
- the conditions of interim supervision orders will apply when the person is released on parole or at the end of their sentence; and
- the conditions of an interim supervision order are to be served concurrently with the operation of any community-based order.

The requirement to apply for periodic reviews

The bill also modifies the requirement for the secretary or the Director of Public Prosecutions to seek periodic reviews in some cases. The first change is when an offender is subject to a renewal application and a periodic review is also due. In this case the bill will amend the act so that the obligation to apply for a periodic review will be suspended until such time that the renewal application is withdrawn or dismissed. The difference between renewal and periodic review hearings is that upon renewal, a court can consider the term of a supervision or detention order. This consideration is not engaged during a periodic review, but in both cases the court must consider if a supervision or detention order continues to be warranted or should be removed. The aim of this amendment is to reduce duplication and unnecessary use of court resources. Offender eligibility is considered at both a periodic review and a renewal hearing so offenders will continue to be able to ask the court to consider their individual progress and the merits of continuing the order.

The bill will also remove the obligation to apply for a periodic review if an offender is held in custody on remand. The act already suspends the requirement to apply for a periodic review if an offender is serving a term of imprisonment. It is also appropriate to suspend the requirement to conduct periodic reviews when an offender is held on remand because as part of the preparation for a periodic review all offenders are extensively interviewed in the clinical assessment process. If an offender is held in custody on remand for additional offending it may be difficult for the offender or report author to avoid consideration or discussion of additional unproved offending behaviour and these discussions may prejudice the defence of the offender. In addition a clinical report that does not contain these details may not represent an accurate assessment of the risks posed by the offender.

Interim orders and disputed reports

Section 113 of the act provides that the offender, secretary or the Director of Public Prosecutions may file with the court a notice of intention to dispute the whole or any part of an assessment report, progress report, or other report made to the court or filed with an application under the act. After this notice is filed that evidence is put aside until both parties can examine the report author. This provision conflicts with the powers of the court in section 53 that allow it to make an interim supervision order if it appears to the court that the documentation, if proved, would justify the making of the supervision order.

To solve this problem the bill will insert a new section 113A dealing with applications for interim orders. This section provides that the secretary or the Director of Public Prosecutions may file with the court a notice of intention to dispute the whole or any part of an assessment report, progress report, or other report made to the court. If a notice is filed prior to the determination of the application the court may before taking the report in dispute into account when determining the application, give the party that filed the notice the opportunity to lead evidence on the disputed matters and cross-examine the author of the report on its contents. The section then provides that if a notice is not filed the court must take the report into account when determining the application and is not required to give any party to the application the opportunity to lead evidence or cross-examine on the contents of the report. It is anticipated that this reform will reduce the length of interim hearings while maintaining judicial discretion to receive evidence.

The notice period and breach offences

Section 160 of the act sets out the offence of failing to comply, without reasonable excuse, with a condition of a supervision order. Before bringing proceedings, the secretary

must give the offender 14 days notice of his or her intention to file a charge sheet. In cases of serious breaches, the secretary has the capacity under section 172(3) to dispense with the notice period and may proceed to file a charge sheet after forming the view that a 'charge sheet should be filed without delay, having regard to the seriousness of the alleged breach of the order'.

Victoria Police are frequently involved in the apprehension or investigation of serious breaches of supervision order conditions. Victoria Police also apprehend offenders for further relevant offending. To avoid the delays that may be caused by the requirement that only the secretary can dispense with the notice period, the bill will amend the act so that senior police at or above the level of inspector (and one particular sergeant, with specialist expertise) may exercise the discretion currently limited to the secretary. Limiting the discretion to senior police will also ensure that the decision to exercise the discretion will be made at arms length from arresting officers by senior and experienced police.

Information sharing

Section 189 of the act authorises the divulging or communication of information in circumstances when a relevant person believes on reasonable ground that it is necessary to do so to enable persons to carry out functions under the act or a relevant act. The relevant acts listed in section 189(4) do not include a number of acts and persons with whom and in respect of which Corrections Victoria may have legitimate cause to share information about offenders subject to orders. These additional relevant persons and relevant acts have been identified since the scheme came into operation.

Most notably the list of acts does not include the Children, Youth and Families Act 2005. It is important that Corrections Victoria is able to share information concerning sex offenders with child protection authorities in order to assist with the protection of children and young people. Some of this information is currently provided under ministerial authority under the Corrections Act 1986 but the changes contained in the bill enable information obtained under this act to be shared.

The relevant acts in section 189(4) do not include the Crimes Act 1958 or the Summary Offences Act 1966 or the Commonwealth Crimes Act 1914 or Criminal Code Act 1995. Sentencing outcomes for federal offences may result in orders, for example, recognisance release orders, that may conflict with the term of an order made under the act or may have the effect of suspending the operation of an order. Sentencing outcomes for Victorian crimes or offences may have similar effects. The bill therefore adds these acts to the list of relevant acts in section 189(4). The relevant acts in section 189(4) do not currently contain the Bail Act 1977 or the Sentencing Act 1991 where, for example, consideration of supervision order conditions may be relevant to the assessment of community risk, or, essential to the framing of a compatible community-based disposition.

The relevant acts listed in section 189(4) do not include the commonwealth Migration Act 1958. If an offender is not a permanent Australian resident, the commission of sexual offences may result in visa cancellation and the decision to detain an offender in immigration detention, or, the imposition of a requirement that the offenders reside at a residential facility, such as Corella Place, until such time as immigration matters are concluded. In these circumstances it is desirable that information regarding offenders can be provided to immigration officials to ensure that supervision order conditions are compatible with the terms of any residence determination made by the commonwealth immigration minister and the risks of offending are made clear to protect the community.

The bill also amends the act to clarify that information about persons subject to post-sentence supervision orders or applications can be provided by Corrections Victoria to relevant persons to assist them to administer relevant acts.

It is noted that the limitations on information sharing and privacy protections included in the act continue to apply, regardless of these amendments, including the requirement that officers sharing information believe on reasonable grounds that communicating is necessary to enable a person to carry out functions under the act (or a relevant act). In addition, section 190 requires relevant persons to develop guidelines that attempt to ensure that access to the information is restricted to the greatest extent that is possible and this provision has been updated.

Managing offenders who are subject to an order made under the Serious Sex Offenders Monitoring Act 2005

Some offenders continue to be managed at the residential facility established under the act under orders made under the previous act: the Serious Sex Offenders Monitoring Act 2005. The bill amends the transitional provisions contained in schedule 2. This schedule provides that nominated sections of the act apply to this group of offenders as if they were residing at the residential facility under one of the orders that can be made under the act.

The amendments contained in the bill will ensure that all of the following provisions apply to offenders still subject to old act orders that are required to reside at Corella Place:

section 137, the power for supervision officers to give directions;

section 142, the search provisions;

section 143, seizure provisions;

section 144, the register of seized items;

section 145, photographing; and

section 146, the ability for supervision officers to use force to enforce instructions in certain circumstances.

In the future many of the residents of Corella Place subject to orders made under the old act will be transitioned to orders made under the new act, but until this occurs the different procedures for managing the two groups of offenders is administratively burdensome. The amendment contained in the bill will ensure that Corella Place staff have the legislative tools to manage this group of offenders.

Interim detention orders

The final amendment to the act that I will highlight concerns interim detention orders. On review of a supervision order under section 73, the DPP can decide to apply for a detention order. However, as such an application is not one that triggers

section 51, pending resolution of the application for the detention order.

The DPP may form the view that the evidence presented at the review of a supervision order warrants an immediate detention order in response to the risk to the community posed by the offender and it is not sufficient to allow the offender to remain in the community on a supervision order until such time as the court is able to consider, in full, the detention order application.

To address this issue the bill will amend the act to permit an application for an interim detention order where the application for a detention order is the result of the periodic review of a supervision order under section 73.

Amendments to other acts

Section 12 of the bill amends the Civil Procedure Act 2010. Section 79(1) of the act provides that proceedings under parts 2, 3, 5 and 7 are civil in nature. In addition, section 79(2) provides that the rules regarding practice and procedure in civil proceedings do not apply to these proceedings and the act sets out required procedural steps for various types of applications, hearings and proceedings. In addition the secretary and the Director of Public Prosecutions are bound to act as model litigants in proceedings under this act.

Section 4 of the Civil Procedure Act 2010 provides that the act does not apply to proceedings under a number of acts such as the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 as well as the Family Violence Protection Act 2008 and the Stalking Intervention Orders Act 2008. To ensure that the operative intent of section 79(2) of the act is not in doubt the bill will amend the Civil Procedure Act 2010 to clarify that it does not apply to proceedings under the act.

Clause 18 of the bill addresses an interface issue between the act and the Disability Act 2006. As a result of the high proportion of offenders with intellectual disabilities subject to orders under the act it is important that the interface between the two schemes is clear and unambiguous. Also, some offenders that are subject to supervision orders are required to reside at the residential facility established under the Disability Act 2006 with their treatment plans overseen by the Victorian Civil and Administrative Tribunal (VCAT).

Upon commencement of the act on 1 January 2010 the Disability Act 2006 was amended to provide that the ability of VCAT to vary a treatment plan for an offender required to live at a DHS — Department of Human Services — residential facility is subject to that variation being consistent with an order made under the act. The same requirement also applies with respect to annual reviews of treatment plans but did not apply to the initial treatment plan formulated when an offender is admitted. As a result it is possible that the initial treatment plan may be inconsistent with the terms of an order made under the act.

In order to address the potential for inconsistency the bill will amend the Disability Act 2006 to provide that initial treatment plans prepared by program officers must be consistent with court orders, including orders made under the act.

In summary, this bill contains a range of technical amendments to strengthen and support the post-sentence supervision and detention regime that is helping to protect the Victorian community from the risks posed by serious sex offenders.

I commend the bill to the house.

Debate adjourned for Hon. M. P. PAKULA (Western Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 1 December.

CITY OF MELBOURNE AMENDMENT BILL 2011

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. J. GUY (Minister for Planning) on motion of Hon. G. K. Rich-Phillips; by leave, ordered to be read second time forthwith.

Statement of compatibility

For Hon. M. J. GUY (Minister for Planning), Hon. G. K. Rich-Phillips tabled following statement in accordance with Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 ('the charter act'), I make this statement of compatibility with respect to the City of Melbourne Amendment Bill 2011 ('the bill').

In my opinion, the bill as introduced to the Legislative Council is compatible with the human rights protected by the charter act. I base my opinions on the reasons outlined in this statement.

Overview of the bill

The purpose of the bill is to amend the City of Melbourne Act 2001 to provide for the recommendations arising from an electoral representation review for the Melbourne City Council to be implemented by orders in council and to make consequential and other minor amendments.

Human rights issues

The bill does not raise any human rights issues.

Matthew Guy, MLC
Minister for Planning

Second reading

Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The City of Melbourne Amendment Bill 2011 will amend the City of Melbourne Act 2001 to enable the recommendations of electoral representation reviews for the City of Melbourne to be implemented by orders in council.

At the government's request and with the agreement of the Melbourne City Council, the Victorian Electoral Commission is undertaking an electoral representation review of that council in preparation for the October 2012 elections. The electoral commissioner has advised that the review is likely to be completed in early 2012.

The Local Government Amendment (Electoral Matters) Act 2011, which received royal assent on 2 September this year, will amend the City of Melbourne Act 2001 to provide for future electoral representation reviews for the City of Melbourne.

The provisions in this bill will allow recommendations from an electoral representation review to be implemented by orders in council, if necessary, in the same way as for other councils. Orders in council will be able to specify the number of councillors to be elected, whether the councillors will be elected at large or to represent wards and the location of ward boundaries, if required.

There will remain a difference between Melbourne and other councils. The councillors of the City of Melbourne are currently elected using an above-the-line voting system. This system will continue to be an option for the City of Melbourne but will not be available to other councils. In addition to other matters, orders in council will be able to specify whether or not above-the-line voting will be used.

The bill also makes minor amendments to the City of Melbourne Act to change the time when candidates must lodge particular electoral documents, from 4.00 p.m. to 12 noon on relevant days. This change is part of a process to bring City of Melbourne election processes into line with other council elections.

I commend the bill to the house.

Debate adjourned for Mr TEE (Eastern Metropolitan) on motion of Mr Lenders.

Debate adjourned until Thursday, 1 December.

VICTORIAN INSPECTORATE BILL 2011

Second reading

Debate resumed from 22 November; motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Motion agreed to.

Read second time.

Committed.

Committee

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I seek leave for Mr O'Brien to join me at the table.

Leave granted.

Clause 1

Ms PENNICUIK (Southern Metropolitan) — The Victorian Inspectorate Bill 2011 is a very important piece of legislation. We obviously need the Victorian Inspectorate to oversee the activities of IBAC (Independent Broad-based Anti-corruption Commission) and ensure that it complies with various laws, including those relating to coercive powers, applications for warrants for surveillance devices and telephone intercepts et cetera.

I put on the record that during the second-reading and committee debates on the Independent Broad-based Anti-corruption Commission Bill 2011 we canvassed quite a lot of issues regarding the independence of various components of the new integrity system that the government is in the process of setting up — for example, the appointment of the Commissioner, the Inspector and the public interest monitors and the need to make sure that all these things are at arms length from government and also the crossover and the inability for us to know what the functions of IBAC are and therefore what the functions of the Victorian Inspectorate will be in terms of overseeing the functions of IBAC.

Rather than going through the bill clause by clause, I want to say for the record that while I do not want to prosecute all the issues I raised in the earlier debates, because many of the clauses in this bill mirror clauses in the IBAC bill, we have the same issues and concerns with regard to independence, transparency and accountability that I raised earlier. I will leave it at that under clause 1.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank Ms Pennicuik for her indulgence and will outline the Victorian Inspectorate Bill 2011 and the reasons for it. There are some overarching issues. The anticorruption policy that we brought before the last election had always included a strong oversight of IBAC, and this will be provided through the joint parliamentary IBAC Committee and an independent inspectorate, of which this legislation is part. The government is committed to implementing the full oversight framework for IBAC. This will best position both IBAC and the inspectorate

for long-term success and service to the Victorian community.

Through the Victorian Inspectorate Bill the Victorian Inspectorate will be able to monitor the compliance of IBAC, deal with any complaints against IBAC and report on IBAC's performance. The government intends that in the future the Victorian Inspectorate will subsume the office of the special investigations monitor in consultation with the commonwealth government in relation to the telecommunication intercept powers, and audit functions will continue. The Victorian Inspectorate will undertake a range of functions. It will be relevant to IBAC's initial education and prevention functions, which we spoke about the other night. For example, the inspectorate will have a role in assessing IBAC's policies and procedures and it will monitor IBAC's compliance.

The Victorian Inspectorate may investigate IBAC either on the Inspector's own initiative or in response to a complaint. I can keep going, but it would be fair to say that the Victorian Inspectorate will be able to report directly to Parliament any findings following an investigation and will be empowered to make recommendations to the IBAC Commissioner for further action. The Victorian Inspectorate will also be able to make recommendations regarding criminal matters to Victoria Police or appropriate commonwealth agencies.

As I stated, the Victorian Inspectorate will have access to investigate IBAC matters and the conduct of IBAC and IBAC personnel. The Victorian Inspectorate will be able to make any recommendations and make findings, for example, about the conduct of IBAC personnel that is contrary to law, unreasonable, unjust, oppressive, improperly discriminatory, based on improper motives or abuse of power or otherwise improper.

Clause agreed to; clauses 2 to 14 agreed to.

Clause 15

The DEPUTY PRESIDENT — Order! I ask Mr Pakula to move his amendment 1, which is a test of amendment 2, I believe.

Hon. M. P. PAKULA (Western Metropolitan) — In fact amendment 2 might be the substantive amendment, as it was on Tuesday — or as it was in the early hours of Wednesday. Therefore, I move:

1. Clause 15, page 9, line 2, omit "Subject to subsection (4), the" and insert "The".

2. Clause 15, page 9, lines 26 to 33, omit subclause (4).

I do so for the same reasons that I moved similar amendments to the IBAC bill — because as with IBAC, it is the view of the opposition that the process of appointment for the first Inspector under this bill ought to be the same as the process of appointment for the second and subsequent inspectors. We do not accept the government's logic with regard to either timing or there being any other substantive difference that would justify the inaugural Inspector being appointed in a different way to the second and subsequent inspectors.

It is important to note that in regard to the Victorian Inspectorate the Inspector can be reappointed, so it might be a decade before the provision in the bill regarding a power of veto of the relevant parliamentary committee can be exercised.

As I indicated on Wednesday morning, we do not think it is appropriate for the government to seek to bind future administrations to a stricture that it is not prepared to apply to itself. We support the substantive intent, which is to have a right of veto for the parliamentary committee; we just believe it should apply to the first appointment in the same way that it applies to all others.

Ms PENNICUIK (Southern Metropolitan) — The Greens will support Mr Pakula's amendment. In the cognate second-reading debate on this bill and the IBAC bill and in the committee stage of the IBAC bill, in support of the amendment to the IBAC bill proposed by Mr Pakula, which is virtually the same as this amendment, we put our view that there should be established an independent commissioner for public appointments to conduct the process for the appointment of senior officials, independent officers of the Parliament, heads of statutory authorities et cetera. At least the bills give the oversight committee the power to veto an appointment following the inaugural appointment. I have made the point that if it is a government-controlled committee, that will not in practice be as strong as it might appear on paper. I cannot imagine many government-controlled committees vetoing a recommendation by the minister. It could happen, but it is probably unlikely.

During the committee stage of the IBAC bill when we were looking at this particular issue and the amendment moved by Mr Pakula, the only reason we were given as to why we could not remove clause 15(4) so that it was possible for the committee to also veto the inaugural appointment was that the committee could not be established in time. That was the only reason given by the government. In the spirit of debate and parties persuading each other, it is my view there is no reason why the committee could not be set up the week

following this bill being proclaimed. If the committee is set up, then it will be there to perform the functions given to it under this bill and the IBAC bill. That is the only reason the government has given for not supporting this amendment.

Hon. M. P. Pakula — And their 21 votes.

Ms PENNICUIK — Of course the government does not have to accept an amendment, but it can accept an amendment which is a good amendment. This is a good and practical amendment. It is achievable and would not cost anything, and it would make the whole process more accountable than it is. It would be easy to achieve it practically. The government should support it and amend the IBAC bill to reflect that as well.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank honourable members for their contributions in relation to the proposed amendment to clause 15(4). The government has made it clear that it is committed to delivering on its next stage of integrity reforms. We made it clear that we would establish Victoria's first ever Independent Broad-based Anti-corruption Commission and an independent inspectorate, which this bill deals with.

As was rightly pointed out by the previous speakers, the government's position is the same as that outlined during the cognate debate on the IBAC bill and this bill on Tuesday night. The government is committed to establishing the Victorian Inspectorate and appointing an Inspector as soon as practical following the passage of this bill. The consultation process for the inaugural appointment of an Inspector outlined in the Victorian Inspectorate Bill 2011 is modelled on similar processes for inaugural appointments of commissioners in the legislation establishing anticorruption bodies in Queensland and Western Australia.

The process in the Victorian Inspectorate Bill 2011 is also similar to the consultation required for the appointment of the director-general of ASIO (Australian Security Intelligence Organisation). As I indicated the other day and am indicating today, it is likely that the IBAC Committee will not be operational by the time the government seeks to appoint an Inspector. Therefore the government considers the consultation process in clause 15(4) provides an appropriate alternative process for appointment of the inaugural Inspector. This consultation process is unique in Victoria in relation to independent officers of the Parliament and reflects the government's commitment to the independence of the Victorian Inspectorate. I note that there are no consultation processes or any parliamentary committee involvement whatsoever with the appointment of either the director of police integrity or the Ombudsman.

Following the inaugural appointment, the bill establishes an ongoing process whereby the parliamentary IBAC Committee will have the power to veto a proposed recommendation of an Inspector. This demonstrates the government's commitment to the independence of the Victorian Inspectorate and is similar to the appointment process for the Auditor-General. On that basis, we will not be supporting the amendments proposed by Mr Pakula to clause 15.

Hon. M. P. PAKULA (Western Metropolitan) — I make one comment for the record about the minister's response. It really has to be one of the more disingenuous rationales that I have heard, that it is unlikely the committee will be operative in time to appoint the first Inspector. The committee can be operative at any time the government chooses. The government chooses not to bring forward those matters which would allow the committee to be formed and then uses it as a justification for not accepting the amendment. I had to put on the record that the opposition does not in any way accept that rationale. The government does not want to accept the amendment because the government does not want to accept the amendment, and the committee will not be up and running because the government does not want it to be.

Ms PENNICUIK (Southern Metropolitan) — I am not wanting to prolong the debate, but on the issue of the establishment of the committee the minister's answer does beg the question of when the government is intending to set up the committee.

Mr P. DAVIS (Eastern Victoria) — The comment I make is one of a practical nature. I noted with interest the comments of Mr Pakula. In another context Mr Pakula and I have a very close, almost intimate, working relationship, as I am the chairman and he is the deputy chairman of a parliamentary committee. The point I am making is that I am cognisant that Mr Pakula is intimately aware of the proceedings of parliamentary committees and that they grind incredibly slowly, regardless of the best endeavours of all concerned. Parliamentary committees as a matter of course require time to be convened, and they require resourcing by way of secretariats.

This is important legislation that the Parliament is, as I understand it, agreeing to in principle, because the government, the opposition and the Greens have all

indicated their support for the bill. This is therefore a debate about the committee stage. What I am hearing is an argument about procrastination. In my mind the proposal by the opposition is to procrastinate in terms of the time frame of appointment. We had this debate principally in relation to IBAC earlier this week, and I do not want to reprise that whole debate again.

The substantive issue in my mind is that this is an important measure to expedite and progress the appointment of the officers under the legislative framework that has been proposed. I want to make the point — and this is, in a sense, inevitably a political point — that the practical reality is that if the consultation between the Premier and the Leader of the Opposition is unsatisfactory, then clearly the appointment will run into some difficulty. It is the reality in practice that — —

Mr Lenders — It is not. It's a phone call away, or it's a press release.

Mr P. DAVIS — Mr Lenders interjects, but I just want to draw this out. Mr Lenders knows full well that if the Leader of the Opposition makes a public case to say that his view is that the government's nominee is inappropriate for appointment, then that will be in effect a public veto over that appointment. That is the reality of it.

Mr Lenders — Like it was for the Governor — on the way to the announcement? The government made it a media event!

Mr P. DAVIS — With great respect, Mr Lenders knows that the appointment of these officers under this framework of legislation inevitably means that these people will be people of great integrity. Therefore it is incredible to suggest, in the context of the inaugural appointment, that there would be any doubt about the support for the nominees to those positions. May I make the point — just picking up on Mr Lenders's comment regarding the appointment of the Governor — the appointment of the Governor is always conducted on the basis that the appointee is somebody who is identified as being an outstanding citizen. The Premier, as a courtesy, advises the Leader of the Opposition. There is no precedent in relation to a legislative framework for the appointment of Governor that is similar to the legislative precedent established in this bill in relation to the appointment of officers of the Independent Broad-based Anti-corruption Commission and the Victorian Inspectorate.

Mr LENDERS (Southern Metropolitan) — I will not join in the debate. Mr Pakula said things on behalf of the Labor Party which I fully endorse. But I do note, for the record — without verballing him — that Mr Philip Davis has said that the Leader of the Opposition in effect has a veto over this appointment. I also note for the record that the minister has not disagreed.

Hon. R. A. Dalla-Riva — I haven't been asked!

Mr LENDERS — I am noting it for the record.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — That was a good try by Mr Lenders. I was listening to Mr Pakula, Ms Pennicuik and Mr Davis, and then Mr Lenders got up, so I thought I would let everyone make their speeches, but I appreciate his endeavours to try to ramp something up that is not there. We have made it clear that the consultation process in the Victorian Inspectorate Bill 2011 for the inaugural appointment is modelled on similar processes for the inaugural appointment of commissioners in legislation establishing anticorruption bodies in Queensland and Western Australia.

I also note that the appointment of the Inspector, as provided for in clause 14(2), as was indicated, will come from people of high calibre. It will be a person who:

a) is or has been, or is qualified for appointment as, a judge of —

   (i) the High Court; or

   (ii) the Federal Court; or

   (iii) the Supreme Court of Victoria or another State or a Territory;

(b) is not a member of the Parliament of Victoria or of the Commonwealth or of another State or a Territory;

(c) is not, and has not been, a Commissioner, Acting Commissioner, Deputy Commissioner, or Acting Deputy Commissioner, of the IBAC.

It would be fair to say that the eligibility and status of the person appointed as Inspector would be of a calibre that the people of Victoria would expect.

As I indicated earlier, we do not believe, as was outlined in terms of the process, that it is likely that the IBAC Committee will be operational by the time the government seeks to appoint an Inspector. Therefore the government is of the firm view that the consultation process in clause 15(4) provides an appropriate alternative process for appointment of the inaugural Inspector. I will just put on the record that I will not be verballed by members of this Parliament in relation to

what is proposed. I have been very clear and concise about what we are doing as a government with this particular bill.

Mr LENDERS (Southern Metropolitan) — Deputy President, the minister read a prepared statement before he even heard Mr Philip Davis's comment or my comment. I do not resile from the comment I made that the chair of the Public Accounts and Estimates Committee (PAEC) got up in this house and talked of a process and that in his remarks he said — and I do not think I am verballing anybody — 'I know that the Leader of the Opposition effectively has a veto'. I note that the minister did not rebut that statement.

This is a new body and a serious procedure. We have had put on the table by the chair of the Public Accounts and Estimates Committee a concept, and I explored the concept with the minister and got a little lecture that I am not to verbal him. When the chair of PAEC brings forward a process that specifically talks about checks and balances, we get read an explanatory memorandum to a clause which does not even address the issue of whether the Leader of the Opposition effectively has a veto and what consultation means. I will not dwell on this, because we will not get an answer from this minister — he will read another prepared speech at me — but I just note for the record that when the Legislative Council tries to address the issue of what 'consultation' means for this incredibly significant body, it is dismissively dealt with by the minister at the table, which does not leave any confidence in my mind that the Premier consulting with the Leader of the Opposition is anything more than him, on the way to his press conference, making a phone call to say, 'This is a choice I have made'.

Mr P. DAVIS (Eastern Victoria) — Mr Lenders, I did not want to progress a discussion about this in detail, but as you have insisted, in effect — —

The DEPUTY PRESIDENT — Order! Through the Chair.

Mr P. DAVIS — Mr Lenders has insisted that I have said some words which in fact I have not said. Let me come back to the point which was substantially being made. The point that Mr Lenders was seeking to make is that the process of appointment of a Governor is in some sense prescribed in the same way as this bill tries to prescribe the appointment of the Inspector. The reality is, as Mr Lenders full well knows, that the appointment of a Governor is a matter for the Premier of the day to advise Her Majesty on, and there is no obligation in any statute in relation to that matter, other than it being as a courtesy to the Leader of the Opposition for the time being. The Leader of the Opposition for the time being will of course have a view that they may prefer somebody else. But at the end of the day, to the best of my recollection, there has never been a debate between premiers and leaders of the opposition about that appointment; there has only been the pleasure of the Leader of the Opposition being informed of who the Premier is going to nominate to that office.

However, this legislation is, as is the IBAC bill, materially a different framework. This legislative structure ensures that in the long run appointees are subject to an oversight process, and there is a specific veto in relation to future appointments. However, in relation to the inaugural appointments, we do know that in practice the process for identifying, recruiting and appointing appropriate officers to these roles will need to be driven pretty expeditiously to get IBAC established and get the inspectorate established. To achieve that outcome it is important that those matters not be impeded by, in my view — —

Hon. M. P. Pakula — By scrutiny.

Mr P. DAVIS — No, by the inevitability of the time it will take to have a properly resourced, properly supported secretariat and properly established parliamentary committee in place and functioning to undertake an oversight function.

Hon. M. P. Pakula interjected.

Mr P. DAVIS — It will in reality take some time to establish that, and I am surprised that Mr Pakula, who is deputy chair of the Parliament's senior oversight committee, is interjecting and shaking his head. Mr Pakula would know full well, as my colleague Mr O'Donohue, the chair of the Scrutiny of Acts and Regulations Committee, understands full well, that these oversight functions are incredibly challenging and time consuming, and they are critically important functions of the Parliament. For a proposition to come forward, supported by the opposition and the Greens, that we should delay the introduction of IBAC to a time that would be ultimately at the convenience of a parliamentary committee that is yet to be formed, is quite challenging. I think it is challenging to the whole notion of expediting the appointment of IBAC and the inspectorate.

I will close my remarks with this, but in my view there is a need for this provision to be adopted intact without amendment to expeditiously see to the appointment of the officer who will hold the role of the Inspector.

The DEPUTY PRESIDENT — Order! I will put Mr Pakula's amendment 2 to clause 15, which is a test of his amendment 1.

Committee divided on amendment 2:

Ayes, 18

Barber, Mr	Pakula, Mr
Broad, Ms	Pennicuik, Ms
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr (*Teller*)
Elasmar, Mr	Somyurek, Mr
Hartland, Ms	Tarlamis, Mr
Jennings, Mr	Tee, Mr (*Teller*)
Leane, Mr	Tierney, Ms
Lenders, Mr	Viney, Mr

Noes, 20

Atkinson, Mr	Koch, Mr
Coote, Mrs (*Teller*)	Kronberg, Mrs
Crozier, Ms	Lovell, Ms
Dalla-Riva, Mr	O'Brien, Mr
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Ondarchie, Mr
Drum, Mr	Petrovich, Mrs
Elsbury, Mr	Peulich, Mrs
Finn, Mr (*Teller*)	Ramsay, Mr
Hall, Mr	Rich-Phillips, Mr

Pair

Mikakos, Ms	Guy, Mr

Amendment negatived.

Clause agreed to; clauses 16 to 49 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

ADJOURNMENT

Hon. P. R. HALL (Minister for Higher Education and Skills) — I move:

That the house do now adjourn.

Water: storages

Mr LENDERS (Southern Metropolitan) — The matter I raise on the adjournment tonight is for the attention of the Minister for Water, Peter Walsh, and the action I seek is that he provide me with some information for clarification. Last week the minister announced that the north–south pipeline was closed, although he said it would be opened if we needed it. In the minister's policy announcement he said that the north–south pipeline would only be turned on — and I am happy to stand corrected if I am wrong — if Melbourne's water supply is less than 30 per cent as at 1 November in any given year. That was the policy announcement the minister made, and he makes the rules because he is the minister.

The action I seek is that the minister provide some clarification as to whether that 30 per cent is actually 30 per cent of the water in the 10 dams that comprise Melbourne's water storages or whether that 30 per cent includes the 12 gigalitres, at this stage, in the Sugarloaf pipeline allocation, which is on the Melbourne Water website water report — and I am happy to give that report to Mr Hall, although he could get it from the web. Presumably the extra 75 gigalitres that will be added to that each year in the new water entitlements of Melbourne Water will be stored in Lake Eildon but can be traded by Melbourne Water on the short-term water market.

The specific action I seek from the minister is to clarify whether his definition of 30 per cent capacity in Melbourne's dams on 1 November includes the Eildon allocation which Melbourne Water cannot use. Is the 30 per cent the water in the 10 dams, or is the 30 per cent the water in the 10 dams plus the allocation in Eildon?

The second action I seek from the minister in clarification is: will that 75-gigalitre allocation that Melbourne Water users have paid for aggregate at 75 gigalitres a year, as was in the original terms of the water rules inherited by this government on 1 December last year?

Glen Devon Primary School site: future

Mr ELSBURY (Western Metropolitan) — My adjournment matter this evening is for the attention of the Minister for Education and relates to the former Glen Devon Primary School site in Werribee. I have been working with a number of organisations in the Werribee area attempting to utilise the former Glen Devon site for some sort of community use. Unfortunately this afternoon I received news that a wing of the school had burnt down as the result of an individual deciding they wanted to set fire to the place. The police have that individual in custody and are dealing with them. The action I seek from the minister is that he assist the Department of Education and Early Childhood Development and my office in continuing to work with community groups in the Werribee area to find a resolution to this issue — that is, in trying to find

a way forward now that a substantial portion of that asset has been lost to fire.

Just as a bit of background, the Glen Devon Primary School site was abandoned by the previous government when it failed to merge that school and the Glen Orden Primary School into Wyndham Park Primary School. It was a debacle that ended with a majority of the students from Glen Devon Primary School abandoning the new school and going to other schools, which resulted in a much lower number of kids going to Wyndham Park Primary School. Add to that the fact the previous government had already started a process to sell off the site — getting rid of it and making it into housing; it did not even consider a community use for it. This was brought to my attention not too long into my term as a member of Parliament, and I have since been working with the community and with the Wyndham Vale Community Learning Centre, with the Wyndham City Council and with members of the education department to provide services such as an English language school, which would assist the very large Korean population in the region around Market Road in Werribee where the Glen Devon site is located.

I have also been told by the council as well as by the community learning centre that there is a need for some community assets in the area. Again, I ask the minister to work with me and with the various groups that are interested in this site to find a resolution for the benefit of the community.

Disability services: individual support packages

Ms MIKAKOS (Northern Metropolitan) — My matter is for the Minister for Community Services. I wish to express the concerns that one of my constituents has raised with me about the inflexibility of the Department of Human Services (DHS) funding for her disabled son, who turns 21 this Friday and who has severe autism and behavioural issues. For privacy reasons I will not use my constituent's surname, only his first name, but I have already provided a letter to the Minister for Higher Education and Skills to pass on to the Minister for Community Services setting out my constituent's full contact details.

I am raising this matter by way of the adjournment debate because the response I received last week from Mrs Coote, who is the Parliamentary Secretary for Families and Community Services, was completely unsatisfactory. My constituent was also very unhappy with the response she received. My constituent has made many requests to the Department of Human Services for appropriate support, which includes behavioural therapy, speech therapy, occupational therapy, extra and appropriate respite and equipment costs for what specialists have advised her son Dean will need to remain at home. Dean's parents want more than anything to continue to provide love and support to their son within the family home, but they are concerned that the support they have received to date is not appropriate and not adequate for Dean's needs. Expert medical evidence of what Dean requires has been provided, but this appears to have fallen on deaf ears.

Dean's parents are understandably anxious about their ability to care for their son into the future. They are keen for their son to remain in their care at home and to continue to receive behavioural therapy from Ms Jeanette Coombes, who has achieved very positive outcomes, as well as other therapeutic support.

My constituent and her family are despairing of their situation. Her home has been regularly damaged by her son during his violent outbursts. Many local services, including respite services, have now refused to work with my constituent's son because of his violent behaviour. Dean was recently hospitalised for a prolonged period because the family felt so helpless and had nowhere else to take him. It is an indictment that parents need to threaten to leave their son at a hospital's emergency department to get some additional support. They then relinquished care to DHS for the next one and a half weeks after the hospitalisation, but the family then decided to bring him back home. As a result the family was offered some additional respite care hours per week and $3000 towards a behaviour assessment, even though the report will cost $7000 to complete.

The problem is that while Dean is in receipt of an individual support package the funding does not appropriately cover his needs. My understanding is that there used to be greater flexibility under the previous government as to how individual support packages could be used. This was certainly the experience of Dean's family. Funds not used for respite, for example, could be used for other services. The family had some discretion about these matters.

I call on the minister to provide appropriate supports and restore flexibility to the integrated support packages so that parents such as my constituents, who desperately want to continue to provide the best care for their son at home, can do so. The family particularly wishes to use funds that have been allocated for respite funding to be reallocated to appropriate behaviour therapies for Dean, including a behaviour assessment to be completed to help the family learn how to better

manage Dean's behaviour, but the family has been advised to date that this is not possible.

Local government: town planning

Mr RAMSAY (Western Victoria) — My adjournment matter is for the attention of the Minister for Planning, the Honourable Matthew Guy. It is in relation to an approach by the Northern Grampians Shire Council to me last week looking for information and guidance about how the Baillieu government would provide ongoing support for town planners in their shire.

I raise this matter with the minister given that it is not only the Northern Grampians shire, particularly in my electorate of Western Victoria Region, that is having problems in relation to expertise and skill in town planning and town planners in general. It is a legacy that we inherited from the previous government, where there has been no significant investment in town planners for local councils. Those local councils previously have had to deal with an overregulated system with long and convoluted planning processes, with a backlog of planning applications and with considerable inopportunity, if I can use that word, of having the appropriate expertise and the appropriate staff in planning to accommodate them.

Local government has been the hardest hit, and many councils are struggling with planning responsibilities shifted upon them by the previous government without funding to compensate for the extra responsibilities, and hence the reality of the term 'cost shifting'. Limited planning support also puts more pressure on the efficiency of councils to make timely planning decisions, denying the communities optimal opportunities.

I have scheduled a meeting next week with Northern Grampians shire to discuss its planning requirements, and I also note that in September last year we, as the opposition, also identified the problem and the inherited legacy of that lack of skill and expertise in town planning available to local councils. So I ask the minister prior to this meeting: what information can I provide the council with in relation to what the Baillieu government can offer to that council and other local councils across my electorate by way of town planning assistance?

WorkSafe Victoria: workplace bullying procedures

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter is for the attention of the Assistant Treasurer and is in relation to his responsibility for WorkSafe. WorkSafe is charged with the important task of dealing with workplace bullying. However, by the time a complaint about bullying is brought to the attention of WorkSafe, it will have already become highly distressing and harmful to the victim. The government is aware of the damage caused by workplace bullying to victims and their families and friends.

In May when we debated the Crimes Amendment (Bullying) Bill 2011, or Brodie's law, I said:

> This is one step, but it is not the end of the road — there is so much more to do. I urge the government to take up that challenge and spend the rest of its first term working out how we can stamp out bullying in all its forms.

The Victorian edition of the *7.30* program has reported twice this month on the harrowing process of making bullying compensation claims and the terrible consequences, including victims taking their own lives. As I said on *7.30* on 4 November, there are also many walking wounded whose lives have been damaged by bullying and whose stories are never heard.

In recent months I have been contacted by several people who have been bullied at work and then suffered further distress after taking their claims to WorkSafe. I have spoken to the minister about one of these cases. One woman was sacked when she complained of bullying. Her experiences at work and her subsequent dealings with WorkSafe have taken her livelihood and health. Next her home will be taken. She says she has had suicidal thoughts. Despite her devastation, this person now plans to help other victims by establishing a foundation to support them in the many aspects of their lives that are affected.

A man who has contacted me was bullied by his employer after he raised safety concerns in his workplace. This is illegal. His attempts to involve WorkSafe failed. He was eventually injured by the bullying and made a WorkCover claim. Only then did WorkSafe prosecute his employer.

A former WorkSafe employee told me details of the bullying she experienced at WorkSafe and the way her complaint was handled. This woman's experiences raise very serious concerns about WorkSafe's culture and internal complaint procedures. An investigation by the *Age* in September revealed that bullying is a serious problem within WorkSafe. It was reported that the board of WorkSafe was assessing some 'organisational issues' and was expected to address bullying concerns.

The serious problems that people raise with me about WorkSafe are urgent public health and safety issues. In a previous life I spent a lot of time working on this issue and hearing many harrowing stories. It has not stopped. Internal reviews will not be enough to uncover the problems and find solutions at WorkSafe. I request that the Assistant Treasurer urgently commission a review of WorkSafe's procedures in relation to investigating complaints made to it about workplace bullying and harassment, including the handling of internal complaints, and I ask that he report to Parliament about that review.

Deakin University: early childhood education

Mr O'BRIEN (Western Victoria) — I raise a matter for the attention of the Minister for Higher Education and Skills, the Honourable Peter Hall. In doing so I commend the minister for his commitment to delivering the best possible higher education and adult education outcomes in regional Victoria, particularly in my electorate of Western Victoria Region. Several projects of the Baillieu government have had a profound impact on higher education outcomes in my electorate. They include, but are not limited to, the growth in funding for the Ballarat campus of Australian Catholic University and $10.2 million for the regional student accommodation at the Warrnambool and Waurn Ponds campuses of Deakin University.

I am reminded of the words of my father-in-law, Mr Ron Denholm, who was a principal in the early childhood education sector in Boinka, which is in the Mallee near Ouyen, and in Goroka in Papua New Guinea. He taught the current Premier of Tasmania. He said it must be noted that a good early childhood education provides our kids with the best start in life and can drastically affect future learning outcomes.

With this in mind I commend the Minister for Children and Early Childhood Development, Ms Lovell, for her exemplary work in delivering early childhood funding that is having an impact in key and high-growth areas in western Victoria, including Inverleigh, where I was fortunate enough to attend the opening of a kindergarten facility some months ago. This funding has included a $2 million early learning hub in Grovedale, $1 million for a kindergarten in Barwon Heads and $500 000 for a kindergarten in Torquay.

I should say I may have a pecuniary benefit in relation to that, because my growing family will have a need for kindergarten facilities in Torquay over the years ahead. I take this opportunity to send my best wishes to my wife, Janine, and my children Lily, Sam and Ned. I will formally advise members of the house of the name of my youngest child, because *Hansard* still has the last reflection of Mr Pakula, who proposed through an interjection that we call her Inga. Nothing would be wrong with that of course, but we have named my other child Isabelle Victoria. There was a late charge for Olivia, after Olivia Newton-John, whom my father-in-law apparently once dated, but we have stuck with Isabelle Victoria. We have delivered in our first year a 25 per cent growth in our family, as part of the families statement.

Returning to the outcome I seek from the minister, we all know that quality teachers are among the greatest influences on learning outcomes for young people. As we now go into a situation where all children will be required to have 10 to 15 hours per week of preschool education, the need for high-quality early childhood teachers is ever more pressing. I am fortunate that in my electorate Deakin University is an excellent provider of early childhood education through its bachelor of early childhood education and has had great success using the Deakin at Your Doorstep program to expand access to tertiary education. That is why I ask the minister to explore some means of assisting Deakin and to provide opportunities to other providers to train more locals in early childhood education to meet the ever-growing need for their expertise in my region.

The PRESIDENT — Order! I will let that adjournment matter through tonight, but frankly the contributions of Mr O'Brien and Ms Pennicuik concern me. Basically they do not fit the adjournment instructions that I have previously sent out to members. Yes, there is an opportunity to provide context to the action sought or the question raised, but in my view both of those adjournment matters were setpiece speeches. Perhaps members need to have another look at those guidelines and make sure their adjournment items address or support a question or an action. They should not simply be a speech on how wonderful things are in an electorate, which might be good for the newspapers but is not what this debate is about. Some of the examples Ms Pennicuik gave were, again, too much of a set piece rather than necessary context.

Rail: Southland station

Mr TARLAMIS (South Eastern Metropolitan) — Tonight I raise an adjournment matter for the Minister for Public Transport. At the last election both the Labor Party and the Liberal Party promised to build Southland railway station. The Liberals committed just $13 million to the project, while Labor committed $45 million. Despite an announcement made by the Liberal government that it would release the full costings and concept design days before the May

budget, it only announced funding of $700 000 for planning. This uncertainty has led to concerns in the local community about the future of the proposed Southland station, and many constituents have raised questions about it with me. What is the real cost of the station? What other services will be cut to deliver the shortfall? When will all the money be allocated in the budget? And when will it actually be built? The action I seek is that the minister provide some clarity with regard to these matters.

I was listening attentively last night to the contribution from Mrs Peulich during the adjournment debate, and I also studied statements made in the other place yesterday by the member for Bentleigh, Ms Miller, and the member for Mordialloc, Ms Wreford, and none of them asked the key questions that I am being asked by my constituents. Given the concerns and uncertainty around this issue and the failure of Mrs Peulich, Ms Miller and Ms Wreford to provide answers to these questions, I ask that the minister clarify these matters.

Ballarat base hospital: helipad

Mr KOCH (Western Victoria) — I rise to speak on this government's commitment to the people of Ballarat to build a helipad at the Ballarat base hospital and the failure of Labor to build the helipad over its 11 years in government. I was disappointed to read the comments made by the member for Ballarat West in the other place, Ms Knight, that attacked the work of the Ballarat helipad implementation group, which I was proud to chair. The group worked diligently for six months to secure the best possible outcome for the Ballarat community, and I especially want to acknowledge the work of the community members who have been working for this outcome for many years.

For the benefit of the house, especially new members who may not be aware of the history of this issue — and I can only presume the member for Ballarat West is one — I will recap. I moved a motion in 2004 calling on the Labor government to support the establishment of a Ballarat helipad at the hospital. The Labor Party voted down this motion in 2004 and refused to support the establishment of the helipad. In contrast, the Liberal Party went to the 2006 election with a clear policy to build a helipad. Despite widespread community support for this project, the Labor Party failed to build it during its 11 years of government. The coalition again went to the 2010 election with a clear policy to build the Ballarat helipad, and upon election it identified the helipad in the state budget as a clear priority to be funded in future budgets. An implementation group was formed to identify and recommend the best locations for this helipad.

The work of Ambulance Victoria, Ballarat Health Services, community members, the City of Ballarat and the Department of Health was thorough and detailed. I am shocked and remain deeply disappointed that Ms Knight would choose to attack the work of the committee, and she should apologise to those members who worked hard to develop these recommendations. The simple fact is that you need only look at what Labor does instead of what Labor says to realise that it cannot be trusted on the Ballarat helipad matter. During 11 years, it did nothing.

I ask the minister to continue his strong and unequivocal support for the Ballarat helipad and the local community and to pay no attention to the hypocritical and unjustified rantings of members of the Labor Party in their attempts to airbrush their failures out of the public's memory.

The PRESIDENT — Order! I am going to be magnanimous tonight and let that adjournment item through too, but that was another setpiece speech. It was very clearly a speech rather than an adjournment matter in the context of the way we run our adjournment debates. Perhaps we are all pushing the envelope a bit, but that item was in exactly the same context as the other two.

The other thing is I need to know which minister the matter was directed to.

Mr KOCH — The Minister for Health.

Manufacturing: Victorian Competition and Efficiency Commission report

Mr SOMYUREK (South Eastern Metropolitan) — My adjournment matter is directed to the Minister for Manufacturing, Exports and Trade, Richard Dalla-Riva. The government has been sitting on the Victorian Competition and Efficiency Commission report on the manufacturing industry for some months now. I ask that the minister respond to the VCEC report as soon as he can, given the circumstances of our manufacturing industry in Victoria.

Wedge-tailed eagle: statistics

Mrs PETROVICH (Northern Victoria) — My adjournment matter is for the Minister for Environment and Climate Change. It relates to an issue that was highlighted to me around 18 months ago when a wedge-tailed eagle was shot in the Clonbinane area. The wedge-tailed eagle mates for life, eats primarily rabbits and rodents and in Australia is at the top of the food chain. It is not even fussy about picking up a bit of

carrion, which has in some respects caused a few problems. These beautiful birds suffer from a bad reputation as they are viewed as killers of livestock. I would like to highlight the fact that a study has been done at Healesville Sanctuary to disprove this myth: a sheep and an eagle lived together in harmony for seven weeks.

The wedge-tailed eagle was hunted to near extinction in the 1930s but is now protected, and its numbers are recovering. I have to confess a love of raptors and was privileged recently to meet several charming ambassadors for this species. They were Chook, an Australian buzzard whose party trick is cracking an emu egg with a rock, a barn owl with some attitude and a magnificent wedge-tailed eagle that was rather taken with his carer and offered her a piece of his rabbit. I would like to congratulate the Wildflight centre based at Flemington racecourse for raising awareness of this beautiful species.

The action I seek from the Minister for Environment and Climate Change is that Parks Victoria provide data on the number of breeding pairs of wedge-tailed eagles in Victoria and their recovery from near extinction.

Gaming: Doxa Social Club

Hon. M. P. PAKULA (Western Metropolitan) — I never thought I would hear the words 'I have to confess a love of raptors' in the house. The matter I wish to raise this evening is for the Minister for Gaming. It relates to a story in the *Herald Sun* of 16 November headed 'Time's up for pokies at Flinders Street Station'. The story includes an interview with the Premier and revolves around his $1 million design competition for Flinders Street station — which is now a $1.6 million design competition. The article contains an assertion from a government source that the redesign of Flinders Street station would see the Clocks venue, which contains about 100 electronic gaming machines, in effect evicted from Flinders Street station.

The venue is operated by the Doxa Social Club. I would have thought this was a bit inconvenient for whoever made the commitment, but Doxa has a binding lease until 2023. What is more surprising is that the first time anyone involved in the operation of the venue — that is, the staff, the management and anyone in the senior management — knew about that decision was when they read about it in the *Herald Sun*. It is apparent that nobody from the government spoke to the Doxa Social Club before the announcement was made in the paper, and as far as I am aware no-one from the government has spoken to them since.

We all have views about poker machines, and some of those views are firmly and genuinely held, but I think most people would agree that an organisation should not find out through the newspapers that one of its enterprises is being closed. I ask that the minister provide the operator with some clarity in regard to its future by having someone from his department or his office advise it of exactly what the situation is. I also ask that he advise me in writing of three things: firstly, whether there was any dialogue between any departmental officers or his staff and the Doxa Social Club management prior to the *Herald Sun* story of 16 November.

Mrs Peulich — This is not question time!

Hon. M. P. PAKULA — I think this is more of an adjournment matter than simply asking a minister to keep plugging on, which is what we have had from members of the government. I ask the minister to advise me in writing, secondly, of whether there has been any dialogue since the newspaper article; and thirdly, whether the government intends to require Metro Trains Melbourne to break the 2023 lease that it has with Doxa and, if so, where the 100 electronic gaming machines will go.

The PRESIDENT — Order! The member can only pose one question, but if we assume that the question he is posing is that he wants some detail, that might well cover some of the matters he has raised.

Hon. M. P. PAKULA — Can I clarify the issue?

The PRESIDENT — Order! It is on the record. That is fine. The minister has sufficient information from what the member has said.

Tourism: Werribee

Mr FINN (Western Metropolitan) — I wish to raise a matter for the Minister for Tourism and Major Events. I am sure everyone in this house is well aware that I am very fond of the Werribee tourism precinct. I am enthusiastic about its potential, just as I am enthusiastic about tourism generally, particularly as a potential employer in the Werribee area. We need jobs down there probably more than we need most other things, and tourism is something that can provide those jobs. As I have often said, tourism is money in the bank.

In this particular instance we have real potential with the Werribee tourism precinct. As I have mentioned before, we have the Werribee Open Range Zoo, with the recently opened gorilla exhibit, which is extraordinarily impressive. We have the Victoria State Rose Garden, Werribee Park National Equestrian

Centre, Werribee Mansion and Werribee Park Golf Club, and very shortly we will have the considerable marina that is being built just around the corner and down the road at Werribee South.

That precinct and the entire Werribee South area are going to be a significant tourism drawcard. Of course that is going to present some difficulties, because at the moment the infrastructure is not there. The precinct is not capable of dealing with the sorts of crowds we are expecting, but I hasten to add that this also presents some huge opportunities for the Werribee area and for tourism in Victoria, because I believe this is something people will travel a long way to see.

Hon. M. P. Pakula — So long as you are not there!

Mr FINN — There are so many different things you can see in such a small area. I do not know whether Mr Pakula has ever been to Werribee, but I would be happy to show him some of the things we have there. It is a very long way from Black Rock, but I would be happy to take him down there and show him the gorillas, if indeed he would like me to do that.

I believe we have the opportunity to show the rest of Victoria, the rest of Australia and indeed much of the world that this section of Victoria is really worth coming to see. I ask the minister to join me and visit Werribee to speak with tourism operators, the local Wyndham council and others who would be involved and are involved in this wonderful opportunity for Victoria. I ask her to join me at her earliest convenience so that she can see for herself exactly what I am talking about and the huge potential that we have in Werribee.

The PRESIDENT — Order! Can Mr Finn assure me that he has raised the zoo before? On the last occasion, am I correct in thinking it was in regard to roads in that area, so this is a different item?

Mr FINN — Yes, on that occasion it was a mention of the monkeys.

Metropolitan Traffic Education Centre: driver training

Mr LEANE (Eastern Metropolitan) — My adjournment matter is for Mr Mulder in his guise as Minister for Roads, and it is regarding a not-for-profit driver education organisation known as METEC, or the Metropolitan Traffic Education Centre. METEC is located in Kilsyth and has a 5-kilometre road which has a set of traffic lights, a level crossing and other elements that feature on normal roads. One thing METEC does is facilitate year 10 students who spend some time studying road safety and then going out with driving instructors. The idea is that, because they are younger than the age at which they can get L plates, it is the first time they are able to get behind the wheel and use the brakes and the accelerator. It gives them the opportunity to drive around for a couple of hours in a controlled environment.

Considering recent well-covered stories in the media about a number of deaths of young people, a lot of questions have been asked about how we could address this problem. I know the member for Kilsyth has invited the minister to visit METEC. I urge the minister to encourage his department, VicRoads, to rethink its position about the value of early driver education for young people.

I put on the record that I think people at the higher level of VicRoads management are excellent — without naming them and putting back their careers. During the last term of government I had a meeting with a couple of people in the education section of VicRoads, and their view is, based on their studies and statistics, that this particular type of early learning is a waste of time. Because we keep on seeing young people die on our roads in some horrific and multiple accidents, intuition tells me and many other people that this type of learning has to be good. I urge the minister to knock some heads together at VicRoads and think about this issue. It needs to be put back on the agenda to assist young people.

White Ribbon Day

Mrs PEULICH (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Women's Affairs in relation to White Ribbon Day, which is scheduled for tomorrow. I commend the minister on drawing public attention to this scourge in society and also to her endeavour today in gaining the support of more than 60 members of Parliament, many of whom had busy schedules, who posed for a photograph together and committed to never excusing or remaining silent about violence against women. Anyone who wants to make that commitment can do so at www.myoath.com.au.

It is a very big problem. A report by the Australian Institute of Criminology, *Young Australians and Domestic Violence*, states that up to one-quarter of young people in Australia have witnessed an incident involving physical or domestic violence against their mother or stepmother. The report also outlines that people of lower socioeconomic status were about one and a half times more likely to be aware of domestic violence towards their mother than people from higher socioeconomic households. Indigenous youth in

particular are more likely to have experienced physical domestic violence amongst their parents or parents' partners.

It is a huge problem and a key priority for the Baillieu government, as it should be for the whole of society, to ensure that Victorian women are safe and incidents of family violence are addressed. In the South Eastern Metropolitan Region the investment of the Baillieu government has exceeded $50 million this year to combat domestic violence through prevention, education and response initiatives to increase the safety of women and children and hold perpetrators to account.

While women are often the victims, the effect on children in the family is profound. I was therefore very interested to read about White Ribbon's Breaking the Silence in Schools program, which began in New South Wales in 2009 and has now been implemented in over 60 schools.

The program works to inspire principals to strengthen the culture of respect in their schools in a way that is age appropriate for their students and engages all parts of the school community; builds on the knowledge and skills already existing in schools, as evident in, for example, personal development, resilience and antibullying programs; and involves training school leaders, including principals and other executives, based around male leadership, primary prevention and gender and power. Finally, the program focuses on school leaders becoming partners in the prevention of violence against women. Principals and subsequently teachers are provided with the resources and strengthened skills to implement and broaden programs that work to create a culture of respect across the school community.

I therefore ask the Minister for Women's Affairs to provide an update on the Baillieu government's commitment to tackling domestic violence against women in the south-east and on any further opportunities to potentially further enhance and strengthen that commitment, especially through education programs such as White Ribbon's Breaking the Silence in Schools program.

Responses

Hon. P. R. HALL (Minister for Higher Education and Skills) — I do not have any written responses to adjournment items tonight, but I can give a verbal response to the 14 items raised, once again across a broad range of topics from raptors to railway stations. It is of some interest that of the 14 matters raised, 13 were to different ministers. I think Mr Leane was the only one who doubled up with the Minister for Public Transport.

Mr Lenders raised a matter for the attention of the Minister for Water seeking clarification of the policy position on the use of the north–south pipeline, and I will convey that request to my colleague Minister Walsh.

Mr Elsbury raised a matter for the attention of the Minister for Education, concerning the future use of the former Glen Devon Primary School site in Werribee. I commend him for his admirable efforts to find a valid and useful community purpose for that site, and I will convey that request for assistance to the minister.

Ms Mikakos raised an issue for the Minister for Community Services regarding assistance for a constituent of hers whose son suffers from autism. Ms Mikakos has given me a letter and asked me to convey it to the minister outlining some details of the name of that constituent, and I will pass on that request.

Mr Ramsay raised a matter for the Minister for Planning. Essentially he was seeking some advice on assisting councils on town planning matters, and I will pass on that request.

Ms Pennicuik raised a matter for the Assistant Treasurer regarding WorkSafe. She again continued her advocacy for prevention of workplace bullying and was urging the minister to do likewise, and I will pass that request on.

Mr O'Brien raised a matter for my attention, and I am pleased to be able to dispose of that by way of direct response to Mr O'Brien this evening. He asked about ways in which we could expand the opportunity for people to train as early childhood educators in his electorate and put the case for why there is a need to do so. I can assure Mr O'Brien that this particular matter is foremost in my thoughts with regard to improving the delivery of education for early childhood services educators. Indeed I say to him I think there is some encouraging news that may be forthcoming soon about opportunities for people in his electorate to train in that way. I will keep him advised on that. My best wishes also to young Isobel Victoria.

Mr Tarlamis raised a matter for the Minister for Public Transport regarding the proposed Southland station. He sought clarification on costing matters associated with the station, and I will convey that request to the Minister for Public Transport.

Mr Koch raised a matter for the Minister for Health, and he put on record his continued support of and advocacy for a helipad at Ballarat. He asked if the Minister for Health would assist him in that regard. I will pass on that request.

Mr Somyurek raised a matter for the Minister for Manufacturing, Exports and Trade, urging him to respond to the Victorian Competition and Efficiency Commission inquiry into the Victorian manufacturing industry. I will pass those urgings on to the Minister for Manufacturing, Exports and Trade.

Mrs Petrovich raised a matter for the Minister for Environment and Climate Change concerning wedge-tailed eagles and requested an outline of the measures that the government is putting in place to protect this species. I will pass that matter on.

Mr Pakula raised a matter for the Minister for Gaming regarding the Doxa Social Club and the apparent lack of consultation in respect of a material change to the club's operations as a result of the redevelopment of Flinders Street station. He particularly sought details of what consultation has happened and what consultation will happen with that organisation. I will pass that request on to the Minister for Gaming.

Mr Finn raised a matter for the Minister for Tourism and Major Events regarding the Werribee tourism precinct. He continued his staunch advocacy for that part of his electorate, and he invited the Minister for Tourism and Major Events to assist him in that regard. I will pass that request on to the minister.

Mr Leane raised an important matter about driver training and education, particularly for young drivers. Given the recent horrific incidents that we are all aware of, it is no wonder that this topic is foremost in the minds of many of us. His particular request was that VicRoads reconsider its views on early driver education. I am not aware of any express views, but I think Mr Leane raised an important issue and I will pass on to VicRoads his views regarding this matter.

Finally, Mrs Peulich raised a matter for the Minister for Women's Affairs regarding domestic violence and noted that tomorrow is White Ribbon Day. She sought an update from the minister on the government's commitment to tackle domestic violence. I am sure the minister will be able to give her a very sound and responsible response to that request once I convey it to her.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 7.17 p.m until Tuesday, 6 December.