**PARLIAMENT OF VICTORIA**

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE COUNCIL

## FIFTY-SEVENTH PARLIAMENT

## FIRST SESSION

**Thursday, 26 May 2011**

**(Extract from book 7)**

**Internet: www.parliament.vic.gov.au/downloadhansard**

**By authority of the Victorian Government Printer**

## The Governor

The Honourable ALEX CHERNOV, AO, QC

## The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

## The ministry

| | |
|---|---|
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| Deputy Premier, Minister for Police and Emergency Services, Minister for Bushfire Response, and Minister for Regional and Rural Development | The Hon. P. J. Ryan, MP |
| Treasurer | The Hon. K. A. Wells, MP |
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| Attorney-General and Minister for Finance | The Hon. R. W. Clark, MP |
| Minister for Employment and Industrial Relations, and Minister for Manufacturing, Exports and Trade | The Hon. R. A. G. Dalla-Riva, MLC |
| Minister for Health and Minister for Ageing | The Hon. D. M. Davis, MLC |
| Minister for Sport and Recreation, and Minister for Veterans' Affairs | The Hon. H. F. Delahunty, MP |
| Minister for Education | The Hon. M. F. Dixon, MP |
| Minister for Planning | The Hon. M. J. Guy, MLC |
| Minister for Higher Education and Skills, and Minister responsible for the Teaching Profession | The Hon. P. R. Hall, MLC |
| Minister for Multicultural Affairs and Citizenship | The Hon. N. Kotsiras, MP |
| Minister for Housing, and Minister for Children and Early Childhood Development | The Hon. W. A. Lovell, MLC |
| Minister for Corrections, Minister for Crime Prevention and Minister responsible for the establishment of an anti-corruption commission | The Hon. A. J. McIntosh, MP |
| Minister for Public Transport and Minister for Roads | The Hon. T. W. Mulder, MP |
| Minister for Ports, Minister for Major Projects, Minister for Regional Cities and Minister for Racing | The Hon. D. V. Napthine, MP |
| Minister for Gaming, Minister for Consumer Affairs, and Minister for Energy and Resources | The Hon. M. A. O'Brien, MP |
| Minister for Local Government and Minister for Aboriginal Affairs | The Hon. E. J. Powell, MP |
| Assistant Treasurer, Minister for Technology and Minister responsible for the Aviation Industry | The Hon. G. K. Rich-Phillips, MLC |
| Minister for Environment and Climate Change, and Minister for Youth Affairs | The Hon. R. Smith, MP |
| Minister for Agriculture and Food Security, and Minister for Water | The Hon. P. L. Walsh, MP |
| Minister for Mental Health, Minister for Women's Affairs and Minister for Community Services | The Hon. M. L. N. Wooldridge, MP |
| Cabinet Secretary | Mr D. J. Hodgett, MP |

## 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, Mr Drum, Mr Finn, Ms Pulford, Mr Ramsay and Mr Somyurek.

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

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

**Environment and Planning References Committee** — Mr Elsbury, Mrs Kronberg, Mr Ondarchie, Ms Pennicuik, Mrs Peulich, Mr Scheffer, Mr Tee and Ms Tierney.

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

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

## 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

**MEMBERS OF THE LEGISLATIVE COUNCIL**

**FIFTY-SEVENTH PARLIAMENT — FIRST SESSION**

**President:** The Hon. B. N. ATKINSON

**Deputy President:** Mr M. VINEY

**Acting Presidents:** Ms Crozier, Mr Eideh, Mr Elasmar, Mr Finn, Mr O'Brien, Ms Pennicuik, Mr Ramsay, Mr Tarlamis

**Leader of the Government:**
The Hon. D. M. DAVIS

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

**Leader of the Opposition:**
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

| Member | Region | Party | Member | Region | Party |
|---|---|---|---|---|---|
| Atkinson, Hon. Bruce Norman | Eastern Metropolitan | LP | Leane, Mr Shaun Leo | Eastern Metropolitan | ALP |
| 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 |
| Eideh, Mr Khalil M. | Western Metropolitan | ALP | Peulich, Mrs Inga | South Eastern Metropolitan | LP |
| Elasmar, Mr Nazih | Northern Metropolitan | ALP | Pulford, Ms Jaala Lee | Western Victoria | ALP |
| 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 |
| Guy, Hon. Matthew Jason | Northern Metropolitan | LP | Scheffer, Mr Johan Emiel | Eastern Victoria | ALP |
| 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, 26 MAY 2011

## Thursday, 26 May 2011

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

**The PRESIDENT** — While I have a full house, if I can start with one short comment, it is that this morning I have just come from the Auditor-General's breakfast briefing at which he discussed his annual plan. I was pleased to see that quite a number of members of this house attended the briefing, but I was most concerned that 35 members of Parliament accepted to attend the briefing and 16 members turned up. It was most unfortunate.

Members ought to be very careful in the first instance to consider carefully whether their diaries permit them to attend, because these events cost money and people such as the Auditor-General go to quite some trouble to prepare their presentations. Obviously they might well consider providing members of Parliament with information in a quite different form if members are not going to support their initiatives in the way we would expect, especially having accepted the invitation to attend and then not turning up.

## PETITION

**Following petition presented to house:**

### Rail: Altona loop service

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the proposed new train timetable will cut service to Altona loop and the Altona-Seaholme community in four ways:

the Altona loop will lose direct access to the city loop;

the Altona loop will lose all of its express trains;

services will be reduced from 20 to 22-minute intervals during peak periods; and

outside peak periods the service will be reduced to a shuttle so passengers will have to change trains.

The Altona and Seaholme communities do not need cuts, they greatly need improved public transport services.

The petitioners therefore request the provision of public transport improvements, not cuts. The petitioners request that the proposed Altona loop service cuts be rejected.

**By Ms HARTLAND (Western Metropolitan) (276 signatures).**

**Laid on table.**

**Ordered to be considered next day on motion of Ms HARTLAND (Western Metropolitan).**

## PAPERS

**Laid on table by Clerk:**

Office of Police Integrity — Report on Victoria Police crime records and statistical reporting, May 2011.

Ombudsman — Report on record keeping failures by WorkSafe agents, May 2011.

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule No. 27.

## MEMBERS STATEMENTS

### Climate change: government policy

**Mr BARBER** (Northern Metropolitan) — Last night we learnt that the Minister for Planning has adopted the planning policy of the Byron Bay Greens councillors, and that is for coastal retreat in the face of rising sea levels. I would also like to congratulate the government on its adoption of the Labor Party's policy of doubling the energy efficiency target, which it completed by gazettal last week. The Greens of course would like to see that target double again, and over the next three years I think that is a real possibility.

The government is on notice about the progress of the solar energy feed-in tariff. I note also that the government has adopted as its policy 0.8 tonnes of greenhouse gases per megawatt hour for new coal-fired power stations. A report in the *Australian Financial Review* this morning tells us that the old coal-fired power stations of Germany, the USA, the UK and Japan all achieve that standard now. I am not sure why the government would be wanting to lock in the legacy of the Western world when it comes to coal-fired power rather than reduce the standard, but I think there are some encouraging signs that over the next four years we will be able to slap this government into shape when it comes to its climate change policies, and I will continue to put forward some more helpful suggestions for it over the coming years.

### Ocean Grove: sports precinct

**Ms TIERNEY** (Western Victoria) — I rise to speak about the Baillieu government's non-funding of the Ocean Grove sports hub redevelopment, which is putting the survival of local sporting clubs in serious jeopardy. The previous Labor government promised $5 million for this redevelopment, the Gillard Labor government committed $2 million and the City of Greater Geelong is also committing to the project. Before the November election the coalition said it

would support the redevelopment, but it has failed miserably to commit any funding.

The Surfside Waves Soccer Club president was recently quoted in the *Ocean Grove Echo* as stating that:

> We have a reduction in numbers this year, for the coming season, and I think for some people that is largely a result of getting sick of the lack of facilities.
>
> We don't have change rooms so players are getting changed in cars and, particularly for women, that's just unsatisfactory.

The member for Bellarine in the Assembly, Lisa Neville, presented a petition to the Parliament during the last sitting week with no fewer than 1200 signatures calling on the Baillieu government to fund this project in the May budget, but this fell on deaf ears once again. The people of Ocean Grove and Bellarine have been snubbed by this government, which has not committed one single cent to this important project.

## Whittlesea Secondary College: bushfire memorial

**Mr ONDARCHIE** (Northern Metropolitan) — I rise today to speak about my visit on Monday, 9 May, to Whittlesea Secondary College. This follows on from a visit in February when I spoke to the school community about the tragic impact of the Black Saturday bushfires on their school. They lost students, parents, associates, acquaintances and people in the general community. We should not forget that they are still living with the tragedy of those Black Saturday bushfires.

After being quite moved by my visit in February, the school captains, Britney and Anthony — two remarkable young people — talked to me about their idea to build a memorial rotunda that would be a sacred, special and quiet place for students, parents and the community to use from time to time. They have been out to their local community to raise money through the Buy a Brick program.

I felt quite moved by the fact that they were going back to the same people and asking them to raise money for something very important, so I went and spoke to the Minister for Education, the Honourable Martin Dixon. I am delighted to announce that when I visited the school back on 9 May I announced on behalf of the government a contribution of $10 000 from the minister's department to Whittlesea Secondary College to build this rotunda as a sacred, special and quiet space. I commend the school's principal, Terry Twomey, the school chaplain, Ian Findley, and of course Britney and Anthony, the school captains, for keeping this very important memory active in our minds.

## Murray Valley Water Services Committee: 200th meeting

**Ms DARVENIZA** (Northern Victoria) — I want to congratulate all the past and present members of the Murray Valley Water Services Committee on their 200th meeting, which was held on Thursday, 28 April. The Murray Valley Water Services Committee represents customers in the Murray Valley irrigation area, which extends from Yarrawonga to Picola and is bordered by the Murray River to the north and Broken Creek to the south. The committee has been an integral link between Goulburn-Murray Water and its local customers. It has asked the tough questions and continued to fight for real and sustainable infrastructure, service and pricing solutions that improve services for customers.

It has taken 16 years of almost monthly committee meetings to reach this milestone, and many people have contributed to the success of the committee along the way. Members have dedicated their time to this great community resource. The committee has provided leadership on a number of local, state and federal issues and created strong links between the community and water delivery services in the region. I congratulate the current chair, Heather du Vallon, and all present and past committee members.

## Princes Freeway, Morwell: closure

**Mr O'DONOHUE** (Eastern Victoria) — I congratulate the Minister for Energy and Resources, Michael O'Brien, the Hazelwood Power Corporation and the Latrobe City Council on the parties having agreed to a framework to undertake works on the Morwell main drain. Under the agreement the Hazelwood Power Corporation has agreed to undertake design and remediation work to assist with the fixing of the drain, and the government will provide $2 million in assistance.

This is an excellent result and should help in the process of reopening the closed highway. We all want the highway reopened as soon as possible, but of course safety must be the no. 1 priority. Again I congratulate the government and the minister on this methodical approach and for putting safety first, which is in stark contrast to the irresponsible and dangerous course of action advocated by Mr Viney and the opposition — to open the Princes Freeway without delay. As I have said, we all want the freeway opened as soon as possible, but safety must be the no. 1 priority.

## Wes Fleming

**Mr O'DONOHUE** — I also wish to congratulate Wes Fleming on his success in winning a Silver Gilt award at the Chelsea flower and garden show. The Fleming family is synonymous with horticulture in the Dandenongs. It operates a longstanding family business and provides many local jobs to people in the area. I congratulate Wes on his recent success.

## Australian Federation of Islamic Councils: sharia law

**Mr SOMYUREK** (South Eastern Metropolitan) — I rise to condemn the Australian Federation of Islamic Councils (AFIC) for calling on the federal government to introduce sharia law into Australia. The Muslim communities in the Western world have been under tremendous stress in their host countries since the barbaric attacks of 11 September 2001, which killed thousands of innocent people. At a time when there is ongoing questioning of the compatibility of Islam with Western values, a debate essentially on whether Muslims belong in the Western world, including Australia, AFIC comes up with this moronic proposal.

If it had succeeded, this proposal would have, on the one hand, isolated the Muslim community from mainstream society and, on the other hand, intensified the degree of antipathy felt towards the Muslim community by the rest of the nation. My suggestion to AFIC members who came up with this proposal would be to purchase a one-way plane ticket to a country that is governed by sharia law. Good luck, because your choices will be limited, even amongst countries with a predominantly Muslim-based population.

## Pound–Shrives roads, Hampton Park: safety

**Mr SOMYUREK** — On another matter, Casey is one of the fastest growing municipalities in Victoria, and indeed in Australia, with thousands of people moving into the city every year. Unfortunately the roads were built to accommodate rural conditions, and now that Casey has about 230 000 residents the roads just cannot accommodate the traffic volumes. This is despite the fact that the former government invested over $300 million in roads in Casey during its term in office. The intersection of Shrives Road and Pound Road is a dangerous — —

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

## Wyndham Harbour

**Mr FINN** (Western Metropolitan) — Before beginning, could I commend Mr Somyurek for the comments he made on sharia law. I think he has strong bipartisan support in regard to those words.

**Mrs Peulich** — He has courage.

**Mr FINN** — He does have courage indeed, Mrs Peulich.

Along with friend and colleague Mr Elsbury and a most impressive cast of local luminaries, I recently attended the turning of the sod by another friend and colleague, the Minister for Planning, Matthew Guy, at an exciting new development in Melbourne's west, Wyndham Harbour. I use the term 'exciting' advisedly, as this is a first for the west. A bringing together of residential, retail, leisure and aquatic facilities, Wyndham Harbour is the most important development, I believe, on our side of Melbourne since the opening of Tullamarine airport. It will bring bayside living on a grand scale to Werribee South and provide an enviable lifestyle by any measure. It will be one of the jewels of Melbourne.

Of course, tourism in the region will be significantly boosted by the marina component of Wyndham Harbour, which will add to Wyndham's prized tourist attractions of Werribee Open Range Zoo — which, I have to say, is one of my favourites — Werribee Park, the National Equestrian Centre and Werribee Park Golf Club. I can advise members who are partial to a game of golf, that this course alone is worth a trip down the freeway.

**An honourable member** interjected.

**Mr FINN** — A former President, I am sure, would be most interested. Wyndham Harbour is a sure sign that the west of Melbourne is vibrant and dynamic. Under the Baillieu coalition government it will only go from strength to strength.

## Rail: Moonee Ponds station

**Mr EIDEH** (Western Metropolitan) — I do not believe that the Premier of Victoria, Ted Baillieu, intentionally ignores the people of my electorate in Western Metropolitan Region. I am certain that he would never be biased toward the southern and eastern sides of the Yarra at the expense of the north and west. That said, I do not see any rational or acceptable reason for the announcement by his current Minister for Public Transport that the fully funded and costed upgrade of the very busy Moonee Ponds railway station will not proceed. The people who use that station demand better

services, improved safety and an upgrade that would definitely have gone ahead had the election result been different.

I feel for the rail commuters in Moonee Valley who believed promises made at the election but who now know the truth of such artificial promises. Perhaps I could invite the Premier and his incumbent minister to visit the station with the member for Essendon and myself to see exactly what I mean. I hope this decision will be reviewed for the benefit of Moonee Ponds and Moonee Valley's commuters.

## Dandenong Market: redevelopment

**Mr TARLAMIS** (South Eastern Metropolitan) — I rise to speak about the Dandenong Market redevelopment. The market was officially opened for business in 1866 and remains one of Dandenong's most iconic attractions. After six years and seven stages of works the Dandenong Market redevelopment is complete and will be celebrated with an official opening next weekend.

The celebrations will include cooking demonstrations, roving entertainers, multicultural performances and more. The $26 million dollar redevelopment includes a new central merchandise hall where shoppers can view an extensive range of goods. The newly refurbished and expanded fruit and vegetable section offers a fantastic variety of goods, as does the recently opened meat, fish and deli hall.

With people of 156 nationalities making their home in Greater Dandenong it is no surprise the market offers a wide range of food, fresh produce and products from all corners of the globe. I congratulate the City of Greater Dandenong for investing in this important community asset.

## National Reconciliation Week

**Mr TARLAMIS** — On another matter, I now speak about National Reconciliation Week, which begins on 27 May. Before I continue I would like to acknowledge the traditional owners of the land on which we stand, the Kulin nation, and pay my respects to their elders past and present, an acknowledgement that I have great pride in making.

Each year National Reconciliation Week celebrates the rich culture and history of the first Australians, a culture that is one of the world's oldest and longest surviving. National Reconciliation Week is a time for all of us to reflect on our shared histories and, in particular, to recognise the contributions that indigenous Australians are making, and have made, to our society.

Reconciliation events are held across Australia each day during Reconciliation Week, and I encourage everyone to get involved in all these events.

# TERRORISM (COMMUNITY PROTECTION) AMENDMENT BILL 2011

*Introduction and first reading*

**Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) introduced a bill for an act to amend the Terrorism (Community Protection) Act 2003 to provide for the review of the operation of that act to be undertaken and completed by 30 June 2013 and for other purposes.**

**Read first time.**

*Statement of compatibility*

**Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) 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 Terrorism (Community Protection) Amendment Bill 2011.

In my opinion, the Terrorism (Community Protection) Amendment 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 purpose of the bill is to amend the Terrorism (Community Protection) Act 2003 to provide for the review of the operation of that act to be undertaken and completed by 30 June 2013.

This amendment will ensure that the Victorian review can coincide with the Council of Australian Governments' review of counter-terrorism legislation, which will consider key elements of the Terrorism (Community Protection) Act 2003.

**Human rights issues**

There are a number of human rights in the charter act that are engaged by the Terrorism (Community Protection) Act 2003. This statement of compatibility deals only with the human rights impact of the amending bill.

The effect of the bill is that the review of the operation of the Terrorism (Community Protection) Act 2003 will not be undertaken by 30 June 2011. Instead, it will occur in the 24 months leading to 30 June 2013.

The bill will have no effect on the broader operation of the Terrorism (Community Protection) Act 2003.

There are no human rights that are protected by the charter act that are relevant to this bill.

**Conclusion**

I consider that the bill is compatible with the charter act, because no charter act rights are engaged by the bill.

Richard Dalla-Riva, MLC
Minister for Employment and Industrial Relations
Minister for Manufacturing, Exports and Trade

*Second reading*

**Ordered that second-reading speech be incorporated into *Hansard* (by leave) on motion of Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations).**

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — I move:

That the bill be now read a second time.

**Incorporated speech as follows:**

This government has declared itself committed to the fight against terrorism, in this state, this country and through our armed forces abroad.

As Victorians, we have been directly affected by the tragedies wrought by terrorist acts.

Twenty-two Victorians lost their lives in the 2002 Bali bombings, and Mr Sam Ly, who was from Melbourne, was tragically a casualty of the 2005 London bombings.

These people were our family, friends and coworkers. We need to do whatever possible to ensure that these tragic events do not occur again.

This government supports the system of national uniform counter-terrorism legislation. The legislation is used to detect and prevent potential terrorist attacks, and to help ensure that terrorists, or would be terrorists, are prosecuted under our criminal law.

Of course, when strong powers are extended to police and governments, they must be subject to safeguards, and review. This is why COAG committed to a review of uniform national counter-terrorism legislation, and this is why Victoria's legislation contains a requirement for the review of the operation of the Terrorism (Community Protection) Act 2003.

This bill amends the Terrorism (Community Protection) Act, to extend the date by which a review of the operation of that act must be completed, and the date by which a copy of the review report must be tabled in Parliament.

The original date was set so that the Victorian review would coincide with a Council of Australian Governments, or COAG, review of uniform national counter-terrorism legislation. Under this amendment, the date for review of the Terrorism (Community Protection) Act will be extended to 30 June 2013. This will enable the Victorian and COAG reviews to coincide, as was intended.

The start of the COAG review was delayed by the commonwealth. I understand that this was because, as a further safeguard, in 2010 the commonwealth created a new position of independent national security legislation monitor. This monitor will provide oversight of the uniform national counter-terrorism legislation, including aspects of Victoria's legislation.

On 21 April 2011, Mr Bret Walker, SC, was announced as the independent national security legislation monitor. The COAG review has been delayed in anticipation of Mr Walker's appointment, and his input to that review.

I should point out that Victoria, along with other jurisdictions, was ready for the COAG review to commence in December 2010. The revised timetable for the COAG review has not yet been set.

Victoria's review of the Terrorism (Community Protection) Act must proceed with caution, because of the potential implications for the uniform national scheme if Victoria were to amend its act without full and proper consultation.

As a result of this Bill, it is anticipated that the review of the Terrorism (Community Protection) Act and the COAG review will take place in tandem. The reviews will be complementary in their operation, as is the case with the national counter-terrorism legislation.

The COAG review will consider key features of the Victorian act, being part 2A and part 3A. These parts were included in the Terrorism (Community Protection) Act in 2006, as a result of a COAG agreement to further strengthen Australia's counter-terrorism legislation. They contain significant powers for exercise in counter-terrorism activity.

Part 2A regulates preventative detention orders, which allow for the detention of a person without charge for a maximum of 14 days, where necessary to prevent a terrorist act or preserve evidence of a terrorist act.

Part 3A contains special police powers for use in certain circumstances. These include powers to demand identification, stop and search persons and vehicles, direct persons to leave or remain at a specified area, seize items and cordon off areas. Police authorised to use these special powers may also use whatever force is reasonably necessary to exercise these powers.

The Victorian review will consider the significant powers under part 2, part 3 and part 6 of the act.

Part 2 of the act provides for a system of covert search warrants that can be obtained to investigate terrorist activities.

Part 3 of the act contains police powers to detain and decontaminate persons in the event of a chemical, biological or radiological attack.

Part 6 of the act contains a requirement that a requirement that providers of essential services maintain risk management plans to identify and mitigate the risk of terrorist acts.

Because they will both consider aspects of the Terrorism (Community Protection) Act, it makes sense that Victoria's review will proceed alongside the COAG review. It is anticipated that Victoria will also liaise with the independent national security legislation monitor regarding the review of the act.

This bill will ensure that the Terrorism (Community Protection) Act receives a thorough, considered review, and a review that does not inadvertently pre-empt, contradict or otherwise threaten the COAG review process.

I commend the bill to the house.

**Debate adjourned on motion of Mr LEANE (Eastern Metropolitan).**

**Debate adjourned until Thursday, 9 June.**

## RESIDENTIAL TENANCIES AMENDMENT (PUBLIC HOUSING) BILL 2011

*Second reading*

**Debate resumed from 3 May; motion of Hon. W. A. LOVELL (Minister for Housing).**

**Ms MIKAKOS** (Northern Metropolitan) — The opposition will not be opposing this bill, but it has some serious reservations and concerns about how it will operate in practice, and I will be seeking to clarify some of these issues during the committee stage.

Supporting our most vulnerable Victorians and providing safe, affordable and appropriate accommodation for those requiring public housing is at the core of Labor's social justice policy. This bill will amend the Residential Tenancies Act 1997 by inserting two new provisions, section 250A and section 250B. I will be dealing with each of these provisions separately.

New section 250A seeks to empower the director of housing to give notice to vacate within 14 days to a public housing tenant who has been involved in the cultivation, manufacture, supply or distribution of prohibited drugs when this illegal activity has occurred on the rented premises or in a common area. This proscribed conduct includes trafficking or attempting to traffic a drug of dependence; supplying a drug of dependence to a person under 18 years of age; possessing a preparatory item with the intention of using it for the purpose of drug trafficking; possessing, without a lawful excuse, a tablet press or a precursor chemical; and cultivating or attempting to cultivate a narcotic plant.

This proposed section follows a Victorian Civil and Administrative Tribunal decision of late last year which cast doubt on the capacity of the director of housing to evict a tenant from their public housing unit for illegally using the unit for drug trafficking. Whilst VCAT found that the tenant fully admitted to Victoria Police trafficking drugs on three separate occasions, a connection between the tenancy and illegal activity could not be established. This was because the illegal activity was not physically undertaken in the unit, but in the doorway or common area of the unit.

This new section seeks to address this anomaly by granting the director of housing the power to issue a notice to vacate if the director believes on reasonable grounds that the tenant has engaged in relevant drug-related illegal activity on the rented premises or in a common area such as a hallway, laundry, stairwell or outdoor open space such as a playground. Importantly, this proposed section allows the director of housing to serve a public housing tenant a notice to vacate within 14 days, alleging the commission of an offence in the rented premises or a common area without the person having been charged by Victoria Police or having been found guilty or having been convicted of any offence by a court. Indeed new section 250A builds on Labor's strong stand against the use of public housing for illegal purposes, particularly drug dealing.

However, as with any bill and particularly so when that bill may have the impact of evicting people into homelessness, it should be the subject of great debate and scrutiny. Everyone should be entitled to feel safe and secure in their home, and this should not depend on where one lives. Whilst there are many public housing tenants who conduct themselves in an appropriate way and are mindful of other housing tenants, unfortunately there are a few who choose to engage in illegal behaviour, thereby ignoring the terms and conditions of their lease agreements. It is the responsibility of the director of housing to effectively manage the situation when such circumstances arise.

As was the case for many years under the Labor government, people who engaged in illegal activities, such as the type I described earlier, and therefore illegally used the public housing property were taken to VCAT. However, in all cases there was a minimum evidentiary hurdle that needed to be satisfied first — namely, the person accused of engaging in illegal activities should, at the very least, be charged by Victoria Police for the relevant offence.

By taking away the minimum evidentiary burden that a person must at least be charged with the illegal activity they are accused of, this bill runs the risk of denying a tenant natural justice and requiring the director of housing to undertake an investigatory role similar to that of the police as well as being both judge and jury in determining the character of a tenant. Merely being accused of an offence should not result in someone being evicted from their home, effectively rendering them homeless. Matters such as these should be dealt

with properly by the courts and not by the director of housing.

As I said earlier, public housing is not only about meeting the needs of people at risk of homelessness but also about actively providing services that will tackle these underlying issues. Whilst the fact remains that illegal behaviour is unacceptable in any public housing property, we must be mindful that often these people are dealing with a range of other complex issues, such as mental illness or drug and alcohol abuse. That is why I will move an amendment in the committee stage seeking to make amendments to proposed section 250A. As the Department of Human Services website states:

> Housing is as much about people as it is about the bricks and mortar that make a building.

The sad truth of the matter is that a large majority of public housing properties are occupied by some of the most vulnerable and disadvantaged members of our community. It is not just about meeting the needs of people who have experienced or are at risk of long-term homelessness; it is also about providing vital support services to tackle the many complex reasons why a person may have become homeless in the first place. Many may have chronic health problems, mental health issues or drug and alcohol problems that require a range of services to be provided to that person as well as stable accommodation.

Since institutionalisation occurred several decades ago governments of all political persuasions have struggled to address the consequences. In my view some public housing tenants should probably be in supported accommodation, where they would have someone checking, for example, that they are okay and have taken their necessary medication. As a local parliamentarian with an office located near the East Reservoir and East Preston public housing estates, the complaints I have received suggest that general antisocial behaviour has resulted from mental health or drug and alcohol issues, and this tends to be the typical complaint that comes to my office rather than specific allegations of drug trafficking.

The second new provision proposed in this bill is section 250B, which seeks to increase the powers of the director of housing to evict a tenant if a tenant has allegedly committed an indictable offence that is to be prescribed in the residential tenancies regulations in the future. It gives the government carte blanche to remove tenants for offences that do not relate to their tenancy and instead relate to matters of their character. To do this would deny the tenant natural justice. As members of the house would know, the phrase 'an indictable offence' broadly covers a significant range of offences from relatively minor ones to some of the most serious acts of violence one can commit. Neither the bill nor the explanatory memorandum nor the second-reading speech gives any indication of what types of indictable offences this is intended to cover.

Given that former prisoners are frequently housed in public housing, this may mean that a whole class of offenders could become homeless by virtue of failing a future character test to be imposed by this government. My understanding is that research has shown that stable accommodation in the first two years of an offender's release is the single biggest determinant of whether someone will reoffend. If we are serious about these issues, we need to ensure that ex-prisoners also have stable accommodation.

The Labor opposition will seek to highlight both the inadequacies and the unfairness of proposed section 250B in this debate and also in the committee stage. From the material provided by the government, it is not clear at this stage what the problem is that this section is designed to tackle. To date to my knowledge no-one has been able to identify an existing problem that this section seeks to rectify. In her second-reading speech the minister said:

> This is an important means of addressing other serious illegal activities as the need arises.

However, there has been no public policy rationale for the inclusion of this proposed section, save for the fact that at some point in time we may need to use it. I do not believe this is an adequate explanation for the insertion of this section into the act.

As I have indicated already, the opposition will be seeking to move certain amendments in the committee stage. I will be elaborating on them further during the committee stage. However, I wish to foreshadow to the house that the opposition's amendments relate specifically to the concerns about both of the new provisions, which I have already outlined, particularly as they do not require a public housing tenant to have been charged with an offence. Essentially a suspicion on the part of the director of housing that an offence has been committed appears to be sufficient under the provisions of the bill at the moment to form the basis of a potential eviction.

The opposition will be seeking to tighten up the language in the bill. In new section 250A the amendment proposes that the director of housing be able to give notice to a public housing tenant only if that public housing tenant has been charged with an offence in relation to the conduct for which the notice is

given. The opposition will also be seeking to make similar amendments to section 250B, again tightening up the language to ensure that an offence has been committed and that the public housing tenant has been charged with an offence in relation to those issues before that section is triggered.

I will cover the amendments in more detail in the committee stage, but I thought it was appropriate to foreshadow them now so that members would have the opportunity of discussing them during the course of this debate.

**Opposition amendments circulated by Ms MIKAKOS (Northern Metropolitan) pursuant to standing orders.**

**Ms MIKAKOS** — I conclude by briefly outlining Labor's record in relation to public housing. The former Labor government did much for advancing the interests of public housing tenants across Victoria. I know this because in my electorate, which encompasses one-fifth of metropolitan Melbourne, there have been some enormous strides forward in providing more housing for vulnerable Victorians and tackling issues such as homelessness.

My electorate has within it a number of large public housing estates located in Richmond, Carlton, North Fitzroy, Northcote, East Preston, East Reservoir, West Heidelberg and Broadmeadows, as well as stand-alone properties scattered throughout. Every year the Labor government's investment in public housing was over and above our Council of Australian Governments agreements through the commonwealth-state housing agreement and the national affordable housing agreement. Our approach culminated in the biggest social housing building program since the 1956 Olympics, the single largest commitment that any state government has ever made. There was an investment of more than $500 million to build new homes to deliver more than 4500 new social and public housing dwellings, many of which are now providing a home to struggling families in my electorate.

We also tackled homelessness through innovative programs such as the Elizabeth Street Common Ground supportive housing development at 660 Elizabeth Street, Melbourne. I was very pleased to attend the formal opening last year with the then Premier, John Brumby, and the then Minister for Housing, Richard Wynne. I was tremendously impressed by that development which also received significant support from the private sector through Grocon. I have spoken about this project on previous occasions so I will not go over it again. I believe that this development is a testament to the political vision and leadership of the former Labor government, particularly the longstanding advocacy of the former housing minister, the member for Richmond in the other place, Richard Wynne. I have enormous respect for the former housing minister and his continued efforts towards not only maintaining but vastly improving social housing in Victoria.

I am proud to have been part of a Labor government that worked tirelessly to deliver important housing developments such as this one in order to make a difference to the future lives of many Victorians, including those in my electorate. In contrast we are yet to see a comprehensive policy on social housing from this new conservative government. I am particularly saddened for the vulnerable families in my electorate, where we have the highest demand for public housing in our state.

A large part of the work that my electorate office deals with relates to assisting constituents with public housing inquiries, and I am therefore acutely aware of the need that exists out there. This issue is very dear to my heart, and I am particularly concerned by the increasing number of elderly people who are being evicted from private housing as they struggle to meet the rent. Essentially public social housing becomes their only option. This is a challenge that I would encourage the new government to look at and to tackle because I believe — as all of us I am sure agree — that having a roof over one's head is a fundamental right. We need to ensure that people are not being thrown on the scrap heap of society and that we provide adequate support to the most needy in our population.

I was concerned by reports in the *Sunday Age* of 24 April this year that quoted the current Minister for Housing, Ms Lovell, as saying that a target to combat homelessness was nothing more than an 'aspirational goal' and one this government is not prepared to attempt to meet. This is extremely disappointing, and it is short-sighted of the government. I believe the government should seek to tackle issues such as homelessness. They are important issues that deserve significant attention and financial support, which is not apparent in the budget this year.

The opposition will not oppose the bill; however, as I have indicated already we do have significant concerns about how it will operate in practice. We will be seeking to clarify a range of issues with the minister during the committee stage as well as putting forward amendments we believe would improve the legislation.

**Mrs COOTE** (Southern Metropolitan) — It gives me great pleasure to speak on the Residential Tenancies

Amendment (Public Housing) Bill 2001, and at the outset I commend the minister for putting into place and into practice something she knows firsthand is a major issue for the safety of people living in public housing. She has listened and she understands what these concerns are, and this will be a hallmark of her ministry, as opposed to what transpired under the former Labor government.

I would have to say it was very easy for Ms Mikakos to say in her contribution that this is minor and that she has some difficulties with the director and so on, but these are things that actually affect people's lives. They are about the people on these estates and how they live and operate in safety and security. Minister Lovell is very cognisant of this fact, and it shows the understanding she has of these particular issues.

This bill targets certain illegal drug activity, but not the drug use, as it occurs on public housing estates. It allows the government to prescribe other indictable offences in the regulations that could warrant issuing a notice to vacate. Under the existing provisions the director of housing would need to utilise section 263 of the Residential Tenancies Act 1997, which concerns a notice to vacate for no specified reason, to address this issue, which requires at least 120 days notice. These new provisions will in effect bring the notice period for this eviction reason down from 120 days to 14 days. This notice period is consistent with section 250 of the Residential Tenancies Act 1997, which allows for eviction on the basis of the illegal use of rented premises.

During her contribution to the debate Ms Mikakos went into that area at some great length, particularly regarding new section 250B. She said she thinks it is unfair and unclear and she has major concerns with what is going to be prescribed in the future. I remind Ms Mikakos that if she had been listening to all those people who she says visit her in her electorate office, she would have realised that when there is an issue it is a crisis issue. It is not something that needs to be done in 120 days; it needs to be able to be dealt with immediately. Enabling that is what the new provision will do. I will address new section 250B in a little while.

What is it we are trying to address with this bill? We, as a government, particularly the minister, understand that Victorians living in public housing have the right to feel safe and secure in their homes. The government is concerned about serious illegal activities, particularly drug trafficking, manufacturing and cultivation, occurring in public housing. Drug trafficking and related activities have been identified as negatively impacting on public housing estates and have been explicitly identified by some tenants as contributing to the lack of safety and security. A firm response to illegal drug activity and other prescribed indictable offences affecting tenants is necessary to satisfy the director of housing's statutory responsibility to provide adequate and appropriate housing and to ensure that public housing is a safe place for all Victorians to live.

I agree with one comment Ms Mikakos made — that is, most people who live in public housing on public housing estates work very hard and live in a normal, safe and legal way. We are dealing with people who are making those people's lives unsafe and insecure. I will paint a picture: we do not want people dealing drugs at playgrounds on our public housing estates, and we do not want playgrounds to be a honey pot area for drug takers. It is imperative we put in place a system that is going to protect most of the people who live on these housing estates, who are decent and good citizens and who do the right thing, go about their daily lives and live their lives in a legal and appropriate way.

It will be interesting to see what issues Ms Mikakos brings up. Mr Barber has told us he has some concerns that he will bring up during the committee stage. We will not be supporting the proposed amendments that have been circulated. I am sure members will get details from the minister during the committee stage process.

I would like to talk about new section 250B, because it seems it is a problem for Ms Mikakos. Consultation with public housing tenants has identified that drug trafficking negatively impacts on their safety, security and wellbeing. There was a very highly publicised case that alerted everyone to this issue. I do not want to go into the details in this chamber, aside from saying that the minister listened to the details of the case, and it is one of the reasons for this bill coming to the Parliament at this time. This case highlighted the then government's inability to quickly and effectively respond to safety issues on public housing estates. One hundred and twenty days is just not feasible; it is far too long. People want to know they are going to be dealt with in a safe and secure way. These matters are going to be dealt with expediently.

It is the government's intention that this situation should not arise again in the future. Proposed section 250B seeks to give government the ability to better respond to new or emerging concerns around tenants safety in the future if tenants identify any serious crimes that are occurring on public housing estates. The new provisions will achieve this by allowing the government to prescribe in regulation

other indictable offences identified as affecting the safety, security and wellbeing of other tenants as the need arises.

The government has deliberately referred to indictable offences in proposed section 250B, as not all illegal activity warrants eviction from public housing. For example, it would be disproportionate to evict tenants for littering. However, it is appropriate to evict a tenant for serious illegal activity which impacts on the safety, security and wellbeing of other tenants and their families. Examples of such crimes may include arson, serious assault and sex offences. This is a flexible means of addressing serious illegal activity in public housing, but it is not so broad as to include minor offences that do not impact on other tenants. Prescribing the additional offences will be transparent, as they will be subject to an assessment of their compatibility with the Charter of Human Rights and Responsibilities Act 2006, a regulatory impact statement and public consultation.

I would like to pick up on some issues about which Ms Mikakos spoke. She spoke about her own electorate, Northern Metropolitan Region, and said how in her own electorate the most inquiries to her office seem to be about public housing. She went on to mention the Labor Party's exemplary record, inferring that Liberal governments have never done anything about homelessness. May I remind Ms Mikakos that in fact the Kennett government had a very good record on dealing with homelessness, on dealing with this issue which at that time was beginning to develop and on dealing with a lot of issues related to homelessness as a result of mental illness and drug offences. I would remind Ms Mikakos that the Hanover Centre was opened by Michael John, a minister in the Kennett government. It was the first recognition of this issue, and the centre was in my electorate and remains in my electorate.

I also have to put on record my praise and admiration for Tony Nicholson, who started the centre. It was the first of its kind, and internationally it has proven to be a very effective means of dealing with people who are in crisis situations. It has gone from strength to strength and is a very well-respected organisation within our community.

**Ms Mikakos** — Yes. Hear, hear!

**Mrs COOTE** — I think even Ms Mikakos would have to agree with that.

**Ms Mikakos** — Yes. I do.

**Mrs COOTE** — I am pleased to hear her interjection to say that indeed she does. The other issue she raised was about deinstitutionalisation, and she said that this had a huge impact on homelessness. Can I remind her that deinstitutionalisation has been exceedingly effective in the community services sector. In fact it has been seen in many instances as a great success for people coming out of institutions such as Kew Cottages.

**Ms Mikakos** — I do not disagree with that, either.

**Mrs COOTE** — Indeed there was a lot of time and effort spent on trying to achieve and in fact achieving integration within the community for a whole raft of people who had never lived in amongst the community and are now successfully doing so. It has been a well-acknowledged, huge success, and I would have to say that we as a community must agree that deinstitutionalisation has been one of the hallmarks of success for consequent governments.

Having said that, in the area of mental health there is no doubt that there has been a huge increase in mental health issues, and I would remind the chamber again that it was a Victorian who identified the difference between intellectual disability and mental health issues. Cunningham Dax was a psychiatrist, and many decades ago now he identified that people who suffered from mental health issues were not the same people who had an intellectual disability. That differentiation has made dealing with the issues and challenges facing both of these groups a much easier thing to do, although there are still significant challenges.

There is no doubt that there has been a huge increase in mental illness across the country. Indeed you saw Mary Wooldridge, the Minister for Community Services and Minister for Mental Health, attract a huge amount for this area in the budget that has just been brought down by the Baillieu government. It has been well received, and many people with a mental illness are now going to be able to be effectively helped with their mental health issues. One in five people are affected in their lifetime by a mental health issue, and they constitute many of the people in public housing. I know that Minister Lovell — —

**Mr Barber** — Mental health and drug use often go together, do they?

**Mrs COOTE** — Mr Barber interjected and asked if mental health and drug use go together. Yes, indeed. That has been proven, and it is increasing, and I would have to agree with Mr Barber that in fact drug and mental health issues go hand in glove on many

occasions. Certainly Minister Wooldridge is looking at that, and at the other end of the spectrum, where these people need to have proper and safe homes. Public housing is part of that whole equation. I have to say that it is an issue this government is concerned about and is addressing.

I would like to refute something Ms Mikakos said about the former Labor government's attitude to social housing and its huge investment in it. Can I just remind her that the huge investment came from the federal government. I have to say also that I am on the record as saying that I totally agree that social housing should be provided.

**Hon. W. A. Lovell** — So do I.

**Mrs COOTE** — As does the minister. I say to Ms Mikakos that it was how the former Labor government provided so much of the social housing that was inappropriate. I refer to some social housing that was put into Southern Metropolitan Region. It is on the railway line right beside a train station, behind a community arts centre and on a major road. Social housing is identified as being for women and children. At that site there is no public open space. It will be totally unsafe for young children to be there, and it is nothing to be glorified. The former Minister for Housing should be ashamed of putting up something that has built in inherent problems for the future.

I know that the Minister for Housing will not be repeating those mistakes. She has been out there, listening to the community. That is the reason why today in the Parliament we have a bill that is so succinct and dedicated to helping to provide for the health, safety and security of people living on housing estates. Once again I commend the minister for her foresight and for listening. Here we have a very real example of the Baillieu government listening on social housing issues.

**Ms HARTLAND** (Western Metropolitan) — Having a secure and stable home is the most fundamental and critical requirement for health and wellbeing. Without a home, an individual will never be able to fully embrace opportunities in education, health, employment and strong relationships. Yet more than 41 000 people are on the housing waiting list in Victoria. Many are forced to wait years — and sometimes people die while they are waiting — and all the while they suffer great uncertainty and stress and can be at risk of homelessness. Eventually there are very many difficult circumstances to live under. Furthermore, every night over 20 000 people are sleeping rough. Many of them have drug and alcohol problems, mental health issues or intellectual disability.

When individuals and families do achieve housing, we should ensure that their homes are secure and stable. Only a secure and stable home will enable them to reach their full potential. I have worked in a public housing high-rise estate in Williamstown. I have seen firsthand how fantastic the majority of residents of housing estates are. I have also seen how the Office of Housing operates them. I think it is that experience that gives me a special insight into this issue.

I also grew up on what was then a housing commission estate in Morwell, and many of my extended family still live on various estates around Victoria. I know how difficult life can be on housing estates and the improvements that are needed to be made on them. I am aware that my colleague Mr Barber has spent a great deal of time with residents of various housing estates in the city of Yarra. He did that when he was a councillor of the city of Yarra and he does that now, as an MP. We actually have real, firsthand knowledge of what goes on on the various estates.

The first concern I raise about the bill is that the current legislation requires that before action can be taken rented property must be used for illegal purposes. The bill changes the act so that the illegal activity must only occur on or in the rented premises for action to be taken. From the briefing on the bill, it is my understanding that that changes the act so that, instead of the onus being on the tenant for any activity that occurs within the rented premises, the tenant is responsible for any act that occurs on or in the premises, at their hand or another's, knowingly or deliberate or not.

I will provide an example to illustrate the potential implications of the bill. Just as among the wider public, in public housing there are women with children who are tenants but do not always have a say in who is in or on their property and what that person does in or on that property. A woman and her children may have a family or another relation at the residence without their having a say in whether they are there. If he — and it almost always is a he — should undertake an illegal activity, the woman and her children would face eviction as she is the tenant and the activity occurred in her residence.

When I raised this example at the briefing, I was informed that the tenant could simply outline her case to the director of housing as part of the investigation — in effect, she could dob him in. I think it is ironic that after this bill the house will be dealing with a bill about family violence. Anybody who knows anything about

family violence knows that the fear and threat of violence towards women and their children is enough to prevent them from speaking out in such circumstances. The threat is real and the fear is real.

Family violence is behaviour that controls or dominates a family member and causes that family member to fear for their safety and that of others as well as their wellbeing. It can be emotional, economic, psychological or physical abuse. It can be threatening and it can be coercive. Women throughout our whole community experience family violence, with one in three women experiencing physical violence. It is clearly a problem that permeates deep into our society. In the circumstances where a woman faces real threat and fear, it is very unlikely that she will endanger herself or her children by speaking up. So she will be evicted and become homeless with her children. If that is how the bill works on the ground, it will cause real problems. How the director will investigate claims of illegal activity and take evidence in such circumstances is not clear.

That brings me to my second concern. The policy work behind the bill — the what, the who, the when and the how about the bill's implementation — has not yet been done. That includes how the director will undertake investigation processes; how the director and their staff will be trained to undertake investigative operations in areas of illegal activity, which is normally the work of police and courts; and what evidence must be produced and how it must be produced to satisfy the director so that they believe on reasonable grounds that the tenant has engaged in the relevant illegal activity.

If a tenant, neighbour or another person wishes to reveal information and provide evidence on illegal activities, what protection will the director provide them, considering that it will not be the police or a court hearing the evidence and facilitating the investigation and eviction, but the director of housing? It appears that we may have put the cart before the horse. When this work is done the results will not be publicly available, so no-one but the government will be able to scrutinise the detail or the decision-making process or ascertain how robust it is.

My third concern is based on my understanding and that of many organisations who have raised this with me. The bill has the potential to result in people being evicted without charge or conviction. That has been outlined by Ms Mikakos. There is concern in the community that a person could lose their home for acts which would not breach let alone result in guilty findings under the Drugs, Poisons and Controlled Substances Act 1981. The Scrutiny of Acts and Regulations Committee has a similar interpretation. I quote from page 12 of *Alert Digest* No. 3 of 2011:

> The director may give a tenant a notice to vacate under new section 250A(1) even if the tenant has not been charged with, or found guilty of, an offence arising from the relevant illegal activity.

Will the director, therefore, be undertaking the role of the courts in sentencing people? Perhaps the minister would address this in her reply.

My fourth concern is that we are moving into uncharted territory by giving the director of housing a new range of powers to undertake criminal investigations and to evict without charge or conviction — potentially sentencing people to homelessness. Providing the Victorian Civil and Administrative Tribunal with the discretion to dismiss or adjourn an application for eviction is a way of keeping a check on the powers conferred on the director. As I understand it, that is what occurs in New South Wales.

My fifth and final concern is that the bill is not targeted. Drug trafficking includes anything from a minor offence — buying a $100 bag of cannabis and sharing it amongst four friends — through to serious dealing of drugs. Residents can be evicted for any drug trafficking. I am aware that the small-time dealers are the ones likely to be evicted, but how will the director of housing and the police deal with the big-time dealers on the estates? These are the people responsible for the real fear and the real intimidation of residents. How are they going to be dealt with?

The Greens will not be supporting this bill as we believe it is not a real solution to a major problem on Ministry of Housing estates.

**Mr SCHEFFER** (Eastern Victoria) — I am pleased to make a brief contribution to the debate on the Residential Tenancies Amendment (Public Housing) Bill. Members have been made aware by Ms Mikakos that the opposition will be supporting the legislation.

Essentially the bill closes a loophole in the Residential Tenancies Act that came to light as a result of a decision of the Victorian Civil and Administrative Tribunal last year. A ruling made by VCAT deputy president Helen Lambrick found that the director of housing did not have the power to evict a tenant who had committed a drug offence outside the tenant's unit in a common area. Deputy president Lambrick made the determination that because a link could not be established between the tenancy itself and the illegal activity the director of housing in making her decision had exceeded her powers under the law. In other words,

the Residential Tenancies Act as it now stands enables the director of housing, as the landlord, to evict a tenant if the tenant has used his or her unit or allowed the unit to be used to commit an illegal act, but the act does not say that this sanction also applies to the common areas in the block of units, and that is why VCAT was required to establish whether or not the tenant who had committed the illegal act was technically in the unit that was rented.

The provisions in this bill make it clear that the director of housing can evict a tenant if he or she commits an illegal act related to drug trafficking, supplying a drug of dependence to a person under 18 years of age or the preparation or manufacture of illegal drugs in common areas. This change goes to protecting the intention of the Residential Tenancies Act. Having said all that, it seems to me that there is something unfair about a person who rents a unit from the Office of Housing losing their home if they commit an offence such as drug trafficking, because an offender who owned their home would face the court and suffer the penalty imposed if found guilty but would not lose their home. In the same way, a person who rented in the private market would go through that process and if found guilty by the court would not lose the tenancy of their house or apartment. I appreciate that the drug offences nominated in the bill are serious, and I support appropriate penalties being awarded against individuals found guilty of breaking the law, but this is an issue, it seems to me, about fairness: a person in effect faces a greater penalty for the same offence because they live in public housing.

The statement of compatibility asserts that the Scrutiny of Acts and Regulations Committee has looked at the rights issues associated with the provisions in this bill and found that its passage would not limit a tenant's right to have his or her home and family protected from interference or his or her right to protect their reputation. The statement points out that the director has to act in accordance with the law and the obligations imposed by the Charter of Human Rights and Responsibilities. Accordingly the director of housing must have a reasonable belief that the tenant has breached the terms of the tenancy by engaging in illegal activities. The director is also required to ensure that any interference with the tenant's home and family is proportionate and balanced by the obligation to protect the community from serious illegal activities such as drug trafficking.

All that is well and good, but none of it in my view satisfies the fundamental problem of fairness, because in the end, under this legislation, a person whom the director believes has carried out certain illegal acts on public housing premises could lose their home before they have even been charged with an offence. I understand the custom and practice under the previous legislation has been that before any eviction process is started a charge has to be laid by Victoria Police. Ms Mikakos outlined some of the details of that process in her contribution to the debate. This was a minimum requirement that guaranteed some procedural fairness, and it is really difficult to see why it should be ignored as a consequence of this legislation. The provisions in the bill represent a shift away from that requirement.

It is also important to recognise that residents of public housing estates want to make sure that their environment is safe and that people who commit illegal acts or present a danger to the community are dealt with. As a member of the Family and Community Development Committee in the previous Parliament, I participated in a number of public hearings on the committee's Inquiry into the Adequacy and Future Directions of Public Housing in Victoria. During the hearings the committee conducted around the state members heard from many residents of public housing estates, and it was abundantly clear that community safety is a very significant issue for many residents. We have a responsibility to ensure that these views are taken notice of and acted upon.

None of us are stepping away from the gravity of having to find ways to deal with people who commit offences on public housing premises, but while addressing these matters we need to be careful that legal rights are not infringed and that procedural fairness is upheld. Ms Hartland gave a very compelling account of some of the concrete issues that people face on public housing estates, and I do not think anyone in this chamber would disagree with the observations she made.

The bill also inserts into the act new section 250B, whereby the director of housing is empowered to evict a tenant who has committed a prescribed indictable offence on the rented premises or in a common area. The explanatory memorandum says this gives the director of housing the power to evict a tenant who he or she reasonably believes has committed an indictable offence even if the tenant has not been charged with the offence or convicted or found guilty of the offence. The opposition, as Ms Mikakos outlined, is not clear on what this additional provision aims to achieve, and in our view further details should be provided. That will obviously occur during the committee stage.

Labor believes that every citizen should have access to affordable, quality housing that is accessible to the community and to services. We are proud of our record

on public and social housing. While Labor was in office between 1999 and 2010 Victoria was investing in public and social housing and developing fantastically innovative ways to provide housing to low-income people and homeless people. This was at a time when the Howard government was cutting billions of dollars from the commonwealth-state housing agreement and from the national affordable housing agreement. Victorian Labor oversaw the biggest investment in social housing in the history of the state — something like half a billion dollars.

In the few minutes I have left it is probably worth concluding with some reflections on the state budget that came before the chamber this week. In relation to housing in the budget, there are a few important milestones that the house should probably acknowledge.

**Hon. D. M. Davis** — On a point of order, Acting President, as I understand what Mr Scheffer just said, he began to make a contribution on the budget. The budget papers are before the house, and you would naturally expect him to make a budget contribution in that debate rather than during the debate on a bill about residential tenancies. He very clearly said, as I understand it, that he would make a comment on the budget now.

**Mr Viney** — On the point of order, Acting President, the second-reading debates of bills have some degree of latitude. It is impossible to make a contribution to the debate on a bill in the context of a recent budget without making at least some passing reference to the funding associated with the policy area before the house. It would be an extreme restriction on a member to not be able to make passing reference to the financial elements of a matter that relate to a bill before the house.

**Mrs Peulich** — Further on the point of order, Acting President, I was not intending to add to the points of order, but in response to the one raised by Mr Viney in which he said that second-reading debates are generally speaking more wide ranging, that is right for the lead speaker, but this is a very narrow bill. It is not a free-ranging bill, and it is certainly not a bill that allows the canvassing of broad budgetary issues. He should be asked to confine his comments to the parameters of the legislation.

**Mr SCHEFFER** — Further on the point of order, Acting President, my intention was not to go into the budget; it was to look at some of the policy implications behind this legislation.

**Mr Leane** — Further on the point of order, Acting President, if Mr Davis is saying that a member of this chamber cannot actually speak about how a government department may or may not be funded in relation to any bill, we all may as well not get up and speak on any bit of legislation ever again in the future.

**The ACTING PRESIDENT** (**Mr Eideh**) — Order! Mr Scheffer may refer to the budget papers incidentally.

**Mr SCHEFFER** — I will conclude my remarks by saying that recent statements made by the government in relation to the state's investment in public housing and affordable housing leave a great deal to be desired. What this legislation is fundamentally about is the wellbeing of people living on government housing estates, and the state has an obligation to invest at least as well as the Brumby and Bracks governments did in public housing. If it had done so, we would be a lot further advanced than where we are now.

Labor has always worked to ensure that people living in public housing estates are secure and that they are protected from unscrupulous individuals and groups that would threaten their safety and wellbeing. We will continue to advocate for people living in those estates to make sure that adequate investment is made in their residences.

**Mr VINEY** (Eastern Victoria) — I wish to make a fairly brief contribution to this debate. What motivated me to make a contribution was my concern that this legislation seems to be significantly broadening the method and basis by which the state determines whether or not someone can continue to live in particular premises. My concern is that legislation that allows the state to evict a tenant for activities that are criminal without them having been charged with relevant offences is not good public policy. It is not a good development.

We acknowledge in our society that it is sometimes difficult to achieve certain outcomes because there are restrictions imposed by due legal process — that it may not be perfect but the process itself needs to be protected. What is before us now is a proposition that the state has a role in making a determination — without due legal process and without a person having been charged with criminal activity — and having a person effectively punished by being evicted from their premises.

These things are never perfect; there is never a perfect solution to these sorts of issues before us in society, but one of the things we should always hang onto and

protect is proper process. It seems to me a bad development that the process now is that by virtue of mere suspicion about activities the Office of Housing can have someone evicted and that those suspicions can be based upon an allegation made by someone else — without substantiation and without there having been any process. We can say, 'Yes, but you would hope that the director of public housing would want to be properly satisfied' — and yes, you would.

The proper process of dealing with these matters has been founded in law for hundreds of years, yet suddenly we in this Parliament are deciding that we are going to bestow a power to essentially punish someone for a criminal activity without them having been charged or without there having been a formal investigation by the relevant authorities, which, given the activities listed in the bill, would be alleged criminal activities that would be properly investigated by the police.

It is not the opposition's view in any way that we should enable people to conduct these activities in public housing estates — in their flat, on the common ground or in passageways or doorways. I think we would all agree that the Victorian Civil and Administrative Tribunal decision that has led to this situation was perhaps unfortunate, because it has meant there is now a doubt about the capacity of the Office of Housing to have tenants evicted. But the legislation before us is not dealing simply with the VCAT decision.

This legislation is significantly broadening the relevant power by suggesting that now someone who is suspected of criminal activity — not by the police, but by the Office of Housing — can be evicted. I think that is a poor development and something that does not reflect well on the Parliament. Yes, sometimes we can be frustrated by the fact that the due process of the law prevents what might be seen to be a good outcome from occurring as quickly as it ought. But there are important elements to the process of law that protect all of us in society. If we start to cut them down in the way we are doing with this legislation, it will be a slippery slope.

The other comments I want to make about this bill are partly in response to some of the comments from Mrs Coote about social housing. What disappointed me in the last parliamentary term was that many of the efforts that the previous government, the Labor government, put into the development of new public housing were politicised — —

**Mr Leane** — And the federal government.

**Mr VINEY** — And the federal government; correct. They were politicised by the then opposition in I think a very poor way that reflected poorly on them. Just about every single social housing project proposed by the previous government in the last few years was subject to appalling criticisms and innuendo, and Mrs Coote did it again today. She suggested that a particular project — a project I know little about, I have to confess — was potentially going to cause risk to children in the local community. I think that was a dreadful slur. The reason it was a slur — —

**Mrs Coote** — On a point of order, Acting President, I take offence at the member saying it was a slur; it is fact. Through you, Acting President, I take great offence at what he said — that it was a slur. He admitted himself that he has not in fact been there and is unfamiliar with it. I suggest that I could take him to the site and show him exactly and precisely what I mean. I ask him to retract his statement about it being a slur.

**Mr VINEY** — There is nothing to be retracted.

**The ACTING PRESIDENT** (**Mr Eideh**) — Order! Can Mrs Coote tell us if there is any particular comment she wants to be withdrawn?

**Mrs Coote** — Mr Viney said that I was making a slur against social housing. I want him to retract that, because he does not know what the area is; he has no idea.

**Mr VINEY** — For the purpose of assisting the house, I am happy to withdraw the offence I have caused Mrs Coote. I am happy to withdraw. I am not quite sure what I am expected to withdraw, but I am withdrawing it.

**Mrs Coote** — It is very honourable.

**Mr VINEY** — Let me just put it into this context. Mrs Coote came here in this debate and made a suggestion about a particular project, and I agree that I do not know the project. But Mrs Coote made a suggestion that a particular project would put at risk the local community, and I am pretty confident she mentioned children.

**Mrs Coote** — I did mention children; come and have a look at it.

**Mr VINEY** — The only way that such a risk could occur — —

**Mrs Coote** — A railway station, a main road, a town hall — not a skerrick of grass anywhere to be found.

**Mr VINEY** — And she suggested that it was inappropriate to locate a facility such as this near a railway station. I would have thought that public housing tenants being located near a railway station was a pretty good development. I would have thought that public housing tenants — vulnerable people; people on low incomes — having pretty easy access to a train station was a good idea.

The only way that a development such as this could be a danger to the local community would be if people being housed in such a development were a risk to the local community. That is the offence that I take to this argument that has been put not only by Mrs Coote but continuously by members of the government when in opposition in the last term. Similar accusations were made against a project in Frankston. Every single project that was proposed for social and public housing was used in a political way by members of the opposition.

The Labor Party is proud of its efforts to deal with social and public housing and of the substantial increase in it. In the last term of government the largest public housing investment in Victoria's history since the 1956 Olympics was undertaken — it was undertaken by that government.

**Mr Koch** interjected.

**Mr VINEY** — Mr Koch might want to deny the facts and the truth, but that is true; that is absolute fact. I would challenge the government to match those kinds of commitments and to find the money that the Labor government found to invest in those areas, which are not necessarily vote winners, if you like; they are good public policy because they are the right thing to do. The then opposition, now government, used those initiatives in a political context to try to damage the last government.

We are proud of our commitment. Despite all the politics that the then opposition threw at us, we are proud of our commitment to social and public housing and to ensuring that the vulnerable people in our community can get access to the most fundamental human rights — food, clothing and shelter. Those are some of the most fundamental human needs and human rights. We are proud of our commitment to that, despite the politics thrown at it by the then opposition, now government. We will continue to stand up for social and public housing.

The opposition is supportive of this legislation because it is essential that we protect public housing tenants from inappropriate and illegal activity on housing estates. We support the intention of the legislation to clarify the law, particularly in relation to the VCAT decision that made evictions more difficult. However, the way this legislation has been drafted and dealt with has been to broaden it beyond that. We do not agree with the broadening beyond that position of clarifying the law in relation to VCAT to allow the Office of Housing to evict people on suspicion. I think that is a poor development. I commend the opposition's initiatives to make this legislation more appropriate, to support it as it deals with the anomaly created by the VCAT decision, and to deal with it in a proper manner that is more respectful of proper legal process.

With that, we will be supporting the legislation; however, I believe Ms Mikakos will be moving amendments to clarify it in committee stage.

**House divided on motion:**

*Ayes, 36*

| | |
|---|---|
| Atkinson, Mr | Lenders, Mr |
| Broad, Ms | Lovell, Ms |
| Coote, Mrs | Mikakos, Ms |
| Crozier, Ms | O'Brien, Mr |
| Dalla-Riva, Mr | O'Donohue, Mr |
| Darveniza, Ms | Ondarchie, Mr |
| Davis, Mr D. | Pakula, Mr |
| Davis, Mr P. | Petrovich, Mrs |
| Drum, Mr (*Teller*) | Peulich, Mrs |
| Eideh, Mr | Pulford, Ms |
| Elasmar, Mr | Ramsay, Mr |
| Elsbury, Mr | Rich-Phillips, Mr |
| Finn, Mr | Scheffer, Mr |
| Guy, Mr | Somyurek, Mr |
| Hall, Mr | Tarlamis, Mr |
| Jennings, Mr | Tee, Mr (*Teller*) |
| Koch, Mr | Tierney, Ms |
| Leane, Mr | Viney, Mr |

*Noes, 3*

| | |
|---|---|
| Barber, Mr (*Teller*) | Pennicuik, Ms (*Teller*) |
| Hartland, Ms | |

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Hon. W. A. LOVELL** (Minister for Housing) — I seek the leave of the committee to have Mrs Coote assist me at the table.

**Leave granted.**

**Clause 1**

**Ms MIKAKOS** (Northern Metropolitan) — I have a series of questions on clause 1, so I will proceed on that basis. This bill gives the director of housing huge additional new powers that she has not had in the past. What resources will be provided to the director of housing to allow her to form the view as to whether serious illegal activities have taken place on public housing estates?

**Hon. W. A. LOVELL** (Minister for Housing) — The answer that I would give to the member is that currently the director of housing administers section 250 of the act, which also allows for a 14-day eviction. The resources that she relies on when she administers that particular section of the act are the same resources that she will rely on in administering the new sections that are proposed to be inserted into the act. They are the legal branch within the Office of Housing, the senior management of the region and also the local housing officers who liaise with police on any evidence that is available.

**Ms MIKAKOS** (Northern Metropolitan) — I find the minister's answer quite odd, because what is happening with this bill is that the director of housing will no longer be required to have charges laid against a public housing tenant as the trigger for a potential eviction. Suspicion could be sufficient. There is a reference to reasonable grounds in the explanatory memorandum as well. Essentially what the minister is saying is that there are to be no additional resources even though the Office of Housing now has to conduct an investigatory role, which it had never had to do previously. Can the minister confirm that the director of housing is not going to be conducting investigations of her own to form reasonable grounds for an eviction?

**Hon. W. A. LOVELL** (Minister for Housing) — The director needs to be satisfied that there are reasonable grounds. She would need to apply to the Victorian Civil and Administrative Tribunal for a notice to vacate, so she has to be confident that the investigation she has conducted would substantiate reasonable grounds for eviction in a VCAT hearing. The opposition has suggested that the bill would allow the director to evict on mere suspicion of illegal activity. The bill does not allow that. The bill clearly states that there is no ability to issue a notice to vacate on suspicion of a tenant having illegally done any of the things listed. It can only be issued if there are reasonable grounds for suspecting that the activity has taken place.

**Ms MIKAKOS** (Northern Metropolitan) — How will the director form her view as to whether there are reasonable grounds for eviction?

**Hon. W. A. LOVELL** (Minister for Housing) — As I have already stated, she will conduct an inquiry. She will liaise with the legal branch within the Office of Housing on the issue. She will also rely on an investigation that will be conducted, and that will involve both the director and the regional office. They will liaise with the local police to gather what evidence can be gathered on the offences.

**The DEPUTY PRESIDENT** — Order! I notice that other members want to make contributions, but I will stay with Ms Mikakos.

**Ms MIKAKOS** (Northern Metropolitan) — We finally have the minister conceding that there would be a need for an investigation to be conducted, although she has said that there would be no additional resources required for the director to conduct such an investigation. The minister has now mentioned discussions with police. One of the concerns the opposition has is that charges no longer need to be laid for an eviction process to commence. As I understand it, the rationale given for the way this bill has been framed is so that an eviction process can be conducted fairly quickly. If the police are going to be involved, why not be prepared to wait for charges to be laid?

**Hon. W. A. LOVELL** (Minister for Housing) — I find it quite ironic that the opposition now feels that charges need to be laid in order for someone to be issued with a notice to vacate. I note, in an article by Melissa Fyfe in the *Sunday Age* of 21 March 2010 headed 'Push comes to shove for drug traffickers', that the opposition when in government had a pilot program running in Fitzroy under which the Office of Housing could evict residents based on evidence presented at VCAT, which is exactly the same as what will happen here. The article says action can be taken immediately, 'rather than waiting for a resident to be charged by police or found guilty of trafficking in court'. The opposition was running a pilot program that was set to be rolled out statewide and would have allowed exactly the same action that this bill does.

The reason this bill does not rely on the existence of a charge before issuing a notice to vacate is that relying on a charge before issuing a notice to vacate would prevent the director from being able to respond to safety and security issues on public housing estates in a timely fashion, as it may take some time for a charge to be laid. The director of housing may consider the existence of a police charge as part of her decision on

whether or not to issue a notice to vacate, but she does not necessarily need to rely on that.

Eviction is not a criminal process and the government does not intend to interfere with the criminal justice system, so we do not feel there needs to be reliance on a charge if there is significant evidence that an illegal activity has taken place. As I said, it may take weeks for charges to be laid, and this is about the safety and security of others on the estate and dealing with the issue as soon as possible. Sometimes in these cases charges may never be laid. The person concerned may be a small-time peddler of drugs and the police may do a deal with them to accept a lesser charge in exchange for evidence, or perhaps the police may not even lay charges if the person is willing to cooperate with them further in supplying evidence that will lead to a conviction of a larger player in the crimes that are being undertaken.

The basis of Ms Mikakos's questioning is flawed, because existing section 250 does not require a charge to be laid before a notice to vacate can be issued. This is just an extension of section 250, but it removes the requirement for the crime to have taken place inside the apartment of a tenant and extends it to the common areas of the estate. It extends it to areas like corridors, playgrounds, car parks and parklands around the estate. I would not be comfortable seeing tenants doing deals and selling drugs in the playgrounds of estates where children are playing. That is not something the government finds acceptable, and we want to send a strong message that we will not tolerate that type of behaviour on estates and that we want to make estates safer places for families to live.

**The DEPUTY PRESIDENT** — Order! I did not interrupt the minister's contribution, but I remind her this is the committee stage and not the second-reading debate. The committee stage will be more effectively run and conducted if the politics of the matter are not dealt with in the way that the minister did by criticising the opposition in her opening remarks. If that is the path she chooses to go down, it will open up contributions in response, and I do not think that will help the committee stage. It would be my preference for us to deal with this in a more clinical manner, for want of a better term, in terms of the legislation that is before us.

**Ms MIKAKOS** (Northern Metropolitan) — I agree with the Deputy President that the minister's comments will invite a response from me, because I cannot allow the minister's claims to not be responded to — —

**The DEPUTY PRESIDENT** — Order! I have made the point. It would be helpful if Ms Mikakos would make those comments in response fairly brief.

**Ms MIKAKOS** — I will. I made very clear in my contribution to the second-reading debate that the opposition is not opposing the bill, that Labor shares the sentiment that we want public housing tenants to live safely in estates and that we do not want to see drug traffickers running rampant in public housing estates. In relation to the comments the minister made about the pilot that was run by the previous government, my understanding is that charges had to be laid before the process of taking the matter to VCAT would commence, so I do not believe the minister has explained the pilot in an accurate way to the house.

I want to come to the issue at hand. We are talking about the basis for the director to commence a process for eviction, and it comes to the issue of reasonable grounds. The test of reasonable grounds is not contained in the bill, but it is contained in the explanatory memorandum, so presumably VCAT would look at that as the legal test in terms of whether the director has satisfied reasonable grounds for eviction. Given that it is quite a legal term, I ask the minister to elaborate further on the definition of 'reasonable grounds'.

**Hon. W. A. LOVELL** (Minister for Housing) — The test for reasonable grounds is the same as the civil standard of evidentiary burden, which is basically that the event is more likely than not to have happened. The member has referred to the explanation in the explanatory memorandum. I have been advised that VCAT will only refer to secondary materials, such as the explanatory memorandum, if the meaning in the legislation is not clear. The meaning is quite clear in this legislation.

**Ms MIKAKOS** (Northern Metropolitan) — That may be the opinion of the minister, but as we saw from the VCAT case in November, VCAT may well have a different view on whether the definition is clear. These secondary materials are very important in terms of any view that VCAT may form, and that is why I think it is important that we get some clarification for the benefit of the courts in the future.

As I said, the explanatory memorandum refers to the test of reasonable grounds, but in the statement of compatibility reference is made to proportionality.

**Hon. W. A. Lovell** — To what?

**Ms MIKAKOS** — Reference is made to proportionality, particularly in the context of families

being evicted. One thing that I find inherently unfair about the way this bill may operate in the future is that a public tenant who is a drug dealer may be suspected of drug dealing and may be the tenant described on the lease with the Office of Housing. Consequences may flow to that individual, but there may well be a partner and children also living in those premises and there may be consequences for them.

The statement of compatibility says:

> … the director may only issue the notice to vacate if any interference with the home and family is proportionate in the particular circumstances of the case.

That seems relevant to the hypothetical situation I have just referred to — that of the involvement of a partner and children. It seems to me that a new test is being introduced: the test of proportionality. As a lawyer, I know that is a different test from one of reasonable grounds. Can the minister explain how those two tests sit side by side?

**The DEPUTY PRESIDENT** — Order! While we are waiting for the minister's advice, I advise members that while they are in the chamber they are not to conduct conversations with people in the gallery.

**Mr Barber** — That is the adviser's box for the Greens.

**The DEPUTY PRESIDENT** — Order! Perhaps it is best that members do not make it obvious to me so that I have to make a ruling on it.

**Hon. W. A. LOVELL** (Minister for Housing) — The test of proportionality is the requirement that any action be proportionate, and that is set out in section 7 of the Charter of Human Rights and Responsibilities Act 2006 and not in the Residential Tenancies Act 1997. The way the two sit side by side is that the RTA raises the power for the director to issue a notice to vacate, but in conjunction with that she would have to consider the charter in making her decision as to whether she should issue a notice to vacate. The two of them sit side by side, because in order for the director to make a decision as to whether she should issue a notice to vacate, she first has to have the power to issue the notice to vacate.

If Ms Mikakos is asking which one would override the other, the charter would be the overriding legislation.

**Ms HARTLAND** (Western Metropolitan) — In my contribution I talked about what would happen in the situation where the partner is the person whose name is on the tenancy agreement but it is her partner dealing drugs from the flat. How will that be dealt with when that woman and her children could be made homeless because of the behaviour of her partner?

**Hon. W. A. LOVELL** (Minister for Housing) — I will just clarify Ms Hartland's question. Is Ms Hartland saying the woman is the tenant but she has a partner living with her who is dealing drugs? We can only issue a notice to vacate to a tenant, and the tenant would have to be the person who is undertaking the illegal activity for them to be issued with a notice to vacate. A partner would be dealt with in the ordinary way under the law.

**Ms HARTLAND** (Western Metropolitan) — That is not my reading of it, and this is why there has been a lot of concern about this clause. So the minister is saying that if it is the woman who is the tenant and she is not the person involved in dealing drugs, it is her partner, then the partner will not be evicted and she will not be evicted.

**Hon. W. A. LOVELL** (Minister for Housing) — The existing section 250 refers to using or permitting the use of your apartment for illegal activity. That allows for a tenant to be evicted if they permit someone to use their apartment. New section 250B is about the common areas of the estate; it is not about the apartment, and it only allows us to evict tenants who are engaged in illegal activity.

**Ms HARTLAND** (Western Metropolitan) — So a woman who is a victim of domestic violence or coercion in this situation can be evicted and can be made homeless because of the behaviour of her partner, because she implicitly has allowed the dealing to go on even though it has possibly been under the threat of physical or emotional violence?

**Hon. W. A. LOVELL** (Minister for Housing) — There is that provision under the current act, but it is not included in the legislation that is before us today. As I explained earlier, the existing section 250 allows for the eviction of a tenant for the use or permitted use of their apartment for illegal activity. That is in the existing legislation. The bill that is before the house today is about the common areas, and it only allows for the eviction of tenants who undertake illegal activity in the common areas. It does not apply to visitors to the estate or to people tenants may have staying in their apartments.

**Mr BARBER** (Northern Metropolitan) — I need to correct that statement. The bill we have before us today is not just about the common areas, it includes 'on the rented premises or in a common area', and that is in new section 250A. I think we need to be clear about that point.

**Hon. W. A. LOVELL** (Minister for Housing) — New section 250A does, as Mr Barber rightly points out, include the premises, but it still only relates to the actual tenant. Section 250 still exists, which would allow the use of their premises to be a reason for eviction.

**Ms MIKAKOS** (Northern Metropolitan) — I want to follow on from Ms Hartland's scenario, because I gave the minister one earlier that she did not respond to, and that is where the tenant, the person who signed the lease, is then taken to VCAT for eviction, and that tenant has a partner and children living with them in the premises. Will the Office of Housing be offering any protection to that partner and children in those circumstances if the tenant is issued with an eviction notice?

**Hon. W. A. LOVELL** (Minister for Housing) — The clause only says the director 'may' issue a notice to vacate. So the director can take into account each case on a case-by-case basis, and she can look at the circumstances of the tenancy of that property. It does not say that she must; it says that she may, so she will take that into account and these things can be dealt with in policy rather than in law. But I think that the actual law needs to send a strong message to people who are undertaking illegal activity that their actions do have a consequence. It would be irresponsible to say that no-one would be evicted because there were other people living in the apartment with them or on the property with them because in that way you are sending a message to people that it is quite okay to undertake illegal activity provided you have other people, including minors, in the household.

**Ms MIKAKOS** (Northern Metropolitan) — Just following on from that, I find the minister's answer quite extraordinary, because she is saying the law and the practice are two separate things. We are making laws that will guide how the Office of Housing will operate in the future, and we have quite serious concerns about how it will operate in practice. I have to say the minister's answers are certainly not giving me any cause for comfort here today. If there are innocent bystanders — the children of someone who may be suspected of conducting illegal activities or drug trafficking — is the minister saying that they will not be protected and that the lease could not be transferred, for example, to the partner and put in her name so that that family could be protected and not made homeless?

**Hon. W. A. LOVELL** (Minister for Housing) — The director will develop appropriate policies to ensure that the individual circumstances and the potential impacts on tenants and their families and children are considered when deciding to issue a notice to vacate. This is in line with the director's current approach to eviction. The policies will ensure that decisions to use the new notices are necessary and proportionate. If there are other household members who will be affected by the notice to vacate, the welfare of those other household members will be considered.

Again this is in line with the director's current approach to eviction. Evicting tenants, I should say, is always a last resort, and non-eviction responses are employed wherever possible. Affected family members, if a decision to issue a notice to vacate is taken, will be provided with a referral to appropriate support and alternative accommodation providers.

**Mr BARBER** (Northern Metropolitan) — If I understand this correctly, under section 250 there can be a notice to vacate if the tenant is doing an illegal activity in the premises, but under new section 250A there can be a notice to vacate issued to the tenant if the tenant is conducting an illegal activity either in the premises or in the common areas. So in terms of a non-tenant, as in someone whose name is not on a lease — it could be the child; it could be the partner — who is conducting an illegal activity, no action could be taken against that person or against the tenant whose name is on the lease. Effectively you can only use this provision when it is the tenant themselves doing the illegal activity, not when their children or their partner or anybody else in the apartment is doing the illegal activity; is that right?

**Hon. W. A. LOVELL** (Minister for Housing) — I think I explained this one before, and yes, that is right. We only have the power to evict someone who is actually a tenant.

**Mr BARBER** (Northern Metropolitan) — Can the minister tell me how many notices to vacate for illegal activity have been issued in the last year under the existing section 250?

**Hon. W. A. LOVELL** (Minister for Housing) — The member asked for the number of notices and evictions issued under section 250. We cannot give Mr Barber that full figure, because section 250 not only applies to the director but also to private landlords. But we can tell Mr Barber that in 2009–10 there were nine evictions from public housing properties for illegal activities. Up until February of the 2010–11 year there were three evictions.

**The DEPUTY PRESIDENT** — Order! I want to draw the minister's attention to a previous ruling by a

former President of the Legislative Council, President Chamberlain:

> The President made a statement in which he expressed concern regarding the emerging practice of committee proceedings being interrupted constantly by ministers seeking advice from occupants of the advisers' box. He stated that ministers in charge of a bill during the committee stage should be fully briefed, equipped with notes, and should consult advisers as briefly as possible. If not, the Chair of Committees may be forced to suspend the committee.

I appreciate that when questions are of a technical nature the minister would need further advice, but given this is the minister's bill and she is the Minister for Housing, I am hoping extensive and lengthy consultations with advisers at this stage might be reduced a little.

**Hon. W. A. LOVELL** (Minister for Housing) — I thank the Chair for his advice. I draw his attention to Mr Madden's first committee stage where he was in charge of a bill where he sought advice from his advisers over 200 times.

**The DEPUTY PRESIDENT** — Order! I appreciate that. I am simply saying that the committee is dealing with clause 1, which is the purpose of the bill.

**Ms Mikakos** interjected.

**The DEPUTY PRESIDENT** — Order! I thank Ms Mikakos, but I am speaking.

**Mr Drum** — On a point of order, President — —

**The DEPUTY PRESIDENT** — Order! I am speaking. Mr Drum should sit down. I say to the minister that this is her bill. We are only on clause 1, which is the purpose of the bill. I hope the minister would be able to reduce the need to consult with advisers in the box. I am not saying the minister cannot consult with advisers in the box or it is not appropriate. I am simply saying the length of time taken when seeking that advice is starting to drag out. I am seeking the minister's cooperation to allow us to get through this process as quickly as possible.

**Mr Drum** — Deputy President, I find that the most extraordinary piece of advice we have heard from the Chair for a number of years. Compared to what we have experienced over the last eight years — —

**The DEPUTY PRESIDENT** — Order! Mr Drum should be careful — —

**Mr Drum** — I am simply saying that in relation to the affairs — —

**The DEPUTY PRESIDENT** — Order! Mr Drum should sit down. I suggest to Mr Drum that he should be careful when reflecting on my ruling. I have simply referred the minister to the advice to the Parliament on a previous occasion by former President Chamberlain. I take my responsibilities in the chamber as being significant as there is a history and traditions in this place. The history is clear: President Chamberlain gave advice to the committee and to the minister. I have not asked the minister not to seek advice or to desist from seeking advice. I point out that on some of these occasions the length of time to take advice has been of the order of 3 minutes. I think that needs to be reduced. Mr Drum should not reflect on my ruling again.

**Mr BARBER** (Northern Metropolitan) — In that interregnum I think I have forgotten what the minister's answer was. Was it nine cases last year and three so far this year?

**Hon. W. A. LOVELL** (Minister for Housing) — There were three evictions up until February.

**Mr BARBER** (Northern Metropolitan) — How many of those nine cases were through the pilot program that the minister referred to earlier? It is being conducted at Fitzroy estate and also, I think, at Richmond estate.

**Hon. W. A. LOVELL** (Minister for Housing) — As I was not the minister at that stage, and because the Chair does not want me to seek that advice, I am sorry but we will have to take that question on notice and get back to the member.

**The DEPUTY PRESIDENT** — Order! That was an unnecessary comment from the minister. I made it perfectly clear that the minister is entitled to get advice. I was concerned about the frequency and length of time taken. I do not think it will be helpful if the minister starts questioning my ruling as well.

**Mr BARBER** (Northern Metropolitan) — We now know that nine such notices were issued last year. One of them was challenged in court. We also know there is a pilot program — —

**Hon. W. A. Lovell** — No, not out of that nine. That was not challenged. Sorry, those nine are the actual evictions.

**The DEPUTY PRESIDENT** — Order! We need some order in this discussion. I will hear from Mr Barber. Once the minister is clear on the issue, she might like to respond to Mr Barber's comment or question.

**Mr BARBER** — My question is: were there nine evictions issued for illegal activity; how many of them were successful — that is, they led to a person being evicted; how many of them were challenged, and we know of one of those cases because it is on the Victorian Civil and Administrative Tribunal's record; and how many of those were under a pilot program that the Office of Housing has been running for a year or more?

**Hon. W. A. LOVELL** (Minister for Housing) — Can I ask the member to repeat the end of his question?

**Mr BARBER** (Northern Metropolitan) — The last part of the question was: how many of those cases were under a pilot program that has been running at Fitzroy and Richmond and to which the minister referred earlier in the debate.

**Hon. W. A. LOVELL** (Minister for Housing) — I am advised that the majority of those cases were from the pilot program, but the explicit figures are not here today.

**Mr BARBER** (Northern Metropolitan) — My understanding was that it was two or three. That is quite an interesting figure, because we are now talking about nine cases of which perhaps one was unsuccessful, and we know why it was unsuccessful. It was unsuccessful on the specific ground that the illegal activity was occurring in common areas rather than in the apartment, with the apartment's use being integral to the commission of the offence. However, the new section that is being added now goes much wider than that. It no longer requires that the use of the premises be integral, and we also see another section that is about indictable offences. Presumably if I were writing fraudulent cheques and sitting at my kitchen table while doing so, under this bill I could now be evicted for that, even though the fact that I was in my apartment was not integral. Can the minister confirm that these other indictable offences operate in the way that I suggest they do? Also, how and when will they be prescribed?

**Hon. W. A. Lovell** — Sorry; they operate in what way?

**Mr BARBER** — They operate in such a way that the premises no longer need to be integral to the offence — that is, necessary for the offence. They are simply the scene of the crime, such as in my example where I am sitting at my kitchen table writing fraudulent cheques.

**Hon. W. A. LOVELL** (Minister for Housing) — I am still a little unclear on Mr Barber's question. I think he is asking me whether it means that they do not have to be sitting at their kitchen table dealing in drugs, but they could be sitting in the children's playground selling drugs or they could be growing cannabis in a communal garden on an estate. If that is his question, yes, section 250A will allow for eviction of a tenant for trafficking in drugs in the children's playground. It will allow for eviction of a tenant for growing cannabis in a common garden on the estate. It will allow for eviction of a tenant for trafficking in drugs in the foyer of the estate or in the hallways of the estate. He asked further, on section 250B, about indictable offences, and I note that there are two types of offences: indictable and summary offences.

Indictable offences are serious criminal offences, and they are usually heard before a judge and a jury — that is, in a Supreme Court or a County Court. In some circumstances they may be heard in a Magistrates Court. Summary offences may only have a maximum penalty of two years. All drug offences listed in the proposed bill are indictable offences, and references in further regulation under section 250B would have to be to an indictable offence.

**The DEPUTY PRESIDENT** — Order! Just prior to rising I note that Mrs Coote was concerned about whether or not Mr Barber's contribution was at a second-reading debate level. I think Mr Barber's contribution was fine, and I just make comment to Mrs Coote that what I will judge in terms of a member's contribution is that it is making a relevant point to the clause with which we are dealing. I would not accept a wide-ranging contribution, but I think Mr Barber's contribution was quite specific to the matters before us, so that is why it was acceptable.

**Mr BARBER** (Northern Metropolitan) — Indictable offences include major fraud and assault. A major fraud could be perpetrated whilst in a public housing premises and, under this bill — under the broad scheme of this bill, since we are still at clause 1 — that could lead to that person being evicted. Quite simply anybody now who is convicted of anything can be evicted from their premises simply by an Office of Housing officer going down and checking in court records that that person has been convicted. That is a massive increase in the scope of the way the tenancies legislation has operated up until now, when we all seem to agree that the reason we are here is because out of nine cases last year one person found a loophole and the government ostensibly proposes to correct that loophole. The government has now brought the entire universe of criminal activity and procedure into causes for eviction.

**Hon. W. A. LOVELL** (Minister for Housing) — No, we have not. That is just ridiculous. I find that quite extraordinary; that is a massive overstatement. Section 250A deals with drug issues as outlined in the clause. Section 250B allows for indictable offences to be listed by regulation. That would be subject to a regulatory impact statement, with disallowance of that allowed by Parliament. So before any further regulation of indictable offences is made there would be a process that the government would have to go through, with the ability for Parliament to disallow it.

**Business interrupted pursuant to standing orders.**

## QUESTIONS WITHOUT NOTICE

### Swan Hill District Hospital: funding

**Ms BROAD** (Northern Victoria) — My question is to the Minister for Health, Mr David Davis. I refer to the Baillieu-Ryan government's stated commitment to supporting growth in regional cities and country communities by improving services and facilities and boosting infrastructure, and I ask: why has the minister not supported improvements to health services and facilities in Swan Hill by committing funds for the $35 million redevelopment of the Swan Hill hospital and aged-care facilities?

**Hon. D. M. DAVIS** (Minister for Health) — What I can tell the house is that the Baillieu government is very committed to supporting country hospitals and country health services. What I can say very clearly is that the record of the previous government, as outlined in the Victorian Healthcare Association paper, was 17 per cent of capital funding to country Victoria, as opposed to the 27 per cent of Victoria's population that is in country Victoria. Our first budget brings more than 40 per cent of the capital funding into country Victoria and makes a very big difference for country Victoria.

Hospitals across country Victoria have benefited from increased money, whether they be in Warragul, Mildura or Echuca. The coalition is committed to supporting country Victoria. The long, long backlog left by the Brumby and Bracks governments and their failure to fund country hospitals has meant a significant need for a catch-up. We are working on that step by step, and we are working through the election commitments that we made during the campaign. Those election commitments will be kept and additional capital funding will be made available for other hospital projects that are worthy as well.

*Supplementary question*

**Ms BROAD** (Northern Victoria) — I thank the minister for his answer. However, the people of Swan Hill will not thank him. In the light of media reports that Swan Hill's bid for funds from the national Health and Hospitals Fund has been undermined by the minister's decision to not commit any state capital funds for the redevelopment of the Swan Hill hospital, will the minister reconsider his decision?

**Hon. D. M. DAVIS** (Minister for Health) — We supported Swan Hill's bid for commonwealth money, and it was very sensible support for that worthy project. There are many worthy projects in country Victoria. In one year we cannot fund all the backlog that has been left by the Brumby government. What I can tell the house is that 17 per cent is the record of the Brumby government in terms of funding for country Victorian capital health projects, as opposed to 27 per cent of the population, and we are turning around the 11 years of damage left by the Brumby government.

### Maternal and Child Health Line: funding

**Mr O'DONOHUE** (Eastern Victoria) — My question is to the Minister for Children and Early Childhood Development, the Honourable Wendy Lovell, and I ask: can the minister advise the house of the importance to Victorian families with young children of the Baillieu government's investment in the Maternal and Child Health Line?

**Hon. W. A. LOVELL** (Minister for Children and Early Childhood Development) — I thank the member for his question and his ongoing interest in families and young children. I note that the member has two young children, so I assume his wife would have been the user of one of our maternal and child health services.

The Maternal and Child Health Line is a confidential, 24-hour, 7-day-a-week statewide telephone service. It is an integral component of the universal maternal and child health service and is staffed by qualified maternal and child health nurses. It provides advice on a range of maternal and child health issues, including breastfeeding, childhood illness, nutrition, maternal health and wellbeing, and health education. The Maternal and Child Health Line also facilitates linkages for families through assisted referrals to services in their local community. The service is able to connect to female interpreters from the Translating and Interpreting Service National and the National Relay Service so that people from culturally diverse and hearing-impaired backgrounds can make use of it.

In 2009–10 the Maternal and Child Health Line responded to over 100 000 calls. It is a vital service. This year's budget, the 2011–12 state budget, committed $3.7 million to maintain the Maternal and Child Health Line. This was a lapsing program under the former government, a program it was going to allow to lapse, and a vital service that would not have been provided to Victorian families. The commitment by this government to extend the Maternal and Child Health Line will ensure that those 100 000 callers in the next year will have access to this vital service.

## Seymour District Memorial Hospital: funding

**Ms BROAD** (Northern Victoria) — My question is to the Minister for Health. I refer to the Baillieu-Ryan government's stated commitment to supporting growth in regional cities and country communities by improving services and facilities and boosting infrastructure, and I ask: why has the minister not delivered on his promise to provide $2 million to fund new chemotherapy chairs at the Seymour District Memorial Hospital to save cancer patients travelling for their treatment?

**Hon. D. M. DAVIS** (Minister for Health) — I thank the member for her question and indicate that the coalition will deliver on its commitment for Seymour. It was a commitment over four years, as were all the election commitments, and it will be delivered as quickly as possible. When we came to government we found there were serious black holes left by the previous government. There were black holes left in health spending by the Brumby government, whether it be the Olivia Newton-John centre or the failure to fund information and communications technology at the Royal Children's Hospital redevelopment.

The point I make is that our record in country Victoria will be far better than the Brumby government's record. The Brumby government's record, as outlined in the Victorian Healthcare Association paper, indicated that its record over 10 years of spending was 17 per cent of capital spending on health in country Victoria, as opposed to 27 per cent of the Victorian population. We are increasing that massively, keeping our commitments to country hospitals, keeping our commitments to country health-care services — —

*Honourable members interjecting.*

**The PRESIDENT** — Order! I advise Mr Ondarchie that that is not on. I do not know who he was trying to entertain or engage on the opposition benches. I suspect it was Mr Pakula. I regard Mr Pakula's interjections as excessive as well.

**Hon. D. M. DAVIS** — We will keep our commitments to country hospitals and country communities, and we are doing that steadily. This year announcements have been made in the budget for many of those commitments and the others will follow, step by step. I give the guarantee that every single election commitment will be honoured, and we are very well on the way to doing that. We will turn around the damage left by the Brumby government with country hospitals — the backlog through underfunding and the backlog through failure to provide capital support for country hospitals.

We will work to make sure that Victoria gets a fair share of commonwealth money. We are still a long way short of the commonwealth money that is required. I have to say that we will make sure that chemotherapy chairs at Seymour are a priority, and we will work swiftly to ensure that that is the case.

*Supplementary question*

**Ms BROAD** (Northern Victoria) — I thank the minister for his answer. However, the people of Seymour will thank him only if he backs his words with $2 million. Will the minister visit Seymour hospital to explain to hospital staff and patients his reasons for not funding new chemotherapy chairs now?

**Hon. D. M. DAVIS** (Minister for Health) — I am very happy to visit all the hospitals across country Victoria. I spend a lot of time visiting hospitals in country Victoria.

**Mr Lenders** — When?

**Hon. D. M. DAVIS** — I advise Mr Lenders that I was in Bairnsdale the other day. I want to make the point that I will visit country hospitals one by one. I am very determined to make sure that Seymour is well catered for. It was prioritised as an area of concern in our election commitments and those election commitments will be delivered.

## Skills training: government initiatives

**Mr O'BRIEN** (Western Victoria) — My question is to the Minister for Higher Education and Skills, who is also the Minister responsible for the Teaching Profession, the Honourable Peter Hall. Can the minister inform the house of any recent government-supported initiatives that improve training opportunities for those unlikely to access mainstream programs?

**Hon. P. R. HALL** (Minister for Higher Education and Skills) — I thank the member for his question and the opportunity to speak briefly about a couple of very

important initiatives that provide opportunities for people who would probably not otherwise have the chance to participate in training programs. On Friday last week I was joined by my Eastern Victorian Region colleague Mr Scheffer. We were in Moe at the invitation of Gippsland Employment Skills Training, which goes under the name of GEST, to launch a couple of important programs it has running in the Moe and district area. These programs operate under adult, community and further education community learning partnerships and involve community groups working with a local training provider to provide unique opportunities for people to acquire skills.

In this case Mr Scheffer and I were there to launch two programs. The first is called Recycle, Renew and Retail. That program works in partnership with organisations like St Vincent de Paul, Lifeline Gippsland, a local Rotary club and the Latrobe Community Health Service. Participants in this training program restored furniture which would otherwise not be returned to a condition whereby the product could be sold. The proceeds of that sale were put back into the charitable organisations. It is an admirable program and I congratulated all the participants and organisers when we were there on Friday.

We also launched a new program for hospitality trainees called Zest cafe and bar, which has premises at 26 George Street in Moe. If people wish to encourage young trainees by patronising that cafe, I can assure them that it has the recommendation of Mr Scheffer and me for quality service and food.

The other program I want to mention is one I had the pleasure of launching in Collingwood on Monday. On this occasion I was joined by the local member, the member for Richmond in the Assembly, Mr Wynne, who was there to help in the celebration of the launch of Jesuit Community College. This is a community college which has been auspiced by Jesuit Social Services, and I was pleased to provide some seed funding for the establishment of this college which has the specific target of assisting young people who have been involved in the justice system, young people in the age group of 16 to 28 years with multiple complex needs and refugees in public housing.

The opportunities for these people to participate in mainstream programs for one reason or another are limited; they sometimes do not have the confidence to participate in the way in which others do. An organisation like Jesuit Social Services with in excess of 34 years of history in this state of providing some very valuable services to those in most need is commendable. It is the right organisation to auspice this training program for those who are disadvantaged.

I commend members of that organisation for their work. I was only too pleased to provide assistance from the government in the endeavours they are now undertaking, and I wish them well. Mr Wynne and I joined them in celebrating on this occasion. I am sure I have the support of all members of this chamber for those two worthy training programs that I on behalf of the government of Victoria have been pleased to launch over the last week.

## SPC Ardmona: future

**Ms DARVENIZA** (Northern Victoria) — My question is to the Minister for Employment and Industrial Relations, Richard Dalla-Riva. I refer the minister to the Baillieu-Ryan government's stated commitment to supporting growth in regional cities and country communities, and I ask: is the minister aware of any dialogue occurring in connection with SPC Ardmona operations in the Goulburn Valley and can he advise the house whether there is any risk to the 600 full-time jobs and the 1800 seasonal jobs at SPC Ardmona?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — I thank the member for her question. One of the differences we see arise out of that question is that we are about talking up jobs and investment opportunities. What we saw just then was disgraceful conduct by a member trying to talk down an organisation, a company that is going through some difficulties in areas that it understands it needs to deal with for a variety of reasons.

**Mr Somyurek** interjected.

**Hon. R. A. DALLA-RIVA** — We know those areas include the high Australian dollar, which Mr Somyurek thinks I have some responsibility for. We know that there is competition globally, and that makes it very difficult for those companies. You will not see me in this chamber talking down any company that is in any form of difficulty. What we see here is shameful conduct by a member representing country areas, talking down a very strong, important Victorian company. We are about developing — —

*Honourable members interjecting.*

**Hon. R. A. DALLA-RIVA** — My responsibility is to ensure that we support companies in whatever circumstances they are in. It is interesting to note that the opposition wants me to come into this chamber and talk down a company that may be in discussions

with the government or which has other ways of dealing with its circumstances. It is important to understand — —

**An honourable member** interjected.

**Hon. R. A. DALLA-RIVA** — The plan. I hear that there should be a plan. I thought Dan the Man had the plan, but clearly he does not!

**The PRESIDENT** — Order! I have already indicated to the house that I am not prepared to have the Leader of the Opposition in the Assembly referred to as Dan the Man in this place. I also point out that I find the minister's line of answering this question to be debate rather than responding to the question. My view is that the member did not in any way seek to run down manufacturing; she simply asked if there was dialogue occurring and whether 600 jobs were at risk. I do not think the minister's line of argument responds to that question. I certainly do not want to hear disparaging remarks about the Leader of the Opposition in the Assembly.

**Hon. R. A. DALLA-RIVA** — On a point of order, President, in relation to your ruling about the words 'Dan the Man with a Plan', my understanding was that they were said by the member for Niddrie in the Assembly, Mr Hulls, at the recent ALP conference. All I am doing is repeating what was said at the ALP conference. I am struggling to understand why I cannot repeat what Mr Hulls has said. I need clarification, because it was raised by the President.

**The PRESIDENT** — Order! I am happy to provide clarification. There are two things: first of all, I made a ruling in the last sitting week that I will not entertain references in the question period to circumstances, conversations or statements made in party forums. I am not in the least bit interested in how Mr Hulls might have introduced his leader at a Labor Party state conference. What I am interested in is the decorum and proper procedures of this house. It is a well-established precedent, backed up by standing orders, that members in referring to other members of Parliament ought to refer to them by their correct titles and indeed by their surnames.

**Hon. R. A. DALLA-RIVA** — On the positive side — because we are about positive discussions — you will not find me talking down any company, no matter what they want to recommend or suggest. Let me put on the record the current situation in relation to employment in country Victoria. In April 4.7 per cent was the employment rate, and that is higher than the figure for the same month last year. The strongest percentage employment growth for the quarter was in the Goulburn-Ovens-Murray region and the Loddon Mallee region. Gippsland also experienced modest growth in employment.

Over the year employment grew in all country regions, with the Gippsland region recording the strongest employment growth. The regional unemployment rate of 5.6 per cent was unchanged in the April quarter. In fact it declined over 0.3 percentage points during the year. For the record and for the benefit of Ms Darveniza, who wants to talk down the economy, we have the second — —

**Hon. M. P. Pakula** — On a point of order, President — —

**Hon. R. A. DALLA-RIVA** — You don't want to hear good news do you?

**The PRESIDENT** — Order! Mr Dalla-Riva!

**Hon. M. P. Pakula** — On a point of order, President, again in response to your previous ruling, the minister is debating the question. He has yet again accused Ms Darveniza of talking down the economy. She did no such thing. She asked him a specific question about SPC Ardmona, and not only has the minister not addressed that question in any way, he has yet again accused Ms Darveniza of something she never did.

**The PRESIDENT** — Order! When I made that comment in respect of my interpretation of Ms Darveniza's question it was not a ruling as such, but from my perspective you are right that Ms Darveniza's question did not talk down the company, the economy or any such thing. It sought a fairly clear position on whether or not there were particular jobs at risk — I think the number of jobs at risk was 600 — and whether or not there was dialogue in respect of what might happen with that company.

I cannot direct the minister on how he answers questions, but it is important that ministers adhere to the fact that we do not debate answers. We get into fairly dangerous territory when we ascribe a motivation to a question which was clearly not in the question, because it obviously invites or provokes significant interjection on behalf of a member who has been ascribed that motivation. That makes it fairly difficult for the house to proceed effectively in terms of assessing these matters. I ask ministers to bear that in mind.

**Hon. R. A. DALLA-RIVA** — I will finish by saying that I know that people in rural and regional areas are a resilient lot. They have been through some

enormous difficulties over the last decade, and companies like SPC Ardmona need support and encouragement even through difficult times. As I said, I will not be talking it down. I will be working with all companies to ensure that they remain strong and viable either in country Victoria or indeed in Melbourne.

*Supplementary question*

**Ms DARVENIZA** (Northern Victoria) — It is concerning that the minister is not aware of any dialogue, and it certainly appears that no-one is having any dialogue with him or with the company. In light of Coca-Cola Amatil's review of SPC Ardmona and its consideration to take its operations offshore, can the minister advise the house when he will visit the factory?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — To some degree I am disappointed that the question asked is based on the notion that we are unaware when companies are in some form of distress. Members have heard time and again when I have come into this chamber and responded that we have people out there who engage with companies at all levels. I know there has been engagement with that company. I also know that we are in discussions to ensure that they have good, long-term viability, and as members opposite would know — well, they would not know as they have never worked in business — businesses often go through reviews and they determine what is in the best interest of the long-term viability of that company. That is what they do. In terms of SPC, as I said, I will not talk them down. Those opposite might, but I will not.

## Planning: northern suburbs

**Mr ONDARCHIE** (Northern Metropolitan) — My question is for the Minister for Planning, the Honourable Matthew Guy. I ask the minister about my region particularly — Northern Metropolitan Region: can the minister inform this house of any urban renewal projects in the north of Melbourne?

**Hon. M. J. GUY** (Minister for Planning) — I would like to begin by saying what a pleasure it is again to be asked a question by my colleague Mr Ondarchie, a member for Northern Metropolitan Region, about urban renewal opportunities in Melbourne's northern suburbs. Of course he has, like I have, a keen interest in the renewal of the northern suburbs. We believe the northern suburbs of Melbourne offer a unique opportunity for urban renewal — places which have good access to transport and good access to employment services — and indeed for growth into the future.

It is my pleasure to inform the house that the Premier and I were recently at the former Kodak site in Coburg to launch the new Satterley development of $230 million for urban renewal in Melbourne's north. It is an interesting point, of course, because some opposition members of Northern Metropolitan Region have stated in this chamber, as Mr Ondarchie would note, that the Premier had never visited Northern Metropolitan Region since the election — which is very interesting, given that 1 Treasury Place and the Parliament are in Northern Metropolitan Region. I think Ms Mikakos might want to look at the boundaries of the electorate that she represents.

That aside, it was a pleasure to be with the Premier to launch a magnificent opportunity for urban renewal in the north that, as I said, Mr Ondarchie and I have been keenly following for some time. There are 21 hectares of urban renewal opportunity on the former Kodak site, and what we will see is a development of around 20 dwellings per hectare — a very good development, in contrast to the original proposals, as Mr Finn and Mr Elsbury would know, for Avondale Heights that the previous government had proposed of around 67 dwellings per hectare in an existing urban area.

**Mr Finn** — A Hulls disaster.

**Hon. M. J. GUY** — A Hulls disaster — or shysterism, as Mr Finn would say. What we see with the plan for the Kodak development by Satterley is an urban renewal opportunity being put in place that is in keeping with existing built form around the 21 hectares. It is a development that is supported by the Maribyrnong City Council and supported by residents, and it is one that is close to existing services and close to educational precincts, and it will be a very good addition to the north.

The two members from Northern Metropolitan Region on this side of the house, me and Mr Ondarchie, are getting on with the job of looking at urban renewal in the northern suburbs. We note that while some of the other members representing Northern Metropolitan Region and some of their friends may be off to The Italian to talk down people who call themselves 'Dan-yell Andrews, the Man' — they might be off to The Italian to have conversations with former Premiers and the like — here on this side of the house the Premier, me and Mr Ondarchie are committed to urban renewal in the north because we believe in the future of the northern suburbs, and we are launching the projects to prove it.

**The PRESIDENT** — Order! Mr Guy said 'Maribyrnong council'.

**Hon. M. J. Guy** — Moreland.

**The PRESIDENT** — Order! That is right; that is what I thought. It is Moreland City Council.

## Housing: regional and rural Victoria

**Ms DARVENIZA** (Northern Victoria) — My question is to the Minister for Housing, Wendy Lovell. I refer to the Baillieu-Ryan government's stated commitment to addressing disadvantage as an important objective of its regional development policy, and I ask: why has the minister not committed any new capital funding for public and social housing in regional cities and country communities?

**Hon. W. A. LOVELL** (Minister for Housing) — I note that this year's budget commits to building 1600 new houses across Victoria and to doing major upgrades to about 1800 properties — that is, upgrades that cost in excess of $10 000 a year that will extend the life of some of our ageing properties. Of the 1600 properties that are to be built across the state this year, 500 are to be in country Victoria, and many of those will be in regional cities.

*Supplementary question*

**Ms DARVENIZA** (Northern Victoria) — In light of the report by the Building Commission of the decline in the number of building permits in March 2011 compared to March 2010, including a decline of 13 per cent in the north-east region, which includes Shepparton, will the minister now commit to new capital funding for public and social housing in Shepparton?

**Hon. W. A. LOVELL** (Minister for Housing) — The Building Commission does not fall within my responsibility as the Minister for Housing, but I note that we will be building 500 new homes across regional Victoria in the next financial year.

## Biotechnology: advisory council

**Mrs PEULICH** (South Eastern Metropolitan) — My question without notice is directed to the Minister for Technology, my South Eastern Metropolitan Region colleague the Honourable Gordon Rich-Phillips. I ask: can the minister update the house on progress in implementing the Baillieu government's commitment to create a Victorian biotechnology advisory council?

**Hon. G. K. RICH-PHILLIPS** (Minister for Technology) — I thank Mrs Peulich for her question and for her interest in the biotechnology industry. Biotechnology and life sciences have been a great success story for Victoria. It is an area where much research has been undertaken over the last decade and where Victoria has achieved a number of great successes, with companies like CSL and Biota, among others. It is an area where the Victorian government sees great potential for the future. It is a sector that has contributed, particularly in the life sciences area, around $1.7 billion a year in goods exports, and it is a sector that turns over around $10 billion a year and employs around 10 000 people. It is an important sector of the Victorian economy, and the Baillieu government is very keen to see that sector of the economy grow and develop further.

The sector has had a very strong research capability and has developed a number of world-leading research technologies in the biotech sector, but one of the great challenges for the sector now is to move into a commercialisation phase. This is an area where the government sees great potential for the biotechnology and life sciences sector — to see some of the world-leading research that is undertaken in this state developed to a commercialisation stage.

Prior to the election the coalition committed to the establishment of a Victorian biotechnology advisory council. I am delighted to inform the house that the first Baillieu budget has delivered upon that commitment in full, with funding of $1.2 million over the coming four-year forward estimates period for the establishment of the Victorian biotechnology advisory council. This council will, for the first time, establish a direct and ongoing dialogue between government and the biotechnology sector.

Within Victoria we have a strong sector that is already well networked. The biotechnology advisory council will for the first time establish a direct and continuing link between the sector and government. We see this as an important step in ensuring that government has direct access to policy advice from the sector, so we know what the issues are in terms of commercialisation and further development of the sector and we can respond to emerging issues in the commercialisation area, as well as in skills development and the retention and development of people with appropriate technical skills for the biotechnology sector.

Now that the funding has been provided through the budget I look forward to the establishment of the Victorian biotechnology advisory council. The government will be seeking public expressions of

interest in the next couple of months for membership of the biotech advisory council. I look forward to working with the new biotech advisory council for the advancement of the biotech sector in Victoria.

## Planning: timber industry

**Mr BARBER** (Northern Metropolitan) — My question is for the Minister for Planning, Mr Guy. Section 52.18-4 of the minister's planning scheme, specifically the provisions that relate to timber production, have the proviso that councils may consider, 'whether it is appropriate to require environmental protection standards greater than those in the code'. That is the code of forest practice, which was created under another act which refers to chemicals, and codes for those were created under another act.

In the Mitchell shire we have a planning permit with a condition in it that says that a particular plantation owner may not use aerial spray. The council is now arguing that that condition cannot be held up in law. Will the minister provide guidance to Victorian councils as to whether the section of the scheme that I quoted is to be read widely, not narrowly, as seems to be occurring?

**Hon. M. J. GUY** (Minister for Planning) — That is a good question from Mr Barber, and it is one that I will take on notice so that he might benefit from a proper response. I will get back to him with a more detailed and thorough answer about the interpretation.

*Supplementary question*

**Mr BARBER** (Northern Metropolitan) — I am glad the minister is willing to undertake that course of action. The provisions in relation to timber plantations might be triggered in some zones but not in others. It may depend on the size of the plantation or it may depend on whether the council itself has set in a schedule a 40-hectare or a 100-hectare limit. The minister is quite concerned about the impacts of wind farms on people living as much as 2 kilometres away from them. Could the minister also ask his department to conduct a wide-ranging review of how the planning system is dealing with timber plantations and perhaps report that back not just to me or the house but to the people of Victoria? We now have this tree change phenomenon where there are more and more people moving into country areas, and often they are intermingled with plantations — some new, some legacy.

**Hon. M. J. GUY** (Minister for Planning) — The issue in relation to timber plantations will obviously have more of a relationship with the Department of Primary Industries. However, I said in my substantive point that I would take most of that question on notice, which I obviously will, so I will attach the supplementary to the substantive answer.

## Echuca Regional Health: funding

**Mrs PETROVICH** (Northern Victoria) — My question without notice is for the Minister for Health, who is also the Minister for Ageing, and I ask: can the minister advise the house of any recent investments made in health services in Echuca?

**Hon. D. M. DAVIS** (Minister for Health) — As I have outlined to the house already today, the record of the previous government was that it spent 17 per cent of the health capital budget in country Victoria despite 27 per cent of the state's population being in country Victoria. This government is turning around those 11 years of damage — the 11 years of destruction left by the Brumby government. That will take some time, but a number of the commitments we made in the election campaign are well on the way to delivery, including the $40 million commitment — —

**Hon. M. J. Guy** — How much?

**Hon. D. M. DAVIS** — It is $40 million, Mr Guy — $40 million for the Echuca hospital. I note that there is also a commitment of funds from the commonwealth. We welcome those funds, and those funds were sought in our submission to the commonwealth. That $40 million contribution is the critical step in redeveloping the Echuca hospital, which is one of the most run-down hospitals in the state. It is a hospital that had been run into the ground by the John Brumby government and the Steve Bracks government. It is a hospital that was strongly advocated for by Mrs Petrovich, Ms Lovell, Mr Drum and some lower house members as well. I make the point that the Labor Party members who represented northern Victoria did not advocate for the $40 million redevelopment. They left Echuca high and dry, not only in the last year but for 11 years before that.

There have been 11 years of neglect, 11 years of failure and 11 years of lack of advocacy for this constituency. I have to say that Victorians in country Victoria should be very angry with the record of the Brumby government, which saw 17 per cent of capital for health being spent in country Victoria despite 27 per cent of the population being there. That is being turned around under this government. Eleven years of damage will

take time to turn around, but key initiatives, key promises and key commitments, like the Echuca hospital, are being prioritised and other initiatives will follow.

## QUESTIONS ON NOTICE

### Answers

**Hon. D. M. DAVIS** (Minister for Health) — I have answers to the following questions on notice: 115, 168, 169, 171, 231, 233, 234, 249–54, 584, 592–5, 608–11.

## RESIDENTIAL TENANCIES AMENDMENT (PUBLIC HOUSING) BILL 2011

*Committee*

**Resumed discussion of clause 1.**

**Mr BARBER** (Northern Metropolitan) — Just to follow up the minister's last answer, the minister was suggesting that any newly prescribed indictable offences in the bill could be subject to a regulatory impact statement and disallowance by the Parliament. I am not sure that the way this provision is written means they will be disallowable by the Parliament, so I ask her to confirm that. I also query whether she is committing to any such regulations going through a regulatory impact statement.

**Hon. W. A. LOVELL** (Minister for Housing) — As I said in my last answer, the government has deliberately referred to indictable offences in the bill because not all illegal activity warrants eviction from public housing. In determining if a new offence needs to be prescribed through a regulatory process, the following process would be undertaken.

The first thing will be identification of the problem. The government will need to determine if it is necessary to use a 14-day notice to vacate to manage a new or emerging issue on public housing estates. As part of the policy development process it will be necessary to consult with the relevant stakeholders, including public housing tenants, to ascertain the impact of such issues. As Minister for Housing, I would need to agree to pursue a regulatory solution.

The second stage will be the development of a regulatory impact statement (RIS). Where it is determined that prescribing a new offence is necessary the department will need to develop an RIS. That process will require a clear articulation of the problem that the government is seeking to resolve and include an assessment of regulatory alternatives, a cost-benefit analysis and consideration of enforcement issues.

The third stage will be for the Victorian Competition and Efficiency Commission to assess the RIS to ensure that it meets the requirements of the Subordinate Legislation Act 1994. The focus of a VCEC assessment is to ensure that the cost-benefit analysis is sound and adequate for consultation purposes.

The fourth step will be the publication of the RIS for public consultation. Once approved by VCEC the RIS must be released for public consultation for a minimum of 28 days.

The fifth step will be to respond to public submissions, including any necessary amendments to draft the regulations. Any amendments to the original proposed regulations will need to be approved by the office of the chief parliamentary counsel.

The sixth step will be the submission of the RIS and accompanying documents to the Governor in Council. A human rights certificate is one of the critical documents that must be lodged with the Governor in Council. The regulations would come into effect on the day they are proclaimed by the Governor in Council.

It is then necessary for statutory rules or regulations made under the act to be tabled in Parliament, and at this time any member may give notice of a motion to disallow that subordinate legislation. Regulations are in effect for 10 years from that date, and at the end of that period the government may choose to remake, review or sunset the regulations.

**Mr BARBER** (Northern Metropolitan) — That was a very comprehensive answer, and I noticed the minister did not even have to refer to her advisers at that stage; they had gone missing from the box.

I would like to ask some slightly more general questions as to how this legislation is likely to be implemented in practical terms. In an earlier answer to a question from Ms Mikakos the minister alluded to the fact that the Office of Housing would work in conjunction with the police. Am I right in assuming that the necessary investigatory resources leading up to a successful notice to vacate would not be found in the minister's department and that generally the minister would rely on the police to do surveillance or whatever is required to make up a case?

**Hon. W. A. LOVELL** (Minister for Housing) — I explained earlier that the director of housing would have to be satisfied that she had enough evidence for the case to go before the Victorian Civil and

Administrative Tribunal and for that evidence to stand up in a VCAT hearing. It is a step that is necessary. The director of housing can only issue a notice to vacate. The notice for possession has to be issued by VCAT. The evidence needs to be able to hold up in the tribunal. It is necessary for the director to undertake an investigation. That would involve liaising with the police through local housing officers and gathering evidence that the director was convinced would hold up in a VCAT hearing.

**Mr BARBER** (Northern Metropolitan) — That is right. If you understand the problems on some of these high-rise estates, it is not that we do not know where drug dealing is occurring. Everybody knows which apartments drug dealing is occurring at — they are the ones that get 20 or 30 visitors a day. We know where it is occurring. There are camera surveillance systems and security guards now. There are buildings that are not accessible to someone without them being signed in by a security guard. Yet even for the police it has proven very hard to achieve successful convictions of people, because typical police surveillance resources are needed to observe someone actually handing over drugs. It is equally difficult in common areas, and the minister has made a number of comments about dealing in playgrounds and so forth. For anybody who has spent any time around the high-rises, particularly some of those in my electorate, it is not hard to see.

My question is: if the burden of proof that the director of housing has relied upon in the past has not come until the end of a successful police operation — the police have put someone under surveillance and captured them, sometimes using undercover people, and had them charged and convicted, and then the evidence from the trial has been used to evict them, which has often happened in the nine or so cases the minister has referred to — how is the Office of Housing possibly able to conduct the level of operation required to obtain the information it needs to sustain a successful eviction?

**Hon. W. A. LOVELL** (Minister for Housing) — The section that was used for the eviction of tenants for illegal behaviour, section 250, did not require a conviction before the director of housing could issue a notice to vacate or before VCAT could issue a notice to possess.

**Mr BARBER** (Northern Metropolitan) — No, it did not. I agree that as a matter of law it did not require that, but in practical effect those were the successful evictions, were they not? Even the case that was the trigger for this bill occurred using the evidence from someone's trial after they had been convicted. My question is whether this will have effect without significant extra resources, and will they have police-like resources?

**Hon. W. A. LOVELL** (Minister for Housing) — I am advised that there were cases in which the director of housing took action without a conviction and that those cases were successful.

**Ms Mikakos** — But there had been charges laid.

**Mr BARBER** (Northern Metropolitan) — Ms Mikakos interjects that there had been charges laid. The secret surveillance and undercover operation of the police led to charges being laid. They were hardly likely in the middle of one of those operations to hand over a brief to the director of housing. If what the police want — and I have discussed this with my local police — is a conviction under another act, they are not going to go halfway through an undercover operation and hand over the information to the director of housing.

**The DEPUTY PRESIDENT** — Order! Does the minister have a comment? There does not have to be a question; she can make a comment if she chooses. Does she wish to?

**Hon. W. A. LOVELL** (Minister for Housing) — No.

**Ms MIKAKOS** (Northern Metropolitan) — I want to go back to proposed section 250B, which relates to prescribed indictable offences. As I said in the second-reading debate, there is no information in the second-reading speech or the explanatory memorandum as to what conditions would constitute a problem serious enough to require further intervention through regulation under this new section. Can the minister give us some more guidance as to what possible scenario this proposed section is intended to remedy?

**Hon. W. A. LOVELL** (Minister for Housing) — I thank the member for her question. I do not know whether she was here before when we went through a similar thing on proposed section 250B with Mr Barber, but the reason we have included proposed section 250B is that we are concerned about other consequences that may happen on public housing estates in the future. If we were to prescribe additional offences under the proposed section, we would be consulting with public housing tenants on issues they had identified. At the moment it is drug trafficking and the negative impacts it has on their safety, security and wellbeing.

It is the government's intention that this situation should not arise again in the future. Proposed section 250B seeks to give the government the ability to better respond to new or emerging concerns around tenant safety if tenants identify new serious crimes occurring on public housing estates. The new provision will achieve this by allowing the government to prescribe in regulations, as the need arises, other indictable offences identified as affecting the safety, security and wellbeing of other tenants.

The government has deliberately referred to indictable offences in proposed section 250B, as not all illegal activity warrants eviction from public housing. For example, it would be disproportionate to evict a tenant for littering. However, it is appropriate to evict tenants for serious illegal activity that impacts on the safety, security and wellbeing of other tenants and their families. Examples of these types of crimes include arson, serious assaults and sexual offences.

This is a flexible means of addressing serious illegal activity on public housing estates, but it is not so broad as to include minor offences that do not impact on other tenants. Prescribing the additional offences will be transparent, being subject to the assessment of their compatibility with the Charter of Human Rights and Responsibilities Act 2006, to a regulatory impact statement and to public consultation.

**Ms MIKAKOS** (Northern Metropolitan) — Because we are on the purpose clause I am coming to the policy rationale for having a catch-all provision like this inserted in the bill. When dealing with the fundamental rights people have it is not sufficient to say, 'Trust me; we might need to do something in the future'. I understand that the minister is saying it could be used in exceptional circumstances, but to give people some guidance as to how this clause may operate in future I ask the minister to give us some examples as to what would constitute exceptional circumstances.

**Hon. W. A. LOVELL** (Minister for Housing) — I think I answered that question in my last answer.

**Ms MIKAKOS** (Northern Metropolitan) — If the minister does not want to elaborate further, I will move on to another issue. Given there are no make-good provisions included in the bill, what will be the practice of the Office of Housing in the event of a tenant being evicted under the provisions of this bill but subsequently acquitted in a criminal court of the relevant offence?

**Hon. W. A. LOVELL** (Minister for Housing) — I am informed that that is irrelevant. The reason to evict is based on a civil standard, and the conviction is a criminal standard of 'beyond reasonable doubt', which is a completely different level of standard.

**Ms MIKAKOS** (Northern Metropolitan) — I am completely lost by that answer. To make it very simple, I am asking: if someone is acquitted after they have gone through this whole process, is the Office of Housing going to give them their housing back?

**Hon. W. A. LOVELL** (Minister for Housing) — As I have said, everything will be dealt with on a case-by-case basis. The decision to issue a notice to vacate will be dealt with on a case-by-case basis. It will then go to a VCAT hearing for a notice to possess, so that is a decision of a tribunal. If people wish to reapply for public housing, they will have to qualify and it will be on a case-by-case basis.

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

**Progress reported.**

## PERSONAL EXPLANATION

### Minister for Housing

**Hon. W. A. LOVELL** (Minister for Housing) — Under standing order 12.13 I desire to make a personal explanation. Yesterday in the house, when answering a question about the federal government's set-top box scheme, I mentioned that there had been no contact from the federal government with my department. That information was based on advice I received from my department, which was confirmed to me twice. My department has since said there have been some discussions, but I reiterate that there has been no agreement between the relevant federal minister and me. I wanted to make this minor correction to the record at the earliest opportunity.

## RESIDENTIAL TENANCIES AMENDMENT (PUBLIC HOUSING) BILL 2011

*Committee*

**Resumed discussion of clause 1.**

**Clause agreed to; clause 2 agreed to.**

**Clause 3**

**Mr BARBER** (Northern Metropolitan) — I refer to new section 250A. We have imported into this bill a

number of offences from the Drugs, Poisons and Controlled Substances Act 1981, but in that act there are also defences made available to persons who are charged with committing any of these offences. New section 250A(1)(b) states:

> supplied a drug of dependence to a person under 18 years of age …

If someone were to be charged with that offence under the Drugs, Poisons and Controlled Substances Act 1981, it would be a defence that they did not know the person was not 18 years old. Under this bill the offence has been imported but the defence has not been imported. Can the minister tell me if my assumption is correct that there will be no defences to these matters that could be argued in the Victorian Civil and Administrative Tribunal?

**Hon. W. A. LOVELL** (Minister for Housing) — If there are defences to the offences described in sections of the Drugs, Poisons and Controlled Substances Act 1981 that have been imported into this bill, they are not illegal. Therefore the defences contained in that act would also apply to this act.

**Mr BARBER** (Northern Metropolitan) — Another issue is the question of a preparatory item, which is defined as:

> … a substance, material, equipment or document containing instructions relating to the preparation, cultivation or manufacture of a drug of dependence.

If you possess such a preparatory item with the intention of using the item for the purposes of trafficking in a drug of dependence it is now a trigger in this bill — for example, preparatory items could be ultraviolet lights, tin foil, kitchen scales or a manual on how to cultivate marijuana possibly downloaded off the internet and sitting on a hard drive.

Is it really the intention that someone who is acting in that way now has to have a burden of proof applied to them, which the minister said was a civil burden of proof — on the balance of probabilities, not beyond reasonable doubt — before they are evicted?

**Hon. W. A. LOVELL** (Minister for Housing) — It would have to be established that they intended to use that item for the intention of trafficking a drug of dependence.

**Mr BARBER** (Northern Metropolitan) — But the minister said earlier, 'Not to a criminal standard of beyond reasonable doubt, but to a civil standard of on the balance of probabilities', which to me suggests that they have as much onus on them to prove that they were not going to do those things as her director has to say that they were. That is a test from a criminal act being tested against a civil standard; that is what the minister told us earlier, I think.

**Hon. W. A. LOVELL** (Minister for Housing) — As I said, we would have to be confident that our evidence would hold up in VCAT, and it would be a decision of VCAT as to whether that evidence held up.

**Mr BARBER** (Northern Metropolitan) — To a civil standard. Another issue is that people charged with these offences under other acts, and of course any other indictable offences that the minister may later choose to add, might be given a sentence based on home-based detention. What will be the situation where someone is ordered to have home-based detention but at the same time the director has given her Office of Housing the power to throw them out for doing the thing for which they have been sentenced?

**Hon. W. A. LOVELL** (Minister for Housing) — In the case of a tenant who is subject to bail conditions or a community-based order, eviction may mean the tenant is in breach of one of the conditions of that order. Where that occurs a tenant may need to ask the courts to vary the terms of their order. Therefore it is possible that eviction may lead to incarceration. However, it is important that the director of housing has the ability to respond quickly and firmly to illegal drug activity and other prescribed indictable offences in public housing. This is necessary to satisfy the director's statutory responsibility to provide adequate and appropriate housing, and to ensure that public housing is a safe place for Victorians to live. The new notice provision will not target any tenant behaviour that is not already subject to the director's powers to evict.

In addition, the illegal drug activity captured by the legislative amendment is consistent with those activities defined in the Drugs, Poisons and Controlled Substances Act 1981. A tenant who is on a sentencing order is subject to the same obligations as all other tenants. In deciding whether to issue a notice to a tenant to vacate the director, as a public authority, must take into account the individual circumstances of tenants, including the impact that eviction could have on a sentencing order they may be subject to.

The obligation will be clear under the policies that will support the new provisions, under the director's administrative law obligations and under the Charter of Human Rights and Responsibilities Act 2006. If a tenant committed a new offence whilst on bail or on a community-based order, it is very likely that the tenant would already be in breach of that order by engaging in

the new illegal activity. Therefore eviction from public housing is unlikely to be the sole cause of the tenant being incarcerated.

**Mr BARBER** (Northern Metropolitan) — Why is it new illegal activity? The director could actually use the evidence from that person's trial, which in this example is a successful trial — they have been convicted and sentenced to home-based detention — and the Office of Housing would then be punishing them for something for which they had already been convicted and sentenced to home-based detention.

**Hon. W. A. LOVELL** (Minister for Housing) — For a condition of housing to be put on bail they would have to say at their trial that they have secure housing, and that would be misinformation to the courts, based on the fact that this piece of legislation would show that their housing is insecure if they have committed an illegal offence under this act. So it would be highly unlikely that magistrates who know the law would actually take into account that those in public housing would be subject to that type of condition on their bail.

**Mr BARBER** (Northern Metropolitan) — I originally asked about home detention, but the minister ended by saying 'bail', so I presume she is talking about both instances — home detention and bail. So no more bail for public housing tenants is effectively what she is saying, whether they have been convicted of an indictable offence or a drug offence.

**The DEPUTY PRESIDENT** — Order! The minister is choosing not to respond.

**Ms MIKAKOS** (Northern Metropolitan) — This is quite an important issue that Mr Barber has now raised, because I was trying to follow the logic of the minister's response, and the question was about people who have been sentenced to home detention; they have gone through the legal process, they have had their punishment meted out to them and they have been sentenced to home detention. The minister has introduced issues around bail, but they are quite separate. Bail relates to people who have not even gone through a prosecution yet, so I think it is important that she seek to clarify these issues. As Mr Barber is saying, if she has now extended her answer to cover people who are subject to bail conditions, we are talking potentially about a very large group of people who have not been afforded natural justice, who are still entitled to the presumption of innocence and who are still entitled, presumably, to have a roof over their heads; so I think it is important that she clarify these issues.

**Hon. W. A. LOVELL** (Minister for Housing) — It would be incumbent upon the defendant to tell the court what the status of their housing is. What I would say about this is that if people do not commit illegal activity on public housing estates, they have nothing to fear from this provision. We are only talking about people who are breaking the law and who are participating in illegal activity on public housing estates — activity that puts the safety and security of others at risk. So it would be incumbent upon the defendant to inform the courts, but if they are not participating in illegal activity they have nothing to fear.

**Mr BARBER** (Northern Metropolitan) — We are getting back into the rhetoric of the issue now, but the minister earlier referred to the duty of care that the director of housing has. She has now referred to the necessity to provide people's security. If she wants to wander down to the Richmond estate she will see outsourced, minimum wage-type security guards watching this stuff happen; and what the residents are told is 'Call Crime Stoppers'. And that is how we have got to this situation over a very long period.

In fact when I was running for council in 2002 I was not able to doorknock the high-rise in my ward because it was too dangerous. To this day people feel that way in other estates. What we have uncovered through this discussion is that there were nine successful evictions. I put it to the minister that we have established that the provisions of this bill go much wider than the specific issue it was meant to address — and that the minister needs to urgently address — of people dealing drugs in common areas of the estate.

**Hon. W. A. Lovell** — That is what we are dealing with here.

**Mr BARBER** — The minister is giving herself an extra legal tool to do that, but the questions we have been raising all day are in relation to the necessary resources to deliver that level of security on the estate. That has not been delivered in the past. I am not putting any evidence up on the minister's administration, but I am simply saying that if the past practices of the Office of Housing continue, then firstly, this bill will not be used, at least to any extent more than what we have seen in the past, and secondly, the problem will not be solved.

**Mrs Peulich** — Is this a question?

**Mr BARBER** — No, it was a statement.

**Hon. W. A. LOVELL** (Minister for Housing) — I think Mr Barber's comment was a statement, but I am happy to comment on that statement. The member is

right to reflect on what has happened in the past and the fact these estates have become unsafe places. I was actually at the Richmond estate as recently as midday on Tuesday this week talking to people about this particular issue, how unsafe it is and the trafficking of drugs that goes on in common areas.

This government, unlike the former government, is cracking down on these crimes. We are sending a strong message that we will not tolerate illegal activity on the housing estates. I have been speaking to local police in the city of Richmond, and the Office of Housing has been speaking to the Metropolitan Fire and Emergency Services Board. We are working together as a task force to address some of the safety and security issues at the Richmond estate. This bill is merely one platform to do that.

**Ms MIKAKOS** (Northern Metropolitan) — I have regard for the Deputy President's comments earlier about members not reiterating arguments made during the second-reading debate, but the minister is now becoming quite partisan in her remarks, and it invites responses. I remind her that Richard Wynne, the member for Richmond in the other place, and a former Minister for Housing, introduced the pilot that sought to evict drug dealers from public housing estates.

**Hon. W. A. Lovell** — Without conviction.

**Ms MIKAKOS** — But these people needed to be charged first; that is the key difference.

**Hon. W. A. Lovell** — No, they did not.

**Ms MIKAKOS** — That is the key difference here. The minister keeps repeating that, but she is actually wrong. The pilot required people to be charged. That is the issue we have identified that we have a problem with in this bill.

**Hon. W. A. Lovell** — It was without conviction.

**The DEPUTY PRESIDENT** — Order! If the minister wants to respond, I am happy to call her. Does Mr Barber want to pursue the same matter?

**Mr BARBER** (Northern Metropolitan) — I will provide more comments now, and then I will ask a couple more specific questions about the mechanics of the bill.

**The DEPUTY PRESIDENT** — Order! Ms Lovell wants to respond to Ms Mikakos, so I will allow that to happen.

**Ms Mikakos** — So we are going to redo the second-reading debate, are we?

**The DEPUTY PRESIDENT** — Order! No. The minister started it; we will let the minister finish it, then that will be it.

**Hon. W. A. LOVELL** (Minister for Housing) — The report I have here on the pilot program says:

> … the Office of Housing can evict residents based on police evidence presented to the Victorian Civil and Administrative Tribunal, rather than waiting for a resident to be charged by police or found guilty of trafficking in court.

There was no requirement for a conviction, because there was no requirement even for a charge.

**Mr BARBER** (Northern Metropolitan) — I have also spoken to the local police there. They say their job is mainly to convict people. These sorts of estate management issues are the responsibility of the Office of Housing.

I have sat in rooms with elderly tenants on the Richmond estate, and they have pleaded for action from the Office of Housing. The Office of Housing did not say it did not have the legal power to act. It was simply failing to act. At the end of the night the message that was being sent back to the community was that they had better call Crime Stoppers. It was not that the director of housing would manage the estate through security and police resources to ensure that tenants would be safe when they move around.

As I said, that was under a previous administration. I am quite happy to accept that the minister is now dealing with this matter with a new focus. I accept the minister's argument that this bill would be only one tool. I hope we will continue to see all of the other tools being brought to bear.

I will ask a couple more technical questions about the mechanics of the bill if that is where we have got to in the debate. It sounds like it. The question of a lawful excuse is not defined in the bill or in the Drugs, Poisons and Controlled Substances Act 1981, or the DPCS act. What would a lawful excuse be in this context?

**Hon. W. A. LOVELL** (Minister for Housing) — My answer is very similar to the answer I gave the member before: it has to be an illegal activity to invoke powers under this act. If it is defensible, it is not an illegal activity, and therefore it would not invoke the powers of this act.

**Mr BARBER** (Northern Metropolitan) — That is a slightly circular definition. The term 'precursor

chemicals' has been taken directly from the DPCS act, but the particular volume of chemicals — the prescribed amount whereby it is clear that someone is getting ready to make drugs — has not also been brought over from the DPCS act. Does that not also create a bit of a definition problem for the director of housing?

**Hon. W. A. LOVELL** (Minister for Housing) — I am told it is the same issue: it has to be an illegal quantity. If it is not illegal under the Drugs, Poisons and Controlled Substances Act 1981, then it is not illegal under this act.

**Ms MIKAKOS** (Northern Metropolitan) — I think we have exhausted the technical questions in relation to clause 3, so I now wish to move the various amendments that relate to clause 3.

**The DEPUTY PRESIDENT** — Order! I will just give the committee some advice in relation to how I propose to proceed with this, and then I will call on Ms Mikakos to move it. I believe her amendment 1 will be a test of her subsequent amendments 2 to 6. Therefore she may wish to foreshadow those amendments and speak on the matters relevant to the subsequent amendments. I will invite members of the committee who wish to make a contribution to do the same.

**Ms MIKAKOS** — That is a very sensible way to proceed, given that these are all amendments to the same clause. I move:

1. Clause 3, line 6, omit "The" and insert "Subject to this section, the".

I would also like to foreshadow amendments 2 and 6 also standing in my name because they are interrelated, and many of them are consequential amendments. As a minimum, the opposition believes that the director of housing must satisfy an evidentiary burden prior to taking action that may result in a person's tenancy being terminated. In this instance we believe a reasonable evidentiary test is that the director should only commence proceedings to evict a tenant if they have been charged by Victoria Police with the relevant offence. The key amendments that I have foreshadowed are amendments 2 and 4, and I will explain to the house what these seek to do. However, just by way of background explanation, I point out that amendments 1 to 3 relate to the new section 250A and amendments 4 to 6 relate to the new section 250B, and they are essentially very similar in nature.

Amendment 2 that I foreshadow would require the director of housing not to give a notice under subsection (1) unless the tenant had first been charged with an offence by Victoria Police in relation to the conduct for which the notice is given. The amendment then goes on to clarify that a tenant would not be charged with an offence if the prosecution of the charge is discontinued under the Criminal Procedure Act 2009, the charge is withdrawn or the proceeding for the charge is permanently stayed. The amendment also seeks to replicate similar requirements in the new section 250B that relate to prescribed indictable offences. Essentially that section would then read that the director of housing may give a tenant a notice to vacate rented premises of which the director of housing is the landlord if the tenant is charged with a prescribed indictable offence committed on the rented premises or in a common area. So it seeks to make very clear that, again, this provision would only operate where there has been a charge laid by the police.

The reason that the opposition is seeking to move these amendments is, as I have explained on a number of occasions, that we think an evidentiary test should be exercised by the police rather than the director of housing acting as police officers or as judge and jury. I think members listening would be quite concerned at some of the answers the minister has given during the committee stage, and I have to say that the minister's answers certainly have not given people any comfort in terms of how some of these provisions would operate in practice.

Essentially the amendments being moved by the opposition seek to tighten the language in the bill. We certainly agree with the policy rationale behind the bill — which is one that we commenced in government — which is to try to stamp out illegal drug trafficking on public housing estates. However, we think we need to put some appropriate safeguards in place in the legislation to ensure that the director of housing is not forced to undertake tasks that the police should be doing. I am happy now to have comments made in relation to the amendments, but essentially I have spoken to all of those amendments.

**The DEPUTY PRESIDENT** — Order! Before the Chair is proposed amendment 1 from Ms Mikakos, which is a test of amendments 2 to 6. Do any other members wish to make further comment on the proposed amendment?

**Ms HARTLAND** (Western Metropolitan) — The Greens will be supporting these amendments, even though we feel they do not go far enough. We have indicated that we think this bill is fundamentally flawed and that it is not going to assist, for many of the reasons Mr Barber has outlined. Unless there are resources on

the estates to deal with these issues this piece of legislation is not going to help. The answers that we have not heard from the minister today relate to how it is that safety on estates is going to be improved. What are the other tools? This should be an issue of last resort, yet we have not heard anything about the first resorts.

**Hon. W. A. LOVELL** (Minister for Housing) — The government will not be accepting the opposition's amendment. Proposed new sections 250A and 250B do not require there to be a charge or conviction before they are invoked. The reason for the inclusion of these provisions is to provide greater safety and security to other tenants on the estate by swiftly removing those who are participating in illegal activities.

If we were to accept this amendment, we would also have to accept that it may take weeks or even months before the police lay charges. As I said earlier in the committee stage, charges may never be laid if a deal is done with someone who is seen as a minor player in a larger drug ring. It may also mean that rather than using this section of the act, which would then become rather cumbersome, it would be quicker to use section 263, which is the no-reason, 120-day notice to vacate.

This is just one piece of a whole range of things we are putting in place to provide greater safety on these estates. As I said, earlier this week I was at Richmond, and later this week there will be an announcement about some of the protocols we have put in place to try to address the problems on that estate.

This government will not put up with illegal activity that is threatening the safety and security of families on public housing estates. As Ms Hartland and many others have said in this debate today, the vast majority of public housing tenants are good, honest people who just want to live a decent life, and the people who are participating in illegal activity on these estates are putting the safety and security of residents at risk. The government is putting in place protocols that will provide the police and the Office of Housing with the tools to deal with that illegal activity, to help stamp it out and to provide greater safety and security on Office of Housing estates.

**Ms MIKAKOS** (Northern Metropolitan) — I want to reiterate that through these amendments we are seeking to codify the practice that existed under the previous government by which charges were laid before matters would proceed to an eviction through the Victorian Civil and Administrative Tribunal. As we heard from the minister's response earlier, through that process nine people were successfully evicted, yet the minister is seeking to say that system was not working effectively. Unfortunately we did have one VCAT hearing that threw some legal ambiguity around some of these issues in relation to common areas, but this bill goes a lot further than that. We are seeking to tighten up the language in the bill.

**Committee divided on amendment:**

*Ayes, 18*

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

*Noes, 20*

| | |
|---|---|
| Atkinson, Mr | Hall, Mr |
| Coote, Mrs | Koch, Mr |
| 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 (*Teller*) |
| Guy, Mr | Rich-Phillips, Mr |

*Pair*

| | |
|---|---|
| Scheffer, Mr | Kronberg, Mrs |

**Amendment negatived.**

**The DEPUTY PRESIDENT** — Order! We are still on clause 3. Does Ms Pennicuik still wish to make a further contribution on clause 3?

**Ms PENNICUIK** (Southern Metropolitan) — Yes, I just wanted to explore paragraph (1) of new section 250B to be inserted by clause 3. This is quite a wide-ranging provision and perhaps some questions about its application have been asked earlier. Is it meant to cover just prescribed indictable offences, as it says, 'on the rented premises or in a common area' — that is, any type of offence under any act, not just acts that are referred to in this bill but any act of Parliament? Is that what that new section means?

**Hon. W. A. LOVELL** (Minister for Housing) — It is indictable offences that will be prescribed. As we discussed earlier, it is about serious crimes. As I said in my earlier answer, the government has deliberately referred to indictable offences in proposed new section 250B, as not all illegal activity warrants eviction from public housing. It would be disproportionate to evict a tenant for littering, so that is not something that

would be prescribed as an indictable offence. However, it is appropriate to evict a tenant for serious illegal activity which impacts on the safety, security and wellbeing of other tenants and their families. Examples of the types of things that could be prescribed if they become serious problems on public housing estates in the future would be arson, serious assault and sexual offences.

**Mr BARBER** (Northern Metropolitan) — I have just a couple of things about the comment the minister made just before we vote on the clause. In the nine cases where notices to vacate were issued under existing section 250 of the act, can the minister tell me what amount of time elapsed between the notice being issued and that person being evicted in the nine instances that went to trial?

**Hon. W. A. LOVELL** (Minister for Housing) — I am told we do not have that information on hand. It occurred at a time well before I became the minister and the department would have to go back through each and every file to establish that information.

**Mr BARBER** (Northern Metropolitan) — The minister also referred to the no-reason, 120-day notice to vacate provision, which is further down in the principal act. Can the minister tell me how many times that provision has been used to evict public housing tenants?

**Hon. W. A. LOVELL** (Minister for Housing) — I can tell Mr Barber the figures, but I think we should first talk about some of the processes that are undertaken before deciding whether to evict a tenant. Under this new bill in particular new policy guidelines are currently being developed to support the use of the notice provisions proposed by the bill. The director of public housing may only issue a notice to vacate if she is satisfied on the balance of probabilities that the tenant has committed the illegal activity on the premises or in the common areas. The director will not need, as we said, to wait for charges, but she has to be satisfied that the alleged activity occurred. This is not a provision that is going to be used lightly; it is a provision that will be considered because we will have to be sure that the evidence that the director gathers will stand up in a Victorian Civil and Administrative Tribunal hearing.

In response to Mr Barber's specific request about the 120-day notice to vacate, in the first half of this financial year, in the six months to December, there was one notice to vacate issued under the 120-day provision and there were none in the previous year.

**Mr BARBER** (Northern Metropolitan) — By the way, I am aware that that provision was not always in the act; it was added more recently. It was always the case that if you wanted to evict somebody you needed a reason, and the common reason in a private setting was that the landlord wanted to move in, for example. But we now have a provision in the Residential Tenancies Act 1997, for better or for worse, that allows all landlords across all tenancy types to evict someone without specifying a reason for the giving of the notice — and it is 120 days. Why is it then that the government is not proposing to use that section to evict people who are causing these problems without needing to further amend the act?

**Hon. W. A. LOVELL** (Minister for Housing) — These are subsections to section 250, which is specifically about illegal activity and being able to give 14 days notice to vacate to ensure that the processes for VCAT to then issue a notice of possession are expedited. We believe the types of illegal activities we are talking about today pose a risk to other tenants on the estate. Their safety, security and wellbeing are put at risk, and it is responsible to try to move these people on as soon as possible. One hundred and twenty days is a quite lengthy time — almost four months — and if activities were to continue for that time, it would put other tenants at risk for the additional time the notice was in place.

**Mr BARBER** (Northern Metropolitan) — In theory it does, but this is the discussion we have been having all morning and now into the afternoon. Everybody on those estates knows who the drug dealers are and they know where it is happening, and so do the minister's directors, the police and the security guards. The government is setting up a process where it can issue a notice and then in 14 days it can apply to VCAT; then when it gets to VCAT it can argue its case and it can evict somebody. That may be after it has run surveillance and collected evidence and statutory declarations or whatever it is it is going to do to collect its evidence and to make its case in this police-like operation. I am simply asking why the minister is not cutting to the chase and using the no-reason, 120-day notice to vacate, knowing that the director of housing will inevitably prevail and have those people out within a guaranteed 120 days.

**Hon. W. A. LOVELL** (Minister for Housing) — This is about expediting the process to a 14-day notice to vacate for illegal activity, and it is to provide for the safety, security and wellbeing of others on the estate. Yes, we could use a no-reason, 120-day notice, but we believe this process will lead to a better result for others on the estate.

**Mr BARBER** (Northern Metropolitan) — It was the minister's response in relation to protocols that got me going on this line of questioning, because she has now told us that there has only been one issuing of a notice to vacate for no reason, the no-reason, 120-day notice. I presume that that one and all other notices to vacate are governed under some sort of protocol, otherwise it would be done all the time. Can the minister tell me what process she is going to use to develop protocols?

**Hon. W. A. LOVELL** (Minister for Housing) — We will put in place policies around this, and the director of housing will conduct an investigation. We are going over the same territory time and again. As I have already explained, there will be an investigation by the director of housing. She will use her local housing officers and regional heads to assist her in conducting that investigation. She will gather evidence, and she needs to be assured that that evidence will stand up in VCAT in order to take that case to VCAT or else it is a waste of everybody's time. We are not about wasting people's time. We are about sending a strong message to those who are putting the safety and security of tenants on public housing estates at risk. We are sending a strong message to them that they are on notice and that there are consequences to their actions.

**Clause agreed to; clause 4 agreed to.**

**The DEPUTY PRESIDENT** — Order! Before I complete the committee stage, earlier in the committee deliberations I made reference to a previous ruling by former President Chamberlain in relation to ministers seeking advice during the committee stage. I have been provided with copies of the detail of that ruling, which goes for one and a bit pages, by the clerks. I will provide one copy to the opposition and the others to the government so it can be given to ministers, because it is my intention to be guided by that ruling.

In summation, the ruling suggests that breaks seeking advice should not exceed 1 minute and should be kept to a minimum. Where the chair of committees, or now the Deputy President, feels that the committee deliberations are being unduly delayed by the minister seeking that advice or that the technical nature of the questions being raised requires more deliberate consideration, then it is open to the Deputy President to suspend the committee stage to allow the minister at the table to become fully advised on the legislation, which would then allow the proceedings of the committee stage to occur more efficiently.

That is the precedent set by former President Chamberlain. Obviously it might take some time for us to work through how this might work in this instance, but it seems like good guidance. Obviously I am not seeking to take a hard line on these matters, but I am providing the detail of that advice so that we all know the direction in which we are going.

**Reported to house without amendment.**

**Report adopted.**

*Third reading*

**Hon. W. A. LOVELL** (Minister for Housing) — I thank those members who have contributed to debate on the bill and to the committee stage: Mrs Coote, Ms Mikakos, Ms Hartland, Mr Scheffer, Mr Viney, Mr Barber and Ms Pennicuik. The government is pleased that this bill has passed. We are pleased that it will provide greater safety and security for those on Office of Housing estates.

I would like to refute some comments that were made in Ms Mikakos's statement, where she said that the government will not tackle homelessness. That is a complete misrepresentation. The government is signed up to the national partnership.

**The PRESIDENT** — Order! The minister is not able to continue the debate on the third reading.

**Hon. W. A. LOVELL** — I thought I was summing up.

**The PRESIDENT** — Order! No. The bill has already been passed. It is in order to, on the third reading, thank speakers who might have contributed to the debate, but certainly not to continue the debate or refute matters. I am inviting the minister to move that the bill be read a third time.

**Hon. W. A. LOVELL** — I move:

That the bill be now read a third time.

**Motion agreed to.**

**Read third time.**

## FAMILY VIOLENCE PROTECTION AMENDMENT (SAFETY NOTICES) BILL 2011

*Second reading*

**Debate resumed from 5 May; motion of Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations).**

**Hon. M. P. PAKULA** (Western Metropolitan) — I rise to indicate that the opposition will not be opposing the bill. I describe our position as 'not opposing' rather than 'supporting', and that relates to a particular

element of the bill in regard to an application where the subject of the notice does not consent. I will go to that in more detail later, but at this point I indicate that at the conclusion of the second-reading debate I will move a motion that this bill be referred to the Standing Committee on Legal and Social Issues for further consideration.

This bill is a vindication of the approach the Labor Party took while in government when it introduced the Family Violence Protection Act back in 2008. That was a groundbreaking piece of legislation. It provided, I think for the first time, a comprehensive definition of 'family violence'; it extended the definition of 'family member'; it broadened the use of the holding powers provision; it introduced an enhanced system of family violence and intervention orders; it changed the way that evidence was given in court; it gave police greater search and seizure powers; it strengthened the provisions for the protection of children; and, importantly — this is the element of the 2008 act which is the most relevant subject of this bill — it provided a regime which allowed for vulnerable people to be protected out of hours. That was the creation of the family violence safety notice, which could be issued by police, which could apply for a period of 72 hours and which gave police a tool to allow them to provide immediate protection, especially when they were responding to an incident outside the normal working hours of the court.

When the previous Attorney-General, Mr Hulls, introduced that bill back in 2008, the now Attorney-General, the then shadow Attorney-General, made what I would describe as an ungracious contribution to that debate. He claimed credit for all the major elements of the bill and then attacked the then government for delay. I have to say that with this bill, particularly in his second-reading speech, the Attorney-General is at it again. In his second-reading speech he again claims credit for the 2008 bill — which is one of the more ridiculous assertions that could be made, and which is, I have to say, in a second-reading speech attendant on this piece of legislation completely superfluous and totally unnecessary — but also criticises the former government for the fact that the family violence safety notice regime was introduced in 2008 only as a trial. As far as criticisms go, it is about as petty and silly as you could get.

The fact is that when family violence safety notices were introduced back in 2008 they were a brand-new tool for police, and it was absolutely appropriate that they be trialled, absolutely appropriate that they be evaluated and absolutely appropriate for the government of the day to go through that process to determine whether or not they were an effective tool for the protection of vulnerable family members before introducing them as a permanent part of the police armoury. I am sure I am right in saying that already the new government has in a whole range of areas introduced measures on a trial basis to allow them to be properly evaluated over a period of time. The criticism that exists in the second-reading speech of the fact that these notices were introduced as a trial in the first instance, as I have said, demonstrates that the new government still believes, for any reason it can find, that its overriding duty is to find reasons to criticise its predecessors — even where doing so is barely comprehensible and barely relevant to the piece of legislation we are to debate.

Quite properly the previous government back in 2008 introduced a sunset provision, which allows this Parliament to determine whether the safety notices should continue as a tool for police. We have been advised by the government via the Department of Justice that the valuation has in fact been very positive. We are pleased about that, we are pleased that as a consequence this bill has been introduced and family violence safety notices can be extended and we are happy to support them becoming a permanent tool in the hands of police to combat family violence. We are pleased about all of that. I have to say that we are far less convinced of the necessity for the changes provided for in clause 6(3) and consequentially in clauses 7(2), 8(3) and 9(2).

In our view those clauses run the risk of denying the court the ability to fully protect a child in a circumstance where that child's parent might not offer him or her all the protection that the parent should. I readily concede that that might be a rare occurrence. It might be an exceedingly rare occurrence; it might never occur. But we are not convinced that the ability of the court to protect a child in any way the court sees fit should be fettered, and we are at a bit of a loss to understand why the government is seeking to fetter the power of the courts in the way that these clauses do.

Where a police officer makes an application for a family violence intervention order and the victim does not consent, there are some orders that the courts can make and some they cannot — for instance, where there is no consent by the victim the court cannot order separation or that the family be split up. Currently that limitation does not apply if the affected family member is a child. If the affected family member is a child, even if the child does not consent to the order, the court can, for the protection of the child, move the child away from the abusive parent.

The effect of this amendment, as it has been explained to the opposition, is that the limitation on what the court can order is effectively reimposed if one of the affected family members subject to the order is an adult. In effect if a police officer seeks to protect an adult and a child in the one application and the adult does not consent, then the court is limited in what it can order. That limitation, in the opposition's view, then has the potential to put the child at risk. I give a real life example: if you have an abusive father or stepfather, a frightened wife or partner and a vulnerable child, and the wife or partner is frightened enough so that they do not consent to the order, then the court cannot order separation of the partner or of the child, even if the child in those circumstances is at risk.

I would be pleased if any government speaker would care to address that point. I know it was raised by Ms Hennessy in debate in the other place. At this point the opposition does not believe that there has been an effective or appropriate explanation for the necessity of this provision. During the briefing the advice we were given was that these provisions have been inserted because they were requested by the courts. The courts felt the provisions required some clarity and certainty, but the departmental officers were not able to provide us with any real-life examples of exactly what mischief this provision is seeking to remedy.

The concern I have just spoken about is the reason for the referral motion that the opposition will move, assuming the second-reading stage of the bill passes, which it no doubt will because the opposition will support the bill on the second reading. However, we in opposition believe this particular element of the legislation is worthy of more consideration. I will go to this in more detail when I move the motion, but let me say at this point there have been a number of referral motions moved during the 57th Parliament, most, if not all, by yourself, Acting President. All of them, so far, have been opposed by the government. On each occasion there has been one of two reasons given to the opposition: firstly, that the policy was dealt with in great detail during the election campaign, the community is well aware of the impact of the legislation and, as a consequence, further consideration by the legislation committee should not be required; or secondly, that there was nothing in the legislation of sufficient import or causing sufficient confusion to warrant examination by the legislation committee. I do not believe the government can apply either of those arguments to this motion. This is not a piece of legislation or a piece of policy that was given great airplay, if indeed any airplay, during the election campaign. More importantly, as I think I have demonstrated, there is substantive confusion about and genuine concern for the rights, protection and safety of children. It is my heartfelt hope that the government supports the motion to allow this element of the bill to undergo further review and consideration by the relevant upper house committee.

Despite that reservation, the opposition is supportive of the safety notice regime being extended and made permanent. For that reason we will not oppose the bill, but I look forward to moving my referral motion following the second-reading vote.

**Ms HARTLAND** (Western Metropolitan) — The Greens obviously welcome all efforts to improve the safety of women and children and to reduce violence in our community. One in three women has experienced physical violence, and one in four children has witnessed violence against a parent. It is a problem that permeates deep into our society in all geographic areas and socioeconomic groups. Most incidents of domestic violence go unreported, and this bill unfortunately will not touch this majority of cases. What is the government going to do to improve protection for victims in this majority of unreported cases? Will the government increase funding to non-government organisations to promote and provide services for the large numbers of women and children seeking support? Two out of three accompanied children needing supported accommodation programs will be turned away due to an inability to meet demand. Furthermore, a national survey in 2005 found that of those women who had had violence orders issued, 20 per cent reported that the violence still occurred. What is the government going to do to improve protection for these women who continue to face violence despite having violence orders?

For those women and children who are facing violence and are in the court system, it appears that the bill will improve protection, as far as a violence order can protect, but the question remains as to whether this is adequate. We want assurances that where the bill seeks to clarify the adjournment of applications this will strengthen the court's ability to implement protective measures for women and children, which goes very much to the argument that Mr Pakula has just put forward. The bill does specify that the court can adjourn an application without an interim intervention order and where the protective measures of the family violence safety notice have ended, but this would leave a woman and children without protection. Seeing this in the bill sounds alarm bells for us.

I am aware that at times women will be unable to attend court. This may be due to work or carer or child-care responsibilities, it may be due to the fact that they are in

fear of violent assault by the perpetrator for going to court, or they may be unable to be in the same room or even the same building as the perpetrator. I have concerns that the court may adjourn the application in this situation, leaving the woman and children without protective measures.

I thank the people who gave the briefing on this bill because it was very comprehensive and covered many of these things, but I am still concerned that it is not going to be quite right. In that briefing I was informed that the police can make a representation on behalf of the woman in her absence and therefore the court can implement protective measures and that there is a leaning towards protective measures. It would have to be argued why protective measures should not be in place. I would like a government member to clarify if this is the case.

I raise these concerns as I do not want to see family violence safety notices expire and women and children being left without an interim court order prohibiting the perpetrator from contacting them or committing further violence. The Greens would like to see ongoing evaluation of safety notices and their implementation as well as the adjournment proceedings, as specified in this bill. We also need more consistent approaches across the state, and this is particularly the case where regional areas can be disadvantaged by inconsistent processes and approaches.

What also needs evaluating is whether family violence orders are actually working. Family violence comes at a terrible cost to our community. We often talk about violence on King Street on Friday and Saturday nights, but rarely do we talk about the violence that happens to women and children behind closed doors, because somehow if it is not seen, it is not real. These orders are incredibly important for women and children, and we have to get it absolutely right to make sure that children, especially, are not left in incredibly dangerous situations. It is for that reason that I support the arguments that have been put forward by Mr Pakula as to why it is necessary for this bill to be sent to the Legal and Social Issues Legislation Committee. We need to get it absolutely right, because we cannot leave these women and children in any doubt about their protection.

**Mr O'BRIEN** (Western Victoria) — It is with great pleasure that I rise to speak on the Family Violence Protection Amendment (Safety Notices) Bill 2011. Subject to the comments that have been made, I commend the opposition and the Greens for their bipartisan approach to this very serious issue.

In that regard, I think it is important to open my contribution by referring back to the preamble of the Family Violence Protection Act 2008, because that sets out the fundamental principles, which this Parliament recognises on a bipartisan basis, as follows:

> (a) that non-violence is a fundamental social value that must be promoted;
>
> (b) that family violence is a fundamental violation of human rights and is unacceptable in any form;
>
> (c) that family violence is not acceptable in any community or culture;
>
> (d) that, in responding to family violence and promoting the safety of persons who have experienced family violence, the justice system should treat the views of victims of family violence with respect.

I commend the fact that those principles have been embraced by all parties as supporting what Ms Hartland has emphasised in her contribution, and that is that there is absolutely no excuse for violence in the home or in the family, however that is defined. There really is no excuse for violence in the streets or violence of any kind either, but there is absolutely none for it in the home. This government and all members of Parliament share that abhorrence of family violence.

I do not wish to step down from the bipartisan spirit, but there was some suggestion by Mr Pakula, and also by Ms Hennessy, the member for Altona in the other place, that the Attorney-General's attempt to claim credit, as they see it, for the 2008 act was a silly contribution. In these bipartisan situations there can be a desire for many people to claim credit for the contributions that bring bills before this place. I would humbly suggest that perhaps seeking to criticise the Attorney-General for seeking some ownership of that previous bill is itself a silly contribution and unnecessarily detracts from the bipartisan spirit of the debate. I do not want to say more about it, because my contribution may also then be regarded as silly from that time on. The important thing is that the former administration, the courts and the present government are doing whatever they can to enhance this regime.

The second criticism was that the Attorney-General thought it should have been implemented not as a trial but fully. It has been implemented as a trial, and that has been acceptable. When certain things are controversial they have to be tried as to how they will be implemented and their effect. My submission is one of support for the present Attorney-General's enthusiasm for this important bill rather than a criticism as to his approach.

The present bill has two purposes. The first is to amend the Family Violence Protection Act 2008 to continue the operation of family violence safety notices, to clarify the adjournment of family violence safety notices and to clarify the powers of the court in relation to applications for family violence intervention orders made by police. The second aspect of the bill is to amend the Personal Safety Intervention Orders Act 2010, which is a related piece of legislation relating to personal safety intervention, to clarify the powers of the court in a related manner pertaining to applications for personal safety intervention orders made by police.

I will give a brief background on the family violence safety notices regime. It was part of the amendments in the 2008 bill, which fundamentally dealt with the term 'family violence', which includes what used to be known as domestic violence but can also include intimate partner violence and gender-based violence. Importantly the term 'family violence' recognises the horrific impact violence has on families, including intergenerational families, however they are constituted, and children. It is not just domestic violence; it is more than that. It includes the impact on families.

In 2009–10 Victoria Police was called to over 35 000 reports of family violence. That figure alone is concerning. However, instances of family violence are almost universally acknowledged to be underreported. Globally one in three women will be victims of gender-based violence in their lifetime. That is from page 6 of the United Nations Development Fund for Women report of 2003 entitled *Not a Minute More — Ending Violence Against Women*.

Family violence has significant health impacts across the community. In 2004 VicHealth found that violence is the leading contributor to death, disability and illness in Victorian women aged 15 to 44. That is a significant statistic. It is an issue worldwide. I will not say that Victoria and Australia lead the way, because it is important that all jurisdictions do what they can to address this issue and deal with what Ms Hartland has identified — that is, the significant underreporting that exists. That has been a concern of VicHealth and many members of Parliament since the 2004 finding. Violence is also responsible for more of the disease burden than many well-known risk factors, including high blood pressure, smoking and obesity.

In 2008 the then Victorian government adopted a coalition policy to enact immediate protective measures to address instances of family violence, and the family safety notices set out in the 2008 act provide immediate protection for victims and their children. They include a condition to exclude a violent party from the home, and they act effectively as a short injunction on application to the Magistrates Court for a family violence intervention order. They then act as a summons to attend court. They must be returned to the court for review within 72 hours, and that is a critical provision. It is designed to deal with the situation quickly and to allow the court process to commence at an appropriate stage so that the more judicial processes of the court can be brought into play but also so that there is not an initial delay in the actual separation, or protection more importantly, of the people at risk.

During the trial an evaluation of the notices found that they have contributed to protecting victims of family violence. Importantly the family safety notices regime has provided police, who are often the first respondents, with an important tool to instantly address and de-escalate a potentially violent situation from continuing or getting worse. I take this opportunity to commend the police and other child protection workers who have to work with many difficult and disturbing situations that have a profound impact upon them through their working lives.

The role of Victoria Police is extremely important. Research has shown that women who are in abusive relationships face the greatest prospect of death or injury at the time of trying to leave or leaving an abusive partner. International studies have shown that the risk of violence increases when women seek freedom from abusive partners. Family violence safety notices are issued by police. They divert an abuser's attention from the victim. That is an important distinction at times of heightened tension and anxiety in an abusive relationship. The removal of an abusive partner from the situation immediately gives the victim safety from the abusive partner at the time of potentially the greatest risk to their safety. Likewise it gives the abuser an opportunity to calm down and not act in the heat of the moment in a way they will regret, sometimes for the rest of their lives.

I turn to the powers of the Magistrates Court. As well as continuing the family violence notices regime, the bill clarifies the powers of the Magistrates Court in relation to two provisions, one of which was referred to in Mr Pakula's contribution. It confirms the ability of the magistrate to adjourn hearings for intervention orders commenced by way of a family violence safety notice. This ensures that applications are not struck out without further consideration of the requirement for additional protection from a family notice for the affected family members.

To respond to Ms Hartland's concern that the introduction of that section would somehow allow people to miss out on the ability to have an interim order, it has precisely the opposite intention. There is a regime in division 2 of the interim orders that exist in the current legislation, and that regime allows the court to make an interim order. The family violence notices regime means that the parties must be brought to the court. At that point, if there is an adjournment for any reason once the court process has commenced, the court's powers allow it to make the order an interim order. I confirm that it is the government's intention that there be absolutely no loss of protection in that amendment. It is designed to provide additional protection.

The second aspect confirms that when police bring applications with or without the consent of the affected family member, if the family member does not consent to the court making the order, the court can still make a limited order that protects the affected family member but does not necessarily affect the living arrangements of the parties. This is the aspect that Mr Pakula and Ms Hennessy in the other place identified as potentially of concern, particularly in relation to a child. In the case of a police application for making or amending a single intervention order that protects an adult and child, the amendment confirms that the court can still make a limited order in circumstances where the adult does not consent to the making or amending of the order.

In this aspect of the bill, which as I understand it is the subject of debate by the opposition, the important thing is to remember that the courts that have provided advice are concerned that making orders against the consent of two adults who may wish to live together is fundamentally unworkable. Either the two adults who wish to live together — putting the issue of children aside for a moment in terms of the structure — will do so effectively in breach of the court order or, worse, in the first instance it may be a disincentive for a complaint to be made to police, because it may lead to its acquiring the reputation that once you start the process it can go on irrespective of consent.

That does not mean there are no protections within the wider child protection regime and the legislation for the situation that has been identified, albeit in limited cases, in relation to a child. I draw the attention of members to section 77 of the act, which allows for the court to make an order on its own initiative to protect a child. In relation to such protection by the court the question then arises as to whether the second affected person wishes to be subject to that order.

At that point, on the advice it had received, the government established two demonstration projects as I understand it in the city of Hume and the city of Greater Geelong. Advice to the government, provided through the department, was that at that point it was better for a multi-agency response, if necessary, to deal with either the domestic relationship between the two adults or, more importantly, any child protection arrangements for the children. I am sure that these discussions can be taken further if need be in the committee stage of the bill, if it goes that way.

I turn now to the proposed referral of the bill to the Standing Committee on Legal and Social Issues. The government believes the legislation is clear. I understand that in his contribution Mr Pakula raised the pre-election policy that has been cited in other instances. It will be the case that the government will continue to monitor, review and consider all aspects of this important area, including the point that has been identified as of potential concern. The government does not see that concern as a reason for delaying the passage of the bill or an aspect of the bill. In the government's view it is time critical, because the current trial needs to be confirmed by revoking the provision sunsetting the family violence safety notice regime.

In that respect we wish to bring the parties back to bipartisan support of the bill and give an assurance to the opposition and the Greens that notwithstanding that the bill will pass without being referred to the legal and social issues committee, the Attorney-General will keep his eye on this very important issue for the safety of all Victorian families.

**Ms DARVENIZA** (Northern Victoria) — I am pleased to rise to make a contribution to the debate on the Family Violence Protection Amendment (Safety Notices) Bill 2011. In doing so I say that the opposition is not opposing the bill and I am supporting the reference motion; we want to see the bill referred to the Standing Committee on Legal and Social Issues. The undertakings given by Mr O'Brien that the Attorney-General will keep an eye on the issues of particular concern to us, which are the changes that are being made by clause 6(3) and the consequential amendments made by clauses 7(2), 8(3) and 9(2), do not convince us. We believe we are running the risk of denying the courts the ability to fully protect children in a situation where the children's parents may be protected but the children may not be because of the current limitations that apply if the affected family member is a child.

Mr O'Brien says the Attorney-General is going to keep an eye on things and that we, as members of the opposition, should be satisfied with that. We are not satisfied with that. We think that aspect of the bill should be changed so that it is more convincing that children will be protected.

I am proud of the very strong stand on family violence that the previous Labor government took in doing all it could, both in terms of the legislation it introduced and the funding it provided, to ensure that family violence was curbed and became an issue that the community was aware of, and that it became an issue that was taken very seriously not only by the community but also by the police force and by the courts. It is a very serious issue. It is one of the most significant social issues that affect our community. Family violence has a profound, devastating and long-lasting effect, particularly on the women who are affected by it and are the victims of it and the children in whose homes this sort of violence occurs.

We know it affects not only individually those people who are in a family where family violence is perpetrated but also their families and the community as a whole. As Mr O'Brien pointed out in his contribution, it is a leading contributor to ill-health, disability and death in Victorian women under the age of 44. It is a very significant social issue. As I said, I was proud to be part of a government that took a strong stand to ensure that family violence was highlighted as a significant issue, that the devastating effects of family violence were known, that the funding and power were given to the appropriate authorities so that the message could get out to the community, families and victims, and that the appropriate power was given to our police force and our courts.

I believe the bill before us today validates the approach that was taken by the former Labor government, which introduced the Family Violence Protection Act 2008. I know many of us who were part of that Parliament spoke passionately in our contributions to the debate on the bill and were very pleased to see it pass. We were proud to be part of a government and a Parliament that oversaw the introduction of such an important piece of legislation.

It was groundbreaking; it provided a comprehensive definition of family violence, extended the definition of a family member, broadened the use of holding power provisions, introduced an enhanced system of family violence intervention orders, changed the way evidence was given in court, gave police greater search and seizure powers and strengthened the provisions for the protection of children. It also established a regime which provided protection outside of court hours. It created the family violence safety notice, which was issued by police, and gave the police force the tools to be able to provide immediate protection when responding to a call or an incident outside court hours.

When the family violence safety notice was introduced back in 2008 there new tools for our police force. It was appropriate at that time not only that there be a trial but also that it be independently evaluated to see whether it was in fact an appropriate and effective tool. Therefore a sunset provision was inserted in the bill which allowed the Parliament to decide whether it should continue. Some aspects of the bill are very solid, and the opposition has no concerns with them, but, along with Mr Pakula, we are less convinced by the changes I outlined. Therefore I am not opposing the bill, but I support the reference motion to the Legal and Social Issues Legislation Committee.

**Mrs COOTE** (Southern Metropolitan) — I have a great deal of pleasure, in some respects, in speaking about the Family Violence Protection Amendment (Safety Notices) Bill 2011 basically because it gives us, as a chamber and as legislators, a chance yet again to alert the community to this very vexed issue of family violence. It also gives me the opportunity to put on the record my praise for the minister for bringing the bill to this stage and identifying these various areas of concern.

The bill repeals the sunset provision for family violence safety notices (FVSNs). It also clarifies the power of the Magistrates Court in relation to the adjournment of intervention order applications brought by way of FVSNs and the power of the Magistrates Court to make intervention orders where the protected person does not consent to the making of the application by police and/or the order by the court.

As has been said by other speakers this afternoon, family violence safety notices were introduced in 2008 and they allow police to impose short-term protective conditions after hours for victims of family violence, pending further hearing by a court. These police-issued FVSNs have a maximum length of 72 hours and must be returned to a court within that time. The provisions were designed to sunset so that FVSNs could be trialled and evaluated.

In his contribution Mr David O'Brien gave a very detailed summary of the implications and ramifications of the bill and a detailed response about why the Baillieu government has brought this bill to the chamber. I commend him for an excellent report, and I encourage anybody who is interested in this area to read

his contribution because it will clarify a number of issues for the reader. It is a very comprehensive coverage of the issues.

I would like to talk about something in a slightly different way, and I acknowledge the contributions of Ms Darveniza, Ms Hartland, Mr Pakula and other speakers who have spoken about the unacceptable nature of violence anywhere but that of family violence in particular. As Ms Hartland said, violence inflicted on children is totally and utterly unacceptable. I am fortunate to be the parliamentary secretary to Mary Wooldridge, the Minister for Community Services, Minister for Mental Health and Minister for Women's Affairs. The Department of Human Services falls within those portfolio areas, and being the parliamentary secretary has given me a firsthand opportunity to examine a number of the very vexed issues involved with children who are exposed to family violence and also some of the outcomes of it.

The community at large hears about family violence and has an abhorrence of it, and when we read some of the finer details each and every one of us feels an enormous amount of compassion for those children and other people who are implicated in family violence. It is not just the people who have been abused who are affected; it has huge, long-term ramifications for the wider community as well. We see this manifest itself in so many different ways — in schooling, in mental health issues, in drug-related issues and indeed with the presentation to our hospital emergency departments of so many related injuries.

I remind the chamber and the Parliament as a whole that it was the Kennett Liberal government that brought in mandatory reporting of child abuse. It is important to remember that that has been very effective, particularly in relation to child abuse resulting from domestic violence. I commend all the professionals who have reported child abuse, whether it has been sexual or family violence, because it is a very difficult thing to do.

It is important to place some statistics on the record. VicHealth has done some excellent research into these areas and has demonstrated that for women aged between 15 and 44 intimate partner violence is responsible for more ill health and premature death than any other well-known factor, including obesity and smoking. That is a very salutary statistic. It is not something we would normally consider — we would think there would be other greater risk factors — but that has been proven in the research done by VicHealth.

In Australia a woman is killed almost every week by a current or previous intimate partner. In 2009–10 Victoria Police submitted 35 720 family violence reports, 77 per cent of which related to a female and 23 per cent of which related to a male. That last statistic is an important one: there has been a huge increase in the number of violent acts being perpetrated by women. It is starting to be a trend, and we need to be more cognisant of these emerging statistics in the domestic violence area.

In 2009–10 women and children comprised 96 per cent of all the victims sexual offences reported to Victoria Police, and women were at least three times more likely to be the victim of intimate partner violence than men. It is estimated that the cost of violence against women and their children across the Victorian economy was $3.4 billion in 2009, and without any further action this sum will increase to $3.9 billion per annum by 2021. Clearly, therefore, anything we can do as legislators to reverse this trend is important — hence the importance of this bill here today.

This year was the 100th anniversary of International Women's Day. Much has been said about that, but I, on behalf of Minister Wooldridge, had a very good opportunity to address two particular groups. One of them was the Australia India Society of Victoria. It put on an International Women's Day event, and at that event it decided that marching in the street or banners or publicity in newspapers did not go far enough. Therefore as a group the society took on the responsibility of looking at domestic violence in the Indian community to see what could be done to enhance recognition, prevention and a whole range of other things. I commend the extraordinary work that group has been doing in this area.

Particular praise must go to Dr Gurdip Aurora and to Dr Manjula O'Connor, vice-president of the Australia India Society of Victoria, for recognising this as a very real issue and doing something about it. They are to be highly commended, and a number of other communities could take some notice of this as well. I know they have been working very cooperatively with the Jewish community, and that is an important step forward as well. Domestic violence is not just related to the broader community; cultural issues are also a major problem.

I might add the Australia India Society of Victoria under the direction of Dr Manjula O'Connor, who is the project coordinator, has a theatre performance on domestic violence. It is a project in the Melbourne Indian community. There were three focus groups involving Indian women from Sunshine,

Dandenong-Glen Waverley and Balwyn. They turned the discussions into a modified forum theatre that they called applied theatre, and they have performed the theatre piece twice in the Indian community and once in the Wyndham City Council area. The group's next performance is going to be on 27 May — members will have to be quick to get to it — at 3.30 p.m. in room 515 at the University of Melbourne. I said that just in case any member wanted to go.

The other group within our community that is doing something very productive against violence, and domestic violence in particular, is our indigenous community. The indigenous community has embraced an approach to family violence that acknowledges it is a big and real issue in their community. There are certain cultural issues that are absolutely relevant only to indigenous culture. They are about the way in which men are perceived within their culture. There is a whole range of sensitivities about how men approach violence and how their rapport within their families is viewed. It is quite an interesting and in-depth cultural attitude and approach which is slightly different to that found in the wider community. Nevertheless they are addressing this as a very real issue.

I commend the Indigenous Family Violence strategy, which is a partnership strategy, the forum organisers and the work they have been doing. They have worked with the Department of Human Services in a number of areas. They are linking with the family violence coordination reform unit located in the Office of Women's Policy. The unit has provided an overall coordination and lead on the family violence reform program. There is also the family violence and sexual assault unit in the children, youth and families division, which coordinates the operational aspects of the Indigenous Family Violence strategy through a statewide network of indigenous family violence regional coordinators. The unit has also been dealing with homelessness and family violence support in the Office of Housing, which coordinates emergency accommodation and services, including managing the national partnership agreement on homelessness, which provides an additional two indigenous women's emergency accommodation facilities in Mildura and Morwell.

The work being done is extremely good. It is something that should be acknowledged, because it is looking at the sensitivities of family violence and the indigenous community. The bill we are dealing with today enhances that opportunity and ensures that there is another level of certainty in regard to this aspect.

In the short time I have left I remind members of the chamber of the complexities that relate to indigenous family violence. It is quite different, and it is important that we are cognisant of and understand this. Just as there are certain technicalities within the Indian and Jewish communities, there are certain technicalities in the indigenous community. I think it is important for us to understand what some of these technicalities are.

The development and implementation of the Victorian Indigenous Family Violence strategy involved a three-stage approach. A task force was established to provide the government with advice about how to effectively address family violence within indigenous communities. The second stage was the government response to the recommendations of this task force. The previous government's response was to commit to establishing an Indigenous Family Violence Partnership Forum. It is our intention, and the intention of the Minister for Local Government, Jeanette Powell, to support this project in an ongoing way. The minister recognises how important this work is for the future. The third stage involved the development and implementation of the plan titled *Strong Culture, Strong Peoples, Strong Families — Towards a Safer Future for Indigenous Families and Communities*, which was designed to specifically address family violence in indigenous communities. Once again, Minister Powell is supportive of that.

To conclude, the indigenous community has a good men's shed type of approach which is culturally sensitive and looks into a number of the issues. There is a case worker at the centre of this approach who is able to redirect people to specific areas that are going to impact on and influence their lives. It may be homelessness services, the police, courts, other families or drug and alcohol services that are involved, but it is a two-way street. The person in the middle of all of this is like a gatekeeper who can redirect people to where that specific information is needed. It is a model that I think could be rolled out in other communities. I commend all those groups I have spoken about this afternoon.

In summary, I support this excellent bill. I think is a great step forward. Hopefully as this Parliament progresses there will be more legislation that helps us all to address the unacceptable issue of family violence.

**Mr ELASMAR** (Northern Metropolitan) — I rise to support the Family Violence Protection Amendment (Safety Notices) Bill 2011 because a society that cannot protect the defenceless in their own community has to be seen as intolerable, and because family violence is totally unacceptable in a civilised society. At the same time, I support the referral proposal of my colleague

Mr Pakula. The proposal is not intended to delay the bill. Mr Pakula has some concerns about kids, and that is why he is proposing to refer the bill to the committee.

It is a sad fact of life that reported instances of family violence are on the increase. There were 35 000 reported cases of family violence during 2009–10. It is hard to believe, but the facts speak for themselves. The former Labor government took action to enable the protection of defenceless women and children who suffer the trauma and effects of so-called domestic violence. The Family Violence Protection Act 2008 was enacted by a Labor government.

In all likelihood most mothers stay in abusive relationships for security. Mainly they stay for the sake of their children. Some women stay because they have nowhere else to go nor a family member or friend to tell because of their pride. This is a problem. Usually it is the neighbours who call the police. Then when the police arrive, often they are confronted with a battered woman who is too afraid to press charges or apply for an intervention order.

I support the referral proposed by Mr Pakula. I am not opposed to this bill.

**Ms CROZIER** (Southern Metropolitan) — I rise also to speak in support of the Family Violence Protection Amendment (Safety Notices) Bill 2011. I am pleased that this government is taking further action to protect victims of family violence. Disturbingly, reports of family violence in our community continue to rise.

Ms Hartland spoke earlier today on another bill, and in her contribution on that bill she also raised the very important issue of family violence. She mentioned that not only can family violence be physical but it can also be intimidatory, psychological and emotional, with long-lasting effects. I agree with Ms Hartland that continued controlling behaviour is detrimental to any victim who suffers such abuse. It sometimes goes unnoticed, and this also causes the victims not to report these cases. The ongoing effects to the victim and the immediate family can be extremely destructive.

Sadly, contrary to Ms Darveniza's contribution in which she said that incidents of family violence had been curbed, reports of incidents continue to rise. Despite men not being totally excluded from those statistics — and it should be acknowledged that domestic violence also occurs in same-sex couples and that it is also on the increase — the statistics that we generally refer to in relation to domestic violence really relate to women and children, because they suffer the most from the effects of domestic violence and destructive relationships. During 2009–10 police responded to in the vicinity of 35 000 incidents of family violence, and that was a 5.4 per cent increase on the previous year.

Women are three times more likely to be victims of family violence than men, and one in four children have witnessed family violence of some sort. Too often children are the innocent victims of family violence. I am reminded of this by a haunting picture on a bus shelter advertisement that I see as I drive to my electorate office each day. It is a picture of a young toddler aged around 12 to 18 months with two black eyes. It is an advertisement for the Save the Children organisation, and it is a haunting and sad reminder — and a heartbreaking sight — that child abuse is often the result of family violence. Children sadly also witness the destructive behaviours of either physical or verbal abuse following or during a marriage or relationship break-up.

Relationship break-ups are distressful at any time. However, the long-lasting and psychological effects on those children who witness such behaviours and violence can contribute to many behavioural problems which may last for many years, and yet they are just the innocent bystanders. It is far from acceptable, and those victims seeking support from family violence situations should be protected. Providing family violence safety notices is one way to do that. This bill will ensure that family violence safety notices will be one of the options available to police when responding to incidents of family violence, with the purpose of protecting the most vulnerable. In most situations it is women and children who are most vulnerable, and this will give them a greater level of protection from family violence than they have had before. This government aims to get on with protecting those most vulnerable.

The Family Violence Protection Act 2008 introduced on a trial basis a provision for what are called family violence safety notices, which would do the following: provide immediate safety for victims and their children; include a condition to exclude a violent party from the home; act as an application to the Magistrates Court of Victoria for a family violence intervention order; and act as a summons to attend court. The act also provided that they must be returned to court for review within 72 hours. This was undertaken on a trial basis, as mentioned, with an evaluation to be undertaken at the conclusion of the trial.

The evaluation of family violence safety notices has showed clearly that there has been improved after-hours response to incidents of family violence. They have led

to an increase in civil actions taken against perpetrators of family violence. They have improved victim safety by moving the burden of decision making from the affected family member to the police, and they have increased perpetrator accountability by providing a clear and immediate message that family violence is completely unacceptable. That is why this bill is important for victims of family violence, and that is why I urge the house to support the bill.

**Mr SOMYUREK** (South Eastern Metropolitan) — In the interests of time I will be very brief. As a father of two I think it is very important that I speak on this bill. Opposition members see this bill as a validation of the approach we took in government when we introduced the Family Violence Protection Act 2008. Family violence safety notices have been an important tool to allow police to protect family members and kids outside court hours. We are pleased to see that those notices are being made permanent. I am also supportive of the motion referring the bill to the Legal and Social Issues Legislation Committee for further consideration.

**Mrs PETROVICH** (Northern Victoria) — I rise to speak today in support of the Family Violence Protection Amendment (Safety Notices) Bill 2011. We need to get on with this bill. The statistics around family violence are quite devastating and shocking. The statistics show that one in three women has experienced physical violence since the age of 15, nearly one in five women has experienced sexual violence since the age of 15 and 16 per cent of women have experienced violence at the hands of their current or previous partner since the age of 15. Indigenous women are significantly more likely to be the victims of violence.

We need to acknowledge that this is a family violence bill. Alarmingly, women and children are predominantly the big statistics in family violence, but unfortunately family violence affects all genders. It should be understood that all members of our community can experience family violence. Family violence can affect men, women and children.

This bill is most worthwhile. We know from VicHealth research and from a number of contributions to this debate that intimate partner violence is the leading contributor to the deaths of women aged from 22 to 44 years. Victims of family violence and police tell me they find it frustrating that when legislation is finally put in place one of the big issues around family violence is the lack of resources and support for those who are working in this field. For many years the police have been in the front line, and they were underresourced by the previous government. I know there is some sense of relief in that sector that finally there will be some more resources. Already we have seen some changes to liquor laws and we have also put some additional funding into mental health, which should ease some of the issues around family violence.

In the Macedon Ranges, where I live, many reports come to me from police and other people who work in the sector that Saturday and Sunday nights are the peak time. Most of the incidents are alcohol induced, and they take up an enormous amount of police time. One of the big issues is the lack of available emergency housing. For instance, Macedon Ranges shire has one emergency accommodation dwelling, and it is never available at short notice. I know from people who work in this field that many hours are spent trying to find suitable accommodation.

In the Macedon Ranges shire only $15 000, which is a very small amount, is provided each year for family violence counselling for women and children. No funding was provided prior to 2007 for family violence counselling in the shire. Despite amendments to the Family Violence Protection Act 2008, there has been no new funding except for consumer price index increases. This is one of the big complaints: that it is all very well to implement legislation but unless you put the resources into it and act expediently, it still leaves people high and dry. A lot of anger has been expressed to me about the way the previous government dealt with this. It made changes to that legislation in 2008, but in fact it was a toothless tiger. The police were not assisted adequately. This is where the whole system of the previous government failed, including in the family violence area.

In the Macedon Ranges shire, as in other local government areas, there has been sufficient funding for only 10 family violence incidents per year. Unfortunately in 2008–09, 56 intervention orders were applied for and police attended 191 incidents of family violence. The provision for 10 family violence incidents has not been acceptable to victims, the community and the workers trying to help. They have been left high and dry. Obviously lacking for those exceeding the quota of 10 was the crisis housing, which I spoke about earlier — for example, some victims living in the town of Gisborne had to travel to Bendigo for crisis housing when their children had to go to school in the Gisborne area.

For victims of family violence the previous legislative changes were largely a betrayal. That situation has been recited to me on numerous occasions. Abused women heard that police had wider powers and they naively thought that they would be able to get assistance when

in fact they could not because of inadequate support services.

Ms Hennessy, the member for Altona in the other place, has said that the evaluation of family violence safety notices, which was completed in October last year, showed that the system had led to an improved after-hours response to family violence by police and to an increase in the safety of victims. However, that relates to only the short-term response. The victims are the ones who could tell you how safe they felt once they were referred on by the police to the underfunded support services. The police know what they are doing. They are in the front line, as I said, and I commend them for their work. Another statistic that is terrifying from an economic point of view is that violence against women and their children costs the Victorian economy about $3.4 billion.

Family members deserve to feel safe and I hope that this legislation will have a speedy passage today. A key amendment made by the bill is that the sunset provision in the Family Violence Protection Act 2008 concerning the operation of family violence safety notices is repealed. These notices are commenced by police-issued family violence intervention orders. We acknowledge that they are very important. Again, alcohol abuse is a continuing problem for our community and we need to look at a whole range of solutions to family violence, but support for our community is needed as a matter of urgency.

**Motion agreed to.**

**Read second time.**

*Referral to committee*

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

> That the Family Violence Protection Amendment (Safety Notices) Bill 2011 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by no later than 28 June 2011.

In speaking to this motion — I understand I have 1 hour but it would not be my intention to take the full hour — I will repeat a couple of the comments I made in the second-reading debate. There have now been a number of such motions moved in the chamber, many by Ms Pennicuik. They have all been opposed by the government and defeated. They have been opposed by the government for a range of reasons, but primarily either because the bill has been subject to extensive debate in the pre-election period or because the government has not accepted that there were any provisions of sufficient gravity or concern to warrant the bill being presented to the committee for review.

If this motion is not supported, I struggle to appreciate which motion of this nature will be supported by the government. Clearly the bill is somewhat complex in the provisions that both Ms Hartland and I have identified in our second-reading contributions. So there is complexity. It is not a bill that was the subject of pre-election debate. It is not an urgent bill. Despite what Mr O'Brien said in the second-reading debate, the fact is that the bill provides a default commencement date of 1 November. My motion proposes a report date of no later than 28 June.

This motion is motivated solely by the desire of the opposition and I think the Greens to be absolutely satisfied that there is nothing in this bill which weakens protections for children in particular but family members more generally. We just want to be absolutely certain of that. It would be a travesty and a tragedy if the government opposed this motion and then some defect in this bill became the cause of a family member suffering harm or violence that could have been avoided if we had just taken a little bit of time to examine the bill and made sure we had it right.

There is no danger to the bill as a consequence of this motion being agreed to. All parties in the Parliament have indicated their support for the bill. All parties in the Parliament want to see the safety notices made permanent. We all want to see the sunset provision removed. All we want is to be certain that none of the other provisions of the bill in any way weaken protection for children in particular and family members generally.

I can say that the opposition would be happy to entertain an amendment to its motion which made the reporting date even earlier. If the government believed this matter could be referred to the relevant upper house committee but that it ought report back by the sitting week in the middle of June rather than the sitting week at the end of June, the opposition would be happy to entertain an amendment of that nature. We do not see why the government would oppose this motion. It is an important motion to make sure we have this bill right. If this is not an example of the type of bill that could benefit from being examined by the relevant upper house standing committee, then I do not know what would be such a bill. I commend the motion to the house.

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — I just want to lay on the table our position, and that is that we will not

be supporting the motion moved by Mr Pakula. Those in the chamber who have been listening to the contributions to the debate will know that Mr O'Brien laid out all our reasons in detail, and I do not think we need to explore them any further. That is the position we take.

**Ms HARTLAND** (Western Metropolitan) — The Greens will be supporting this motion, and we are extremely disappointed that the government will not. This bill goes to the very heart of issues around safety for women and children. We are concerned about one clause in the bill; we want to make sure that clause is absolutely right. We want to make sure there is absolute protection for women and children in this legislation, and we are disappointed that the government will not even bother to make sure of that. If this legislation fails, as we suspect it may, and there are consequences for the first woman and children who are not protected, it will be on the government's head for not taking a small amount of time to make sure it is right. It is appalling.

**House divided on motion.**

*Ayes, 18*

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

*Noes, 20*

| | |
|---|---|
| Atkinson, Mr | Hall, Mr |
| Coote, Mrs | Koch, Mr |
| 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*) |
| Guy, Mr | Rich-Phillips, Mr |

*Pair*

| | |
|---|---|
| Viney, Mr | Kronberg, Mrs |

**Motion negatived.**

**Committed.**

*Committee*

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — I seek permission from the committee for Mr O'Brien to join me at the table.

**Leave granted.**

**Clauses 1 to 5 agreed to.**

**Clause 6**

**Hon. M. P. PAKULA** (Western Metropolitan) — I have been to the detail extensively in the second-reading debate, so I do not think I need to repeat it. I think the minister is aware of my concerns, as I expressed them in the second-reading debate. My concerns relate to clause 6(3) and consequentially to clauses 7 to 8(3) and clause 9(2). I will deal with them all as part of clause 6.

As I indicated in the second-reading debate, my concern is that where you have a circumstance where an order is applied for and where in most circumstances there is no consent given by the wife or partner and a child is involved, it is my understanding that the consequence of these provisions is that if there is a single application that includes an adult and a child and the adult does not consent, then the court will be limited in terms of the kinds of orders it can make and the court will not be able to make an order separating the intended subject of the application from the abusive or violent partner. In a circumstance where a parent does not consent and a consequence of that lack of consent is that a child might be put in danger, will it be open to the court, either under this bill or through some other mechanism, to remove the child from that potentially dangerous situation?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — The advice I have is that where there are circumstances as described by Mr Pakula, the court would apply, in the case of the Family Violence Protection Act 2008, section 77 of the principal act, which is about the protection of a child, on a court's own initiative. My understanding is that, in the circumstance outlined by Mr Pakula, if matters relating to this are not before the court, it would then be an issue for the child protection system to take its course. The same would apply in the case of the Personal Safety Intervention Orders Act 2010, but I will get clarity on that.

I stand corrected. In terms of the personal safety, there is no own initiative for the court, so the issue that Mr Pakula asked about would relate to the Family Violence Protection Act 2008.

**Hon. M. P. PAKULA** (Western Metropolitan) — Which clause did the minister refer to?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — It is section 77, 'Protection of children on court's own initiative'. At subsection (2) it talks about:

> If the court is satisfied, on the balance of probabilities, that a child who is a family member of the affected family member or the respondent has been subjected to family violence committed by the respondent and is likely again to be subjected to family violence committed by the respondent, the court may, on its own initiative —
>
> (a) if the child's need for protection is substantially the same as that of the affected family member — include the child as a protected person in making the order under section 74 or 76; or
>
> (b) otherwise — make a separate final order under section 74 or 76 for the child as a protected person.

In relation to the other one, if it is not before the court then my understanding is that child protection will be instigated to provide the necessary protection for the child in those circumstances.

**Hon. M. P. PAKULA** (Western Metropolitan) — I seek clarification because I want to be clear on this. Is the minister saying that, despite the provisions in this bill in clause 6(3), what could occur is this: an order could be sought for an adult and a child and the adult might not consent, which would prima facie limit the court in what the court can order, but the court could effectively ignore that and instead apply section 77 and remove the child from that situation?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — My understanding of the advice is that it would be in the unlikely event that it would go to the court, as per what I have outlined in section 77, although the most likely case would be an earlier intervention through the child protection system in terms of protecting the child in those circumstances.

**Ms HARTLAND** (Western Metropolitan) — I wish to follow on from that answer, Minister. In terms of child protection we are aware that children often do fall through those gaps. What guarantees do we have that this will make sure that the child gets the required protection?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — The understanding is that there is what they call a multi-agency approach to ensure that there is a relationship between child protection, the police, the courts, social workers and a whole range of agencies that can deal with the needs of the child in those circumstances. My understanding is that there are currently two pilots in operation — one in the city of Hume and one in the city of Greater Dandenong under the strengthening risk management program — and those pilots seem to be working effectively in terms of identifying those various areas that Ms Hartland mentioned.

**Hon. M. P. PAKULA** (Western Metropolitan) — I will just go back to my previous point. I appreciate the minister's answers and the effort he is making to provide both myself and Ms Hartland with some satisfaction for our concerns, but I just want to be clear. If an application is made, to which section 75 of the Family Violence Protection Act 2008 applies, can the court use section 77 of that act to remove the child from a dangerous situation in the absence of consent from a parent?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — Yes. I am advised that if a child is at risk and the parents or guardians are not willing or able to act protectively, then the child protection regime should be invoked, not the intervention order regime. But as a last resort, if it ends up being that there is no consent given for the protection of the child, then the court, under that provision that I have outlined, would have the last resort and recourse to deal with that particular issue. My understanding and the advice I have been given is that it would be a rare occasion because the child protection system would be invoked well before you would actually get to the court system.

**Ms HARTLAND** (Western Metropolitan) — I have literally just got an email in regard to the Bsafe program, which I think is the program at Hume the minutes are referring to.

**The DEPUTY PRESIDENT** — Order! Does the minister wish to get clarity?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — Yes, I will. It is a very good question, because the Bsafe pilot program, on my understanding, is a federally funded program. It involves the beepers; if somebody is in need of protection, they press the beeper. It is different to the strengthening risk management program, which I understand is the other one, and it operates under a different model.

**The DEPUTY PRESIDENT** — Order! Does Ms Hartland want to pursue her point?

**Ms HARTLAND** (Western Metropolitan) — My difficulty with what is being conveyed is the fact that we all know that child protection has got major flaws. I would like information from the minister about the kinds of resources and funding that will be put into these programs to make sure that all children who are at risk of violence are actually going to be protected,

because it is quite clear that these programs have not worked in the past. I seek an assurance from the minister about exactly how much funding will occur and how many resources there will be.

**The DEPUTY PRESIDENT** — Order! Does the minister want to answer it?

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — I did listen to question time in the lower house and I did hear Minister Wooldridge outline some additional funds for the child protection system and a change in the modellings. I will get those details to members, I guess, by way of *Hansard*.

The second thing is that I understand Ms Hartland's deep concerns about this area, as my wife has also worked in this area. The opposition's proposed amendments would mean that the intervention order system as a civil protection regime could direct two adults not to live together or contact one another despite their express desire to do so. My advice is that there may be situations where a woman might be in fear and not consent to an intervention order for fear of retribution. However, one of the objectives of the act and of the family violence reforms in Victoria has been to build the understanding and accountability of the integrated system to respond to women and children at all levels of risk.

My further advice is that reform is continuing to ensure that the system will provide effective multi-agency responses to women and children in all circumstances, and strengthening family violence risk management across the service system has been a recent key focus. As I indicated, those two demonstration models have been funded in the city of Hume and the city of Greater Geelong to trial the integrated arrangements and ways of working collaboratively to ensure an integrated response to the needs and situations of women and children at higher risk. I think that is important.

Finally, if the courts can make orders forbidding adults from having contact with one another without the consent of affected adult family members, victims might be discouraged from reporting family violence to police for fear they will have no control over whether intervention orders are taken out. It may also increase breaches of the intervention order, as neither party would be motivated to abide by them. There is a countervailing consideration.

**Ms HARTLAND** (Western Metropolitan) — The only comment I would like to make, and I go back to this, is that even though this is quite a small bill and a very significant bill, it is actually difficult to drill down to what we feel is the major fault with it. I have had advice from a number of NGOs (non-government organisations) that are concerned about how this will completely protect victims. If we had been able to go to committee, I think we could have resolved that really easily. I think we are now voting on a good bill but one which may be fundamentally flawed, and we could be endangering women. However, now we have lost the opportunity to resolve this issue.

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — I thought Ms Hartland's question was important, because it is important that the NGOs are involved, and I just wanted to get some advice. With the models that are currently operating and with the change to the way they are trying to establish the integrated system, my understanding is that there is some inclusion of NGOs in that process. It may be that those NGOs are not yet part of where the process is moving to. Once we get this sorted out here my understanding is that the department will try to be a bit more collaborative in its workings with the NGOs. I take on notice what Ms Hartland is saying, but I want clarification that those models that are operating do have some engagement with the department. I think it is important for Ms Hartland to understand that.

**Ms HARTLAND** (Western Metropolitan) — I think the minister misunderstood the point I was making. Our advice from a number of NGOs is that the sector is somewhat split. A number of NGOs believe that there is not a problem with the bill, and a number believe that there is a fundamental problem with the bill. That is why, in this kind of committee process, it is difficult to resolve that split, because we would have wanted those people who have concerns with the bill to be able to present to a committee so that we could have resolved those concerns. I think there is bipartisan support on this, but we want to make sure it is absolutely right.

**Hon. M. P. PAKULA** (Western Metropolitan) — I just want to make one more comment, and I do not require a response from the minister. I actually think, quite frankly, that this process is a bit unfair to this minister. I am not trying to be condescending at all. The opposition and the Greens have proposed that this matter go to a relevant upper house committee, and the matters that we are discussing in committee now ought to be examined in a process where all of us would have had the opportunity to question the relevant departmental officials, and perhaps the Attorney-General, about these matters, thereby getting to the bottom of them. Instead we have a situation where, at the end of this process, the opposition and the

Greens will vote to support this bill on the basis of the undertakings that we have received from this minister. He has been able to give us these based on the advice he has received in these hearings.

If any of that advice turns out to be less than 100 per cent accurate, and a woman or child ends up being injured or worse as a consequence of this bill, this minister is going to have to answer for that. It is exactly that kind of situation that the upper house legislation committees were designed to prevent. Detailed scrutiny, which ought to be applied to the relevant departmental officials who are able to give the Parliament the answers it needs in order to make an informed decision on these bills, could have been provided. If this bill is not the type of bill that warrants consideration by the relevant legislation committee, I do not know what bill would be.

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — Nobody would take away from the difficulty of what the community workers, police and others have to be engaged in. Owing to my former career, I more than most understand the impact of family violence. Dealing with it is an ongoing process, and I have outlined that there are protections in place in the principal act and there are enforcement provisions made available through the police and the child protection system. In addition to that there are models in operation at the moment that are looking towards trying to take a more holistic and collaborative approach with law enforcement and child protection agencies and with the courts. I think we have to give it a fair go and see how it pans out. Compared to the system that I worked under many years ago, this system is certainly a lot better — a hell of a lot better.

**Clause agreed to; clauses 7 to 10 agreed to.**

**Reported to house without amendment.**

**Report adopted.**

*Third reading*

**Motion agreed to.**

**Read third time.**

**The PRESIDENT** — Order! I make a brief comment. The Deputy President has advised me that twice today he has observed members talking to people in the public gallery from the floor of the chamber. That is not allowable. It is frankly not allowable because, apart from anything else, it is not in the interests of the members themselves to engage with people in the public gallery. On some occasions it might seem to be a wonderful thing to do, but at other times it might well be to the detriment of members. It certainly constitutes a potential interruption to the order of business. Members are advised not to talk from the floor of the chamber with people in the gallery. If they need to engage with those people, they should make arrangements to leave the chamber and meet them outside.

## FISHERIES AMENDMENT 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.**

*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, I make this statement of compatibility with respect to the Fisheries Amendment Bill 2011.

In my opinion, the Fisheries Amendment Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

**Overview of bill**

The bill makes several amendments to the Fisheries Act 1995 (the act). The bill:

provides that fish and other biological material taken or possessed in contravention of the act are forfeited to the Crown;

provides that if an owner of a thing seized under the act fails to apply for its return after receiving a disposal notice, that thing is condemned as forfeited to the Crown;

establishes a process for authorised officers to apply to a court for a condemnation order in regard to things seized under the act;

gives the courts additional penalty options for persons who offend under the act (including environmental work and being prohibited from recreational fishing);

increases the penalty for interfering with authorised officers;

prohibits the furnishing of misleading documents; and

makes other miscellaneous amendments to the act.

**Human rights issues**

*Right to property*

Section 20 of the charter provides that a person must not be deprived of his or her property other than in accordance with law. This means that any deprivation of property must be not only authorised by law (either statute or common law), but must also be in accordance with the general principle of the rule of law.

I note that pursuant to section 10 of the act, fish and other fauna and flora found in Victorian waters that are taken unlawfully do not become the property of the person who takes such items. Consequently, the provisions of the bill which enable forfeiture or condemnation of such property (see clauses 5(2) and clause 6) do not engage the right to property, as no deprivation of property occurs.

The right to property is engaged, however, in relation to other property that is subject to forfeiture under the bill. This includes illegal fishing equipment, which may be subject to a condemnation order under clause 6, and property in respect of which an offence has been committed under the act, which may be forfeited pursuant to clause 5(3).

Although these provisions do involve a deprivation of property, I do not consider that the right to property is limited. This is because the circumstances in which property may be forfeited or disposed of are clearly defined in the bill, and will occur in accordance with the rule of law. Therefore, any deprivation of property that occurs will be in accordance with the law, and so the right to property is not limited.

*Right to be presumed innocent*

Section 25 of the charter provides that persons charged with a criminal offence have certain rights, including the right to be presumed innocent until proved guilty according to law (section 25(1)).

While the presumption of innocence principally operates within the criminal proceedings in which the charge is determined, the right requires respect for the presumption of innocence more generally. In particular, it requires that public bodies, particularly prosecution authorities, refrain from publicly declaring a person's guilt before it has been determined by a court. This is especially the case where such a declaration could impact upon the fairness of the criminal trial.

These issues may be engaged by clause 6 of the bill, which provides for a process for disposal and condemnation of items seized under the act and subject to automatic forfeiture under section 106(1) or (1A). Where a person disputes the automatic condemnation of the items, condemnation can only occur by order of a court. The court must be satisfied that the thing to be condemned seized was properly forfeited to the Crown — that is, that it is illegal fishing equipment, or fish, protected aquatic biota or noxious aquatic species that has been taken or is possessed in contravention of the act, the regulations or a fisheries notice. This may therefore require a finding that there has been some contravention of the law, and so the presumption of innocence may be engaged.

In my view, however, the right is not limited. The condemnation procedure is 'in rem', and so is directed at the property seized, rather than at the person previously in possession of it. While property may be condemned on the basis that it has been taken or possessed in contravention of the act, regulations, or a fisheries notice, the proceedings are not aimed at establishing the guilt of any individual. A condemnation order can be obtained in the absence of a finding that any particular person is guilty of an offence under the act. Further, the property may be condemned by reason of a civil contravention — the bill does not require any finding that a criminal offence has been committed.

I therefore consider that the right to be presumed innocent is not limited.

*Right against double jeopardy*

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

It is possible that this right could be engaged by clauses 5(3) and 6 of the bill, which provide for the forfeiture or condemnation of certain items in respect of which a person may have been subject to penalties in other proceedings.

Clause 5(3) amends section 106(5) of the act, which currently provides that if a person is found guilty of an offence under the act in respect of a thing seized and subject to a retention notice, the court may order that the thing be forfeited to the Crown. The effect of the amendment is to clarify that this power extends to items subject to a retention notice, but that have not been seized.

To the extent, if any, that a forfeiture order made under this provision is punitive in nature, in my view the forfeiture is properly regarded as part of the final punishment directly related to the offence, rather than a separate penalty. The order is made by the court that found the offender guilty of the offence, and the seizure or retention of the thing must be related to the offence. I therefore consider that clause 5(3) is compatible with section 26.

Clause 6, discussed above, enables the condemnation of certain items in relation to which there may have been a contravention of the act, regulations or a fisheries licence. In my view, however, the proposed disposal regime provided under clause 6 does not engage section 26, as it is of a civil, rather than criminal, nature. There are no sanctions other than the previous possessor being deprived of the thing seized, and the process is preventative and remedial, rather than punitive. Its purpose is to remove from circulation illegal fishing equipment and noxious aquatic species, and to disgorge any ill-gotten gains in the form of fish or protected aquatic biota that have been unlawfully taken or possessed. The condemnation of these items does not amount to a punishment, and so section 26 is not engaged.

**Conclusion**

For the reasons given above I conclude that the bill is compatible with human rights in the charter.

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 Fisheries Amendment Bill 2011 makes a number of changes to the Fisheries Act 1995 that will strengthen and align penalties for breaches of the act.

The amendments to the penalty provisions demonstrate a commitment to apply a firm approach in addressing fisheries crime. The amendments will provide a more robust set of penalties within the overall compliance framework for the sustainable use and conservation of the state's fisheries resources.

Following the introduction of indictable offences for fish trafficking coupled with significant penalties imposed by the courts for serious fisheries offences has resulted in offenders appearing to be more willing to obstruct or assault fisheries officers to avoid apprehension. As fisheries offences can occur at sea or in other remote areas, offenders are able to more easily destroy evidence, such as fish and equipment, to avoid prosecution.

There is concern that the relatively low penalties for obstructing or assaulting officers, when compared with the penalties for fishing offences, create an incentive to destroy evidence and resist seizure or apprehension. As an example, the current penalty for obstructing or assaulting an authorised officer under the act is 50 penalty units or three months imprisonment. The bill will provide that the new maximum penalty will be 120 penalty units and/or 12 months imprisonment. This will provide a greater disincentive as well as better reflect the seriousness of the offence.

The bill will make it an offence for a person to produce, to fisheries officers and others exercising or performing a power, function or duty under the act, a document that the person knows to be false or misleading. Currently it is an offence to knowingly make a false statement in relation to the making, keeping or furnishing of records under the act. There are limitations to the use of this offence in relation to the furnishing of false or forged documents — namely, the person furnishing a document is often not the person who falsified it, or else the prosecution is unable to prove who falsified the document. The bill will overcome these limitations.

The act currently provides for the automatic forfeiture of prohibited fishing equipment. The act is being amended so that it also provides for the automatic forfeiture of fish, protected aquatic biota and noxious aquatic species. The current forfeiture provision relies on the seized 'things' being prohibited before they are forfeited. Unless there is court action, forfeiture remains contestable through civil proceedings. This results in uncertainty over disposal of the seized things.

To overcome this uncertainty, the bill now provides for a procedure to confirm forfeiture by allowing the owner or person in possession of the 'thing' before seizure to make a claim for the return of it. If a claim is not made, then the thing will be automatically confirmed as forfeited. The bill will also enable an authorised officer to make an application to a court for condemnation of the goods as forfeited to the Crown. This will provide more certainty as to whether or not a thing seized falls within the automatic forfeiture provision.

Under the act a court can make an order to prohibit a person from carrying out fishing activities or fishing. These provisions are primarily preventative in nature. However, it must first be established that the offence is of a serious nature and that the person is likely to commit further offences against the act if such an order is not made. This is often difficult to establish for repeat recreational fishing offenders.

To overcome this, the bill will create a new penalty provision that allows the court to issue an order to revoke recreational fishing privileges for up to 12 months. Whether the court makes such an order will be at the discretion of the court, depending on the circumstances of the offence or the prior history of the offender. This will provide a better deterrent to offenders.

The bill will also create a penalty provision for a court in appropriate circumstances to order a person to carry out restorative or enhancement activity as penalty or part penalty (in line with provisions in the Environment Protection Act 1970).

The bill also makes a minor technical amendment to ensure that section 67(1) of the act is correctly interpreted.

The bill is in line with the government's position that a viable fishing sector in Victoria is vital to protect export revenue and local supply.

I commend the bill to the house.

**Debate adjourned on motion of Mr LENDERS (Southern Metropolitan).**

**Debate adjourned until Thursday, 2 June.**

## PUBLIC HOLIDAYS AMENDMENT BILL 2011

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations).**

*Statement of compatibility*

**Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) 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, I make this statement of compatibility with respect to the Public Holidays Amendment Bill 2011.

In my opinion, the Public Holidays Amendment Bill 2011, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

**Overview of bill**

The Public Holidays Amendment Bill 2011 seeks to allow municipalities in country Victoria to request one whole day or two half-day public holidays, in lieu of Melbourne Cup Day, across the whole or part of a municipality.

The Public Holidays Amendment Bill 2011 amends the Public Holidays Act 1993 (the Public Holidays Act) by inserting a new section 8A. The new section 8A provides that:

> Non-metropolitan councils may request one whole day or two half-day public holidays in lieu of Melbourne Cup Day; and
>
> Non-metropolitan councils may request that a full-day, or two half-day substitute public holidays, taken in lieu of Melbourne Cup Day, apply to part of a municipality.

Where a substitute public holiday or two substitute half-day holidays have been declared and gazetted in reference to part of a municipal district, the two substitute half-day holidays, or the whole day public holiday, will only apply in that part of the district or municipality. All Victorians will continue to be entitled to the same number of public holidays.

**Choice of two half-day public holidays or one whole day public holiday in lieu of Melbourne Cup Day**

Currently, subsection 8(3) of the Public Holidays Act provides that non-metropolitan councils may request in writing that the relevant minister make a declaration appointing a substitute public holiday in lieu of Melbourne Cup Day. However, subsection 8(5)(a) of the Public Holidays Act does not allow non-metropolitan councils to request two half-day substitute holidays. Many regional shows and Cup Day events are half-day events.

The new section 8A will repeal subsection 8(5)(a) and provide that non-metropolitan councils may request two half-day public holidays as a substitute for Melbourne Cup Day. Non-metropolitan councils must request either one whole day, or two half-days, to ensure that regional Victorians receive the equivalent of one whole public holiday in lieu of Melbourne Cup Day.

**Part-shire arrangements**

Currently, subsection 8(4)(b) of the Public Holidays Act does not allow substitute public holiday arrangements to apply to different parts of the municipality. Instead, non-metropolitan councils are required to observe the substitute public holiday across the whole of a municipal district.

The new section 8A will repeal subsection 8(4)(b) and provide that non-metropolitan councils can request that either the two half-day holidays, or the full-day public holiday, taken in lieu of Melbourne Cup Day, may apply to part of the municipality. The amendments will stimulate local regional communities by allowing them to celebrate their own particular shows and events in their particular part of the shire.

**Human rights issues**

The amendments do not engage the charter, because all Victorians will continue to receive the same net number of public holidays, although they may be across different days. People living in regional and metropolitan areas will receive the same number of public holidays per annum.

**Conclusion**

I consider that the bill is compatible with the charter because it does not raise any human rights issues.

The Hon. Richard Dalla-Riva, MLC
Minister for Employment and Industrial Relations
Minister for Manufacturing, Exports and Trade

*Second reading*

## Ordered that second-reading speech be incorporated into *Hansard* on motion of Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations).

**Hon. R. A. DALLA-RIVA** (Minister for Employment and Industrial Relations) — I move:

That the bill be now read a second time.

## Incorporated speech as follows:

The Public Holidays Amendment Bill 2011 provides for non-metropolitan councils to request either one whole day or two half-day public holidays as a substitute for Melbourne Cup Day. The bill also provides that non-metropolitan councils may request that substitute Melbourne Cup Day holiday arrangements apply to either the whole or different parts of their municipalities.

The bill amends the Public Holidays Act 1993 by repealing the unnecessarily restrictive and inflexible provisions enacted by the former government in 2008.

In recent years non-metropolitan councils have not had the flexibility to request two half-day public holidays or part-shire arrangements, because of those amendments made by the former government. However, many regional shows and cup day events are in fact half-day events, and many might be relevant to only one part of a shire, such as the Speed Field Day in Buloke shire, or the Rupanyup Agricultural and Pastoral Show Day in Yarriambiack shire.

The restrictive requirement for whole day and whole shire public holidays in lieu of Melbourne Cup Day ignores the fact that some country municipalities have two or more communities within their municipality and that their communities have different local show day and cup day arrangements. This has had negative consequences for agricultural shows and events held in regional Victoria. Many local race days and shows have lost customers and turnover.

A greater number of agricultural shows and regional cup days across Victoria can now be more appropriately celebrated. If the council so requests, the Rainbow Agricultural and

Pastoral Show can be celebrated in the Rainbow district of Hindmarsh, while the Jeparit Agricultural and Pastoral Show can also be celebrated in the Jeparit district of Hindmarsh. Many of these types of events have simply missed out on being celebrated in recent years. Regional councils have faced a dilemma because they have been forced to recognise one regional event at the expense of others.

Non-metropolitan councils will now have the flexibility they need with regard to substitute public holidays and regional Victorians, including schoolchildren, will benefit from the greater opportunities to celebrate and attend their own local show days.

The government supports an equal number of public holidays for regional Victorians and residents of Melbourne. Importantly, the government will therefore also ensure that the same number of public holidays applies across Victoria. All Victorians, whether they live in regional Victoria or metropolitan Melbourne, will still be entitled to 11 public holidays per annum. Melbourne Cup Day will continue to be the automatic default public holiday throughout Victoria. Where substitutes are requested, non-metropolitan councils will be required to request either one whole day or two half-days. Where a substitute public holiday or two substitute half-holidays have been declared and gazetted in reference to a part of a municipal district, Melbourne Cup Day continues to apply in all remaining parts of that municipal district.

Specifically, the bill repeals the former government's unnecessarily restrictive provision of 2008 and inserts a new section 8A. The new section 8A(1) provides that non-metropolitan councils may request either two half-day public holidays or one whole day public holiday in lieu of Melbourne Cup Day. Section 8A(1) also provides that a non-metropolitan council may request that the substitute public holiday arrangements apply to all or part of that council's municipal district.

In conclusion, this bill reaffirms the government's commitment to regional communities by acknowledging their contribution to Victoria.

I commend the bill to the house.

**Debate adjourned for Mr SOMYUREK (South Eastern Metropolitan) on motion of Hon. M. P. Pakula.**

**Debate adjourned until Thursday, 2 June.**

## PARLIAMENTARY COMMITTEES

### Membership

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

(1) Dispute Resolution Committee — that Mr D. M. Davis, Mr Hall, Mr Lenders, Ms Lovell and Ms Pennicuik be members of the Dispute Resolution Committee.

(2) House Committee — that Mr Drum, Mr Eideh, Mr Finn, Ms Hartland and Mr P. R. Davis be members of the House Committee.

(3) Procedure Committee — that the President, Mr Dalla-Riva, Mr D. M. Davis, Mr Hall, Mr Lenders, Ms Pennicuik and Mr Viney be members of the Procedure Committee.

(4) Privileges Committee — that Ms Darveniza, Mr D. M. Davis, Mr P. R. Davis, Mr Hall, Ms Lovell, Ms Pennicuik and Mr Scheffer be members of the Privileges Committee.

In moving this motion I will say I think the make-up of those committees is mostly unexceptionable. I understand that the opposition will oppose one or two of these provisions. I make the point that the Dispute Resolution Committee is a committee that is mandated in the constitution, and its provisions and arrangements are outlined in the constitution. The coalition's views about the Dispute Resolution Committee were well outlined in the last Parliament. We believe this make-up of the committee fairly represents the chamber, given the composition of the chamber, and that the representation of the Greens is an important aspect of that. The Greens political party should be represented on the Dispute Resolution Committee. The arrangements, we believe, are reasonable.

The numbers on the Dispute Resolution Committee are of course five from this chamber and seven from the Legislative Assembly, and we believe that the make-up of the committee as outlined here — with three government and two non-government members from this house — reflects as closely as is reasonable the make-up of the house. Equally, we believe the proposed make-up of the House Committee is a reasonable representation of the make-up of this house. In relation to the procedure and privileges committees, the size of those committees was agreed prior to the last election in the arrangements established by the Standing Orders Committee, and the government proposes to stick to those arrangements that were put in place prior to the election. We believe the make-up of those committees is also reasonable and fair and is an adequate representation of the chamber. Of course representation can never be entirely pro rata, given that the only way to have pro rata representation in the chamber would be to have 40 members on a committee, but these are reasonable arrangements that will work to the benefit of the chamber.

**Mr LENDERS** (Southern Metropolitan) — The Leader of the Government has accurately outlined what the opposition is proposing to do, and as an amendment to the motion I move:

In subsection (1) relating to the Dispute Resolution Committee, omit 'Ms Lovell' and insert 'Mr Jennings'.

I will not speak for long on this motion, but I want to make a fairly clear point as to what the opposition is doing. With the Procedure Committee, the Privileges Committee and all the other committees of the house the Leader of the Government is proposing a government majority. The government has a majority in this house, thanks to Greens preferences getting Mrs Petrovich elected. Committees like the Procedure Committee will reflect the make-up of the house, and the issues that come back to the house will be the ones that reflect the house. We do not philosophically have an objection to that proportionality. In a sense I am a bit surprised by the government's approach, because the former Standing Orders Committee members had agreed that committees in this house — and I concede that we did not technically deal with these, but we had a general view — should follow the Senate and have even numbers of members.

I am not going to dwell on any of that, but I will focus on the Dispute Resolution Committee for a couple of reasons. What we saw today in the Legislative Assembly, for example, goes to show that there can be disputes between chambers. We saw a strange scenario in the Assembly where Ms Wooldridge, the Minister for Mental Health, failed to vote and the Speaker followed a Westminster tradition which saw the bill die. The numbers in this house are equally tight, and it is not without possibility that one government member — on a conscience vote, for example, or a bill of any nature — may cross the floor and there would be a dispute between the houses.

In that sort of scenario it is simply inappropriate that the house of review is represented by three ministers and two other members, and yet we are being asked here in the house of review that our delegation be in effect an extension of the executive government. Mr Davis is proposing three ministers: himself, his deputy, Ms Lovell, and the Leader of The Nationals, Mr Hall. The executive is proposing to this house — and it intends to use its majority to deliver it — that the negotiators for the house of review in any dispute between the house of review and the house of government be dominated by three members of the executive. The point I make is that this committee — and Ms Pennicuik may almost need some therapy, because she did not like this committee last time it unpacked in the house — has a formal provision in the constitution to recommend the way forward if there is a dispute between the houses.

My colleague Ms Allan, the member for Bendigo East in the Assembly, proposed to the government that we operate with the same formula we had by agreement last time, which was six government and six non-government members between the chambers, with the Labor Party committing to support a government member as chair, like the Liberal Party did after the last election. Let us be clear about what that means from the government's point of view. Under the standing orders the quorum for the Dispute Resolution Committee is a majority of members — seven. It clearly means that the government controls the committee, and we are not arguing about that, other than in the end it needs to be the chair's casting vote. However, in the motion before us today the representation of this chamber, the house of review, on that committee is dominated by the executive government.

My amendment is a simple one; it is that Ms Lovell — it could be Mr Hall or Mr Davis, but I am suggesting Ms Lovell because it means all parties are represented — be replaced by Mr Jennings, and I would not be fazed if the replacement were Mr Barber or Ms Hartland. The issue is that we do not want an executive majority representing the house of review in a negotiation with the house of government. That is a simple proposition.

The government has talked about process, accountability and a whole range of things, but on every single — and I say that deliberately — division in this house during this Parliament the government has used its numbers to basically close down scrutiny, whether it be referral to committees, delay of bills or whatever. On every occasion the government has used its numbers to shut down scrutiny. In the last six months there has not been a single occasion when the government has deviated — —

**Hon. D. M. Davis** interjected.

**Mr LENDERS** — I take up Mr Davis's interjection, and I will stand corrected. For the first time since document motions came into the house, this Wednesday the government would not even let the house send a letter to the Attorney-General to ask, 'Can you ask for documents?'. The house actually voted that down.

The proposition here is a simple one. If this amendment is carried, the Dispute Resolution Committee will have six government members and six non-government members along with a government chair who has a casting vote. The symbolism of this will be that the house of review will be represented by a majority that is not the executive government.

If you go back to the Parliament before last, you will find that three members of the house changed party allegiances during the life of that Parliament. We also

have a Liberal Party with a philosophy which states that members are free to have a vote that is different to the party's position. It does not happen of course, but that is what the Liberal Party stands for — —

**Mr Barber** interjected.

**Mr LENDERS** — In fact, Mr Barber, Mr Clark used to do it in the Assembly a fair bit both in the last Parliament and the Parliament before that.

What we are being asked to do here is to accept that regardless of whether there is a dispute between the houses and whether this house has a view that is contrary to that of the Assembly, our interests will be represented by three ministers from the government. The symbolism here is more important then the practical reality, but I would invite the government for once during this 57th Parliament to deviate from behaving as a phalanx of 21 people marching forward with one mind and imposing its executive will on the rest and instead consider this motion.

**Ms PENNICUIK** (Southern Metropolitan) — It is an interesting debate we have before us today. In the last Parliament the Dispute Resolution Committee had, I think, three or four outings. Members who were here in the last Parliament would have heard me speaking about that committee.

In essence the committee should be removed from the constitution because it is completely undemocratic. It means that if the house of review does not agree with a bill and votes against it, the government of the day can just pick up the bill, refer it to this committee and pass it. It is not democratic, and it should be removed from the constitution.

However, during the last Parliament the Labor government had a reasonable majority in the lower house but did not have a majority in this house. The Dispute Resolution Committee is made up of members from both houses because it is a joint committee — —

**Hon. D. M. Davis** — Seven and five.

**Ms PENNICUIK** — Yes, it was seven and five. What we should be doing here is moving to six and six to make the numbers more reflective — —

**Hon. D. M. Davis** interjected.

**Ms PENNICUIK** — Across both houses, Mr Davis. That would be more reflective of the closeness of the representation in both houses, which really is just a matter of one electorate in both houses.

Mr Lenders made the point quite clearly that the government will control the committee in any case because it will chair the committee, as it did last time, and the chair of the committee has a casting vote. The quorum for the committee is simply half of the members plus one. I could not imagine a case when that would not be a majority of government members, so I agree as a matter of principle that if we are to have this committee, it should be more reflective of the two houses. I think the make-up of the committee at the moment, with seven government members and five non-government members, does not reflect the closeness of the numbers in both houses. I think six and six would be better.

This will not remove the control the government has over the committee. I do not think the government should have control of this committee at all. In my view this committee, the Public Accounts and Estimates Committee and the Scrutiny of Acts and Regulations Committee should all be chaired by non-government members because they are all scrutiny committees. If the government wanted to set up a committee as a scrutiny of government committee, it should not be chaired by a government member. That is the principle we should be applying here. We are actually only moving one step closer to better representation on the committee because we are still sticking with the government chair.

I will support the amendment moved by Mr Lenders that Ms Lovell be replaced by Mr Jennings. I do not have any issue with Ms Lovell per se; it is just that I believe a non-government member should be appointed to the Dispute Resolution Committee in place of a government member. That is the principle I am supporting here. I am not that fussed. As Mr Lenders said, I would be quite happy if it was Mr Leane instead of Mr Jennings. In terms of the numbers of the committee, I will be supporting Mr Lenders's amendment.

**Hon. D. M. DAVIS** (Minister for Health) — A number of points have been made in the debate and I will directly confront those. The numbers on the Dispute Resolution Committee are mandated by the constitution. In our view the constitution is a document that is flawed. It was crunched through this chamber in the period between 2002 and 2006 — —

**Hon. M. P. Pakula** interjected.

**Hon. D. M. DAVIS** — It is very hard to repeal, as members know. It requires massive machinery and all that. As members will understand, there are certain provisions that are entrenched in the constitution. I

make the point that a referendum may be required to change some parts of the constitution and that is an elaborate and difficult process. In the interim, before anything could be done by any party in the future there would be a need to live with the constitution as it exists — as it was created by the Labor Party in the period 2002–06.

Let me be clear. Seven members are elected to the Dispute Resolution Committee by the lower house and five by this house. When Labor had a majority in the lower house it did not choose to even the numbers to a six-six arrangement. On this occasion the government has a majority in both houses, and the majority in this house ought to be fairly reflected in the membership of the committee. We have suggested through this motion that there be three government members and two non-government members. It is my view that the Greens ought to be represented on the committee, as should the opposition. They should be represented in closest proximity to the reasonable number that can be achieved. As I said, it is not possible to achieve an exact pro rata arrangement without having 40 delegates elected to the Dispute Resolution Committee, which would completely defeat the aim of the committee. In any event we are required to elect five members. That is the fairest arrangement, given that the government has a majority in the chamber — 21 members as opposed to 19 non-government members. Therefore on this occasion we believe that is fair.

I take up Mr Lenders' comments about the government shying away from scrutiny or being unfair. We have maintained many of the forms of the house in a very fair way with respect to documents and matters of that nature. We are prepared to maintain the structures of the house and the standing orders as were agreed. We ought to be quite clear that is the reasonable thing to do and we have done that. On this occasion we will oppose the amendment and we will support the original motion to put these four committees into process.

I take up some of the points Ms Pennicuik made about the Dispute Resolution Committee. She and I have had many discussions over the last Parliament about the deficiencies of that committee and the constitutional arrangements around it. That is a point of longer term constitutional debate. It is not a matter that we can resolve here and now.

**House divided on amendment:**

*Ayes, 18*

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

*Noes, 20*

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

*Pair*

| | |
|---|---|
| Jennings, Mr | Kronberg, Mrs |

**Amendment negatived.**

**Motion agreed to.**

## RULINGS BY THE CHAIR

### Questions on notice: answers

**The PRESIDENT** — Order! Ms Pennicuik has asked me about my view of a question that she put on notice, which received a response from the Minister for Agriculture and Food Security, Mr Walsh. The question was directed through the Minister for Higher Education and Skills to Mr Walsh, and was in respect of wild dogs, dingoes and aerial baiting processes associated with the control of those pest animals.

Ms Pennicuik placed that question on the notice paper on 3 May. On 17 May I note, courtesy of Ms Pennicuik, that Minister Walsh issued a press release about aerial baiting, indicating that it would begin in autumn of next year. However, in response to the question that Ms Pennicuik had put on notice, Mr Walsh indicated that he had been advised that he was not the minister responsible. I have contacted Mr Walsh's office this afternoon and affirmed that his ministry is responsible for this particular program, and I will be seeking that he answer the question. However, Ms Pennicuik has varied the wording slightly. I therefore ask that she resubmit the new question with the slightly amended wording for the notice paper, and obviously in the comments I make there is an

expectation that Mr Walsh will respond as minister to that new question.

## BUSINESS OF THE HOUSE

### Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 31 May.

**Motion agreed to.**

## ADJOURNMENT

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

That the house do now adjourn.

### Water: flood level reporting

**Mr LENDERS** (Southern Metropolitan) — My adjournment matter this evening is for the minister responsible for aerial baiting, in his capacity as Minister for Water. The matter I raise tonight regards water gauges in Victoria generally, and particularly in Rochester. This is not a criticism of the minister; it is a request for action from him. I was in Rochester recently, and there was a reasonable amount of confusion from the residents of Rochester about how water is measured when warnings are given by the water authorities that a flood is coming. Rochester, as we all know, had terrible floods on 14 and 15 January, and those floods were the worst floods, measured in height, since the floods of 1956.

Our water authorities, appropriately, sought to give warnings to the residents of Rochester, and indeed residents along the Campaspe and Murray rivers — in fact everywhere in the area — about where the water was coming from and how high it was going to go. But apparently some of the warnings in Rochester were that the river was going to reach a height of X metres — say, 3 or 4 metres higher than normal — and other warnings were given that the river was going to be X metres above sea level.

I could go through a number of the tales I heard from people I met in Rochester, as I met many good people there, including Mick Baker, from the newsagent. I had a great yarn to him. As a bit of nostalgia, at the Rochester newsagent I bumped into Stuart McDonald, a former member of this place and Leader of the National Party here for many years. I met that great Victorian there.

The important issue is that at the community meetings at Rochester and at other places there was genuine confusion about what happens when there is warning that the river is going to be at X level — —

**Mr Drum** — Have you just found this stuff out?

**Mr LENDERS** — I say to Mr Drum that I am being very courteous to the minister. I am not seeking to criticise him; I am saying that at public meetings in Rochester community members raised with me their confusion, and in a courteous manner I am passing that on through the forum of the Parliament to the minister. I have in no way condemned Mr Walsh. In fact I said in my opening remarks that I was not condemning him. Mr Drum may wish to bait me and say I am attacking the minister, but I am being as cooperative as I can be.

I went to a community meeting in Rochester and people there were saying they were confused, and I undertook that I would raise it with the minister. If Mr Walsh is already familiar with the matter and acting on it, I am sure he will tell me. I am simply passing on to his minister in a courteous fashion what Mr Drum's constituents said to me. I am somewhat bewildered by Mr Drum's interjection.

What I am seeking of the minister is that he look at and hopefully come up with a universal system for reporting flood levels, whether it be in relation to sea level or whether it be of a particular river, so that those people that I met at the public meetings in Rochester do not find they have the same confusion as they had this time. I think it is a logical way to go forward.

### Floods: donation distribution

**Mr O'BRIEN** (Western Victoria) — My adjournment matter is also in relation to flood recovery, but I direct my matter to the Deputy Premier in his capacity as the Minister for Police and Emergency Services. I note that he chairs a coordinating flood task force involving other important ministers with relevant portfolio responsibilities.

I would like to thank and commend a private individual, Mr Lindsay Fox, who yesterday morning made a presentation of more than $1 million to the flood recovery fund. In fact $1.17 million was handed over to Ron Walker on the steps of Parliament. We absolutely commend Mr Fox. It is not the first time he has dipped into his own pocket in helping out the community and organising fundraising. He has been a commendable citizen in that regard over many years.

Importantly what I ask is: how will this money be distributed across the flood-affected communities? I am inquiring specifically about the many communities across the state, particularly in my electorate of Western Victoria Region, that have been affected in relation to their community facilities.

I have visited the Creswick Bowling Club and the Clunes recreational reserve, where the oval has been severely affected by landslips and so on as a result of the flood. I also ask the minister about the Avoca Recreation Reserve, the Dimboola Recreational Reserve and the Beaufort tennis courts. I ask the minister to provide details on how this important funding across my electorate will be distributed.

It is important to note that the government cannot rely on private citizens to step into the breach. It is a bit like the Regional Growth Fund; this is additional funding that has come from fundraising by the community. It again demonstrates the whole-of-community response to the floods.

This money should not be used to supplant existing programs. We would not expect it to be used to supplant those funds but rather to be added to the pool of funds that can be distributed to those needy communities to help them rebuild in a timely manner and to encourage more sport and recreation, which is another important activity that demonstrates cross-volunteerism. Earlier this week I commended the work of the Moyston Country Fire Authority. Ewan Clugston is also a trainer for the Moyston Willaura Football Netball Club, and that sort of cross-volunteerism is what we all support among the community.

## SPC Ardmona: future

**Mr SOMYUREK** (South Eastern Metropolitan) — I raise a matter for the attention of the Minister for Manufacturing, Exports and Trade, who is also the Minister for Employment and Industrial Relations, concerning the future of SPC Ardmona (SPCA), which is owned by Coca-Cola Amatil.

SPC Ardmona is Australia's largest fruit and vegetable processing company. It employs more than 3000 workers across the Goulburn Valley region with the largest site located in Shepparton. The company is currently conducting a review of its food-processing operations with a view to moving some of its operations overseas.

According to *Food Magazine*, during the company's recent annual meeting Mr Terry Davis, who is the managing director, said:

> … a combination of trading conditions, competition from imported private label products and the high Australian dollar had been creating poor export conditions for SPCA.

The plight of SPC Ardmona is an ominous sign for the Victorian manufacturing industry. The Victorian government cannot simply sit by and allow our manufacturers to go to the wall. Since March this year 733 workers' jobs have been lost from Bosch, National Foods and Ford Australia alone.

The historically high value of the Australian dollar requires the government to take a more proactive approach to the manufacturing sector in order to cushion the impact of the high value of our currency. The Baillieu government needs an urgent and serious policy response to the high Australian dollar. The government needs a plan and needs one quickly. Allowing the manufacturing sector to drift while waiting for the bureaucracy to come up with a plan for the manufacturing sector through the Victorian Competition and Efficiency Commission process is simply not good enough. The action I seek is for the minister to inform me about what he is doing to ensure that SPC Ardmona does not scale down or close its Victorian operations.

## Health: practitioner registration

**Ms CROZIER** (Southern Metropolitan) — My adjournment matter this evening is for the attention of the Minister for Health. I first raised this issue when I spoke in March about the report titled *Australian Health Practitioner Regulation Agency — Annual Report 2009–10*. At the time I was concerned about the confusion about the registration processes for health practitioners in Victoria. At that time there were a number of articles about the scheme that had caused undue angst for many people working in the health system. I am aware of the concerns of a number of constituents that this confusion still goes on.

An email sent to one of my constituents from AHPRA (Australian Health Practitioner Regulation Agency) says:

> This email is to confirm that your application to renew your registration has been received by the Australian Health Practitioner Registration Agency (AHPRA).
>
> Due to the number of renewal applications being processed at present, it may take some time for AHPRA to finalise your registration.

The email then says that although the person is registered and they can look up the details, they might have to search the index. The following is also said in the body of the email:

> Therefore registrants may be correctly displayed as 'Registered', but have a registration expiry date that has passed.

Clearly there still seems to be confusion since March when I first raised this issue regarding this bungled system. I ask the minister to further look into this matter so Victorian health practitioners can have some assurance that in future there will be some proper process in place so they will know they are registered and can practise and there will not be the confusion that was caused earlier this year.

**The PRESIDENT** — Order! I ask Ms Crozier to clarify that the issue she has just raised is quite different from the issue she raised in March.

**Ms CROZIER** — I was just making the point that at the time there was confusion. This issue is still ongoing, so I am asking the minister if he can look into the issue.

**The PRESIDENT** — Order! I understand that, but did Ms Crozier raise this issue in March as an adjournment matter?

**Ms CROZIER** — No, the issue was raised when I was making a statement on a report.

**The PRESIDENT** — Order! That is fine; that is not a problem.

## Roads: western suburbs

**Ms HARTLAND** (Western Metropolitan) — My adjournment matter tonight is in relation to roads, and it is for the attention of the Minister for Roads, Mr Mulder.

The volume of freight on our roads transported by trucks continues to increase. Most of the roads that are affected are in the west; 54 per cent of export freight and 71 per cent of import freight comes through the west. Almost all the staging depots are located within the inner and outer western suburbs. This means our residential streets are overloaded with trucks. This is where people breathe, live, play and sleep. Truck noise from vibration and air brakes prevents people from sleeping at night. Children breathe in damaging diesel fumes. Schoolchildren must make their way to school along roads clogged with trucks. They must cross the street at dangerous intersections.

One such intersection is the pedestrian crossing at the corner of Moore Street and Hopkins Street. The trucks going through this crossing are so large that they drive over the gutter and often run down the pedestrian signage. The footpath that the trucks run over has tactile paths for sight-impaired people — the very ground that someone who is sight-impaired may be walking on will come in contact with these trucks as they drive through. Freight moving through our suburbs, including through this intersection, is set to double within 10 years. That will mean double the number of trucks on our streets unless drastic action is taken to put freight on rail and implement the truck action plan.

There are short, medium and long-term solutions for dealing with trucks. In the short term night curfews, speed limits and other measures should be introduced. In the medium term the truck action plan is very important, particularly the West Gate Freeway ramps part of it. They would greatly reduce truck numbers in areas with serious truck problems. But all the roads we build will get clogged with traffic as truck numbers increase. Freight on rail is the long-term solution. It removes trucks from residential streets, as freight is moved to intermodal hubs beyond residential areas.

The government has yet to deliver a freight logistics plan, has no freight-on-rail target and is reviewing the truck action plan. This is despite years of criticising Labor's failure to meet its inadequate rail freight target and its failure to curb the tide of growth in truck numbers in the west. It would be good if the minister could at least acknowledge that the current truck volumes on the west's residential streets are unacceptable. I ask that the minister act to prevent the forecasted doubling of truck traffic by 2020 by immediately producing a freight logistics plan that puts freight on rail and reduces the number of trucks on the streets of the western suburbs.

## Yan Yean Road: traffic management

**Mr ONDARCHIE** (Northern Metropolitan) — My adjournment matter is for the Minister for Planning and concerns Yan Yean Road in my electorate. Yan Yean Road starts at Diamond Creek Road, goes through the suburbs of Plenty, Yarrambat, Doreen and Laurimar and ends up at Yan Yean. There has been huge growth along Yan Yean Road and its tributaries over the last 10 years; however, no attention was paid to it by the former government.

The electorate office of the member for Yan Yean in the other place is on Yan Yean Road, but she has given the road no attention. The traffic queues are getting long. The member for Yan Yean has watched the

growth in the number of voters in that corridor over the last 10 years, but she has not given them any real attention in regard to Yan Yean Road. The queues are there morning and night. Some people who work in this building — in fact some people who work in this chamber — have to suffer the traffic queues morning and night.

The road passes through a huge precinct. It passes Yarrambat Primary School and Plenty Valley Christian College. It passes significant recreational space such as that used by Greensborough Hockey Club — I was pleased to open its new pitch just a few weeks ago — Yarrambat Park Lake, the archery school and Plenty Park where people play football, tennis and a whole lot of other great sports. Roads, traffic and planning in the area were abysmally neglected by the Bracks and Brumby governments over the last 10 years. It is time that people stood up for Yan Yean Road. Two different municipalities lie on either side of the road: the city of Whittlesea and the shire of Nillumbik. It is quite a dichotomy for people living along Yan Yean Road when it comes to who is going to give them some attention.

My call is to the Minister for Planning, the Honourable Matthew Guy, to come out to Yan Yean Road with me to get an understanding of what the problems are. This government will stand up for people out there.

## Aboriginals: traditional owner acknowledgement

**Mr SCHEFFER** (Eastern Victoria) — I raise a matter for the attention of the Premier regarding his announcement last week, on the eve of National Sorry Day, that government representatives are no longer obliged to acknowledge traditional owners at official events. The Premier and members of the Victorian Parliament will be aware that the statement has aroused deep concern and hurt amongst many communities across the state, especially in Aboriginal communities but also among many non-Aboriginal communities.

I ask the Premier to consult with Victorian Aboriginal leaders so that their concerns can be addressed and the government's position can be corrected. Aboriginal elders have pointed out that the announcement is purely and simply a sign, because it has no economic or resource implications. It is a sign that says what is very significant to Aboriginal Victorians is to the government a matter of personal inclination to be taken up or not as the mood strikes.

The government does not take this approach to other kinds of acknowledgements. If the Premier made an announcement that government representatives could suit themselves as to whether they rose for the morning prayer in the Parliament or stood in respect at the playing of the Last Post at Anzac Day or said they could sit down during the national anthem at citizenship ceremonies, there would quite rightly be an outcry.

Each and every morning while the Lord's Prayer is recited I and other non-Christian members stand in silence out of respect for the beliefs of our Christian colleagues. I do not believe in the literal existence of supernatural deities, but I was taught as a child to try to listen through another's ears, and I do understand the wise teachings contained in that prayer. As public representatives we are obliged to show this kind of respect to all good-hearted members of our communities.

The Minister for Aboriginal Affairs, Jeanette Powell, has said that the government believes that where acknowledgements are mandatory they become tokenistic. How many of us really ask whether particular observances are mandatory or whether we are being tokenistic? The fact is that the Premier is asking the question only about one observance that involves one community — the Victorian Aboriginal community. This is ominous and menacing of a people who still confront major issues, many arising directly from European colonisation and dispossession. The Premier's announcement is profoundly disrespectful to many members of our community, and he should correct the situation.

Finally, I am astounded that the Minister for Aboriginal Affairs, whose high office surely requires her to defend the interests of Aboriginal Victorians, supports the Premier in this denigration of the traditional owners of the land on which we live.

## Responses

**Hon. G. K. RICH-PHILLIPS** (Assistant Treasurer) — I have responses to a number of matters that have been raised by members on previous occasions. I have a response to Mr Ramsay on a matter raised on 24 March; to Mr Jennings on a matter raised on 6 April; to Mr Finn on a matter raised on 7 April; to Mr Ondarchie on a matter raised also on 7 April; another matter for Mr Finn, this one raised on 3 May; and on a matter Mr O'Brien raised on 5 May.

Mr Lenders raised a matter for the Minister for Water, Mr Walsh, with respect to water gauges and the need for communities to be appraised of the basis on which flood levels are assessed so there is a consistent basis

for the assessing of flood levels. I will pass that matter on to the Minister for Water.

Mr O'Brien raised a matter for the attention of the Minister for Police and Emergency Services, Mr Ryan, with respect to the distribution of flood recovery money that has been raised in the community. He gave the example of a very generous donation from Lindsay Fox to the fundraising campaign. Mr O'Brien is seeking from the minister an understanding of the way those funds raised in the community will be distributed. I will pass that on to the Minister for Police and Emergency Services.

Mr Somyurek raised a matter for the attention of the Minister for Manufacturing, Exports and Trade, Mr Dalla-Riva. He referred to a company in Shepparton — I think he was referring to SPC Ardmona, although he did refer to a different company in his contribution — with respect to the impact on that company of a high exchange rate. This is of course something of which the government, and indeed my colleague the minister for manufacturing, is very conscious. I think it is a testament to this government's commitment to the manufacturing sector that we do indeed have a minister for manufacturing.

I know that Mr Dalla-Riva, as minister in that portfolio, is working very assiduously with Victorian manufacturers to ensure that they remain competitive in what has been a very challenging business environment over a very long period of time. I note that Mr Somyurek did not raise concerns about the competitive business environment as far as high exchange rates go, particularly as that position has been ongoing for some time but only seems to be a recent area of interest for him.

Ms Crozier raised a matter for the Minister for Health with respect to the Australian Health Practitioner Regulation Agency registration of health practitioners and ongoing concerns with the processing of those registrations. She gave examples where it seems that AHPRA has not been publishing up-to-date information with respect to health practitioner registrations, and I will pass that on to the Minister for Health to investigate.

Ms Hartland raised a matter for the Minister for Roads with respect to truck movements in inner western suburb areas, and I will pass that on to the Minister for Roads.

Mr Ondarchie raised a matter for the Minister for Planning with respect to planning issues surrounding Yan Yean Road. He invited Minister Guy to visit Yan Yean Road with him to examine the situation there and look at potential remedies, and I am sure the Minister for Planning will be only too happy to accompany Mr Ondarchie on such an exercise.

The final matter was from Mr Scheffer, who raised a matter for the Premier with respect to acknowledgement of traditional owners at events and so forth. The Premier has made his position very clear that where it is appropriate to give acknowledgement people should do so, and I think the Premier's position has received widespread support in recognising that it is not something done by rote; it is an acknowledgement that is to be extended on appropriate occasions in a meaningful way. I think that is a position that is endorsed by the Victorian community. Nonetheless, I will pass that matter on to the Premier.

**The PRESIDENT** — Order! The house stands adjourned.

**House adjourned 5.51 p.m. until Tuesday, 31 May.**