

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Thursday, 2 June 2011

(Extract from book 8)

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By authority of the Victorian Government Printer

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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 Elasmarr, Ms Hartland, Ms Mikakos, Mr O'Brien, Mr O'Donohue, Mrs Petrovich and Mr Viney.

Legal and Social Issues References Committee — Ms Crozier, Mr Elasmarr, 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.

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(*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 Elasmarr and Ms Tierney. (*Assembly*): Mr Crisp, Ms Miller and Mr Southwick.

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

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

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

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

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

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

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

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

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

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

Heads of parliamentary departments

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

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Parliamentary Services — Secretary: Mr P. Lochert

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FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

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Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
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Dalla-Riva, Hon. Richard Alex Gordon	Eastern Metropolitan	LP	O'Donohue, Mr Edward John	Eastern Victoria	LP
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Eideh, Mr Khalil M.	Western Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elasmr, 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
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Hall, Hon. Peter Ronald	Eastern Victoria	Nats	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Tarlamis, Mr Lee Reginald	South Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP

CONTENTS

THURSDAY, 2 JUNE 2011

EQUAL OPPORTUNITY AMENDMENT BILL 2011

Introduction and first reading 1673

PETITIONS

Kindergartens: funding 1674

Planning: urban growth boundary 1674

PAPERS 1675

ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE

Reporting date 1675

MEMBERS STATEMENTS

Battle of Greece and Crete: 70th anniversary 1675

Republic of Cyprus: presidential visit 1675, 1677

Energy: alternative generation 1675

National Celtic Festival 1676

FloodSafe Week 1676

Victorian Manufacturing Hall of Fame: awards 1676

Carrum Patterson Lakes Football Club: 100th

anniversary 1676

Member for Melton: conduct 1676

Maronite community: 'Puttin' on the Ritz' 1677

Southern Cross Care: Keon Park facility 1677

Alphington Primary School: building program 1677

Anglesea Primary School: redevelopment 1677

Israel Independence Day 1678

PUBLIC HOLIDAYS AMENDMENT BILL 2011

Second reading 1678, 1701

Referral to committee 1701

Instruction to committee 1703

Committee 1703

Third reading 1720

QUESTIONS WITHOUT NOTICE

Children: Take a Break program 1694, 1695

Hospitals: performance data 1695

Anglesea power station: environmental impact

statement 1696

Planning: Wyndham Harbour development 1696

Planning: major hazard facilities 1697

Manufacturing: industrial action 1697

Health: commonwealth-state agreement 1698, 1699

Higher education: federal funding 1699

Department of Premier and Cabinet: catering 1700

Northern Hospital: performance data 1700

QUESTIONS ON NOTICE

Answers 1701

BUDGET PAPERS 2011–12 1720

APPROPRIATION (2011/2012) BILL 2011

Introduction and first reading 1722

Statement of compatibility 1722

Second reading 1723

APPROPRIATION (2011/2012) BILL 2011 and BUDGET PAPERS 2011–12

Concurrent debate 1728

APPROPRIATION (PARLIAMENT 2011/2012) BILL 2011

Introduction and first reading 1728

Statement of compatibility 1728

Second reading 1729

ENVIRONMENT PROTECTION AMENDMENT (LANDFILL LEVIES) BILL 2011

Introduction and first reading 1729

Statement of compatibility 1729

Second reading 1730

JUSTICE LEGISLATION AMENDMENT (INFRINGEMENT OFFENCES) BILL 2011

Introduction and first reading 1731

Statement of compatibility 1731

Second reading 1732

STATE TAXATION ACTS AMENDMENT BILL 2011

Introduction and first reading 1732

Statement of compatibility 1732

Second reading 1735

BUSINESS OF THE HOUSE

Adjournment 1736

ADJOURNMENT

Department of Premier and Cabinet: catering 1736

Glen Devon Primary School site: future 1737

Environment: Mornington Peninsula aquatic

centre 1737

Eaglehawk Primary School: future 1738

Rail: tender process 1738

Planning: Officer 1739

Responses 1739

Thursday, 2 June 2011

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

**EQUAL OPPORTUNITY AMENDMENT
BILL 2011**

Introduction and first reading

Received from Assembly.

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

That the bill be now read a first time.

Ms Mikakos — On a point of order, President, before we proceed further on the first reading of this bill, I would like to raise with you for your consideration the seriousness of the processes that have been undertaken in the last two days in the other place — unprecedented processes in relation to suspending the standing orders of the Legislative Assembly to enable a vote to be taken a second time because a minister was absent due to the fact that she was undertaking briefings by her department. I would particularly like you to consider whether the solicitor-general's advice should be sought in relation to the process that was undertaken in the other house, because there may well be legal challenges to this bill by virtue of the processes that have been undertaken. I particularly draw to your attention the fact that the motion — —

Hon. M. J. Guy interjected.

The PRESIDENT — Order! Mr Guy, this is a serious point of order and a matter that I am prepared to make a ruling on. It is certainly within the rights of the member to make it. The manner in which it is being presented is on a basis that is factual and it goes to the points that the member — —

Hon. M. J. Guy interjected.

The PRESIDENT — Order! Mr Guy is pushing me. I expect to hear this point of order in silence. This is a serious matter, and the member has raised it in a proper fashion. I will listen to it and make a judgement on it.

Ms Mikakos — I particularly wish to draw to your attention the fact that the motion moved by the Leader of the House in the Assembly referred to the accidental absence of the Minister for Mental Health. By her own admission in her personal explanation the Minister for

Mental Health made it clear that it was not an accidental absence but was due to her undertaking briefings from her departmental staff in her office. In light of the fact that the word used in that motion was 'accidental', I believe there is a basis for a potential legal challenge by a person who might be affected by the Equal Opportunity Bill in the future, so I think it is a serious matter. It is important if we are going to — —

The PRESIDENT — Order! Ms Mikakos should not debate the point of order. She is making a good case, but I do not want her to debate it in terms of how she anticipates matters might proceed.

Ms Mikakos — Thank you for your guidance, President. As I said, I encourage you to consider whether the solicitor-general's advice is appropriate in the circumstances, and I believe it is, given the unprecedented nature of the process undertaken in the Legislative Assembly.

The PRESIDENT — Order! I am in a position to rule on this. Whilst it might seem that I am ruling very quickly on this matter, the fact is that I have given it some thought. I anticipated that there might be some questions and even a point of order, as has been raised by the opposition, in regard to this matter because of the circumstances and procedures adopted by the Legislative Assembly in sending this bill to us.

I indicate to the house that I have given the matter consideration. I have heard the point of order, but I am not prepared to uphold it on this occasion. The view I adopt is that the procedures and circumstances that might have surrounded bringing the bill to this house as they played out in the Legislative Assembly are of no real consequence to this house — in other words, if there are matters of concern about those procedures, then those matters ought to be further pursued in the Legislative Assembly. As far as we are concerned, the bill has been passed by the Assembly irrespective of the circumstances under which it received passage in the Assembly, and for us it is perfectly in order and legal to proceed with the consideration of the bill.

House divided on motion:

Ayes, 21

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

Noes, 19

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

Motion agreed to.

Read first time.

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

That, by leave, the second reading be made an order of the day for later this day.

Leave refused.

Ordered that second reading be made order of the day for next day.

PETITIONS

Following petitions presented to house:

Kindergartens: funding

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council:

1. Victoria’s current baby boom and the COAG agreement to increase kinder hours for all four-year-olds from 10 to 15 hours will mean that many more kindergarten places will be required; and
2. the Baillieu government’s commitment of only \$15 million over four years will be unable to provide the necessary expansion of kindergarten facilities.

The petitioners therefore request that the Legislative Council of Victoria urgently calls on the Baillieu government to address this funding shortfall and significantly increase the level of funding available to expand Victoria’s kindergartens.

By Ms MIKAKOS (Northern Metropolitan) (59 signatures).

Laid on table.

Planning: urban growth boundary

To the Legislative Council:

This petition is of materially impacted stakeholders on the west side of arterial Ironbark Road, Diamond Creek (and its collector Pioneer Road), north of the original town centre

(Chute Street). However, the lands will be north-west of the new town centre if this unfair substitution is approved with amendment C53. They consist of 175–199 Ironbark Road, Diamond Creek (40 acres), 201–219 Ironbark Road, Diamond Creek (5 acres), adjoining 40–60 Pioneer Road, Yarrambat (14.5 acres), and 221–233 Pioneer Road, Yarrambat (8 acres).

The petitioners draw urgent attention to the house the fact that their lands had been wrongly excluded from the new urban growth boundary (UGB) in 2004 against provisions in the then applicable legislation — for example, 1989 Water Act. Prior to this, they had been in the designated Plenty growth corridor and paid heavily for growth (see transcript of evidence to Parliamentary inquiry into the UGB dated 22/10/2009). Note follow-up petitions tabled in Parliamentary Council on 22/11/2009 and 10/12/2009 titled ‘Planning shire of Nillumbik’, and 3/2/2010 titled ‘Water entitlements legislation’.

The lands need to be correctly included in the UGB before its expansion and prior to complications by new local, state or federal policies/strategies for further growth or development which utilises reticulated infrastructure. It is essential for them to be included in all old (and new if eroded) servicing strategies irrespective of any final site-specific land use. Procrastination in making the necessary equitable corrections of past planning mistakes, anomalies and irregularities is only making it more difficult and costly to put it right.

New livability objectives, existing character, conservation, green wedge, open space, landscape, utility need or any other new (or old) community aspirations are not excuses to exclude any of the above-listed lands from the UGB, ‘just’ planning corrections or unfair decisions. All of these can be equitably included in the overall development plans of any residential area, thereby ensuring equal urban land value.

Please note that lands covering lots 175–219 Ironbark Road were compulsorily charged the most for reticulated infrastructure (for example, water) in that urban extension and therefore had the most land capability, value and certainty for development. Urban infrastructure provision was only approved for residential areas. You would not make people pay for infrastructure with the hidden agenda for them to be targeted never to be planned to use it! If this happened, it must be fairly corrected to urban residential zoning/status and not omitted with any excuse — for example, the government changed its mind, it is not an anomaly, the horse has bolted, you were charged wrongly, it is bad luck.

The independent panels failed to consider all of the listed lands’ attached distinctive reticulated infrastructure in any of their recommendations for further growth. This needs to be corrected in any new releases of land in the shire of Nillumbik.

Prayer

The petitioners therefore request that the Legislative Council urge the new Premier of Victoria, the Honourable Ted Baillieu, planning minister the Honourable Matthew Guy, and the Victorian state government to assist them in the cause and course of justice by:

urgently ensuring that the lands are included in the urban growth boundary (UGB);

rezoning lands into their year 2000 promised closest-fit zone, residential 1 (or township where applicable) or its equivalent with any new residential zoning, irrespective of any final site-specific land use without excuses such as those listed above;

ensuring equitable planning corrections for any of the above lands if they were discriminatorily, unfairly or mistakenly treated differently at any time in the past to like-neighbouring lands thereby ensuring equal residential land values;

mediating for compensation or remuneration for damages and losses including value of the lands (between residential 1 and conservation) and loss of distinctive attached urban reticulated infrastructure with development/property rights and entitlements if the petitioners' requests can no longer be accommodated;

investigating and sharing knowledge and expertise with petitioners to facilitate the above.

By Mr BARBER (Northern Metropolitan)
(4 signatures).

Laid on table.

PAPERS

Laid on table by Clerk:

Goulburn Ovens Institute of TAFE — Report, 2010 (*in lieu of that tabled on 3 May 2011*).

Subordinate Legislation Act 1994 — Documents under section 15 in respect of Statutory Rule No. 31.

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

Reporting date

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

That the resolution of the Council of 4 May 2011 requiring the Environment and Natural Resources Committee to inquire into and report by 1 September 2011 on the environment effects statement processes in Victoria be amended so as to now require the committee to present its report by 30 September 2011.

Motion agreed to.

MEMBERS STATEMENTS

The PRESIDENT — Order! I advise members that I am given these lists, and each time I face the situation where I am calling a member who is on the list that has been given to me and either the member is not here, which is one thing, or the member is here but has no

intention of making a contribution to the particular debate, it is frustrating for the Chair. It is not a good look, and I would expect that if we are going to use lists, we should make sure those lists are accurate in terms of which members want to make a contribution and the sequence in which they want to do so. If not, we will dispense with the lists and I will be quite happy to call members as they stand in their place.

Battle of Greece and Crete: 70th anniversary

Mr EIDEH (Western Metropolitan) — I begin by thanking you, President, and the Honourable John Pandazopoulos, the member for Dandenong in the other place, for arranging and leading our recent visit to the sites of some of the most amazing battles of World War II, where courageous Australian troops went to help our good friends in Greece, including Crete, against the powerful and well-equipped German forces who threatened the world.

The German forces were an evil that was hit hard in the face by the valiant people of Greece, including Crete, who took to the enemy and to saving Australians with a zeal that still amazes people to this day. The people there fought the very well armed German troops with garden tools, lumps of wood and their bare hands, at the cost of many thousands of lives. It was fitting that you organised this event so that we could honour those who gave their lives to save Australians and so that their descendants would know that we will never, ever forget them.

Republic of Cyprus: presidential visit

Mr EIDEH — On another matter, I was privileged to meet the Cyprian president last Friday. The reception was very well organised by the Cyprian community and gave us a great opportunity to meet the President of Cyprus, Mr Demetris Christofias, and the first lady of Cyprus.

Energy: alternative generation

Mr BARBER (Northern Metropolitan) — Right now there are a number of key decisions being made about the future of coal-fired power in Victoria. It is worth examining the way baseload power operates in order to understand that it is not by accident or inherent design that we have the power system that we have. We chose it that way due to the development of coal-fired power.

Victoria uses about 5000 megawatts of power at night and during the day, regardless of the activities we undertake in our homes and businesses. However,

during the day, once we get up and start to take action and use devices in our homes, there is only about an extra 2000 megawatts of power consumption. That is because over a very long time we developed a coal-fired grid and deliberately made use of power that was free and available. The challenge for us right now is to change the pattern of power use, to introduce a smart grid, to make better use of the sun, wind and other sources of power and to match our demands accordingly.

National Celtic Festival

Mr O'BRIEN (Western Victoria) — On Thursday, 12 May, I attended the launch of the National Celtic Festival, which is to be held at Portarlington on 10–13 June, being the Queen's Birthday long weekend. The National Celtic Festival is now in its ninth year at Portarlington and is Australia's largest and most diverse celebration of Celtic music and culture. This year, from the Friday night through to the Monday afternoon, it plays host to some world-class musical acts. I note that the replica tall ship *Enterprize* will be one of the more unusual venues for an Irish jig as it sails across Corio Bay.

The unique cultures of each of the Celtic nations — Ireland, Scotland, Wales, Brittany, Cornwall, the Isle of Man, Galicia and Asturias — are celebrated through world-class music, dance, song, poetry and language. Highlights include the national Golden Fiddle Awards, a limerick writing competition and a fine array of Celtic cuisine, including the haggis burger — and on 12 May I was witness to a very severe dressing-down of the haggis by a suitably attired Scotsman.

I would like to congratulate the festival director, Ms Una McAlinden, on her hard work in bringing this year's festival together. Una has been the driving force in taking the festival from its humble beginnings to the larger scale of this year's event. Events such as this cannot take place without the efforts of many unpaid volunteers, and over 200 volunteers were involved in making the National Celtic Festival a success. I urge all members, even those without any Celtic blood in them, to take the opportunity to enjoy this wonderful event.

FloodSafe Week

Mr TARLAMIS (South Eastern Metropolitan) — This week is FloodSafe Week, which runs until 5 June. Its aim is to raise awareness of flood safety and the importance of preparation after a year of extreme rainfall and flooding. Victoria has experienced several extreme flood events in the past year which have

affected many parts of metropolitan Melbourne and many communities in my electorate. The worst affected local government area in my region was the city of Casey, where some suburbs experienced up to 180 millimetres of rain within a 24-hour period.

FloodSafe Week is organised by the Victorian State Emergency Service with the aim of encouraging Victorians to learn more about protecting themselves against the threat of floods. SES volunteers will hold events across Victoria this week to help people understand how to protect themselves, their homes and their businesses. I encourage everyone to participate in these events and promote these initiatives, as it is in everyone's best interests to ensure Victorians know how to prepare for and respond to floods.

Victorian Manufacturing Hall of Fame: awards

Mr TARLAMIS — On another matter, I rise to acknowledge three Dandenong-based businesses that were inducted into the Victorian Manufacturing Hall of Fame at a ceremony on 26 May. Metal prototype company AW Bell, transport giant Bombardier Transportation Australia and Dandenong South-based Australian Rollforming Manufacturers all received the honour. The managing director of Jayco, Gerry Ryan, was also an honour roll award recipient, and rapid parts technician Agnel D'Souza from AW Bell was awarded as the young entrepreneur of the year. I congratulate these companies and individuals on their contributions to manufacturing and wish them continued success in the future.

Carrum Patterson Lakes Football Club: 100th anniversary

Mr TARLAMIS — On another matter, I would like to congratulate the Carrum Cowboys football club, which celebrated 100 years of football last weekend. This momentous achievement was recognised with a community day held at the Roy Dore Reserve on Sunday, and I commend the club for its efforts and wish it continued success for the future.

Member for Melton: conduct

Mr FINN (Western Metropolitan) — President, I take the responsibilities of being a member of Parliament very seriously. In particular our ability to represent the interests of our constituents and to bring to the attention of this Parliament and the executive issues that affect people in our regions or electorates is crucial to the proper workings of the democratic process. I have always felt this way; for me it is a political article of faith.

For that reason I was particularly disappointed last week when a resident of Melton entered my electorate office with his tale of woe. Keep in mind that Melton is not actually in Western Metropolitan Region. The individual involved is not one of my constituents. The gentleman to whom I refer is a father of five. He has had a housing issue for some five years. He went to his local MP in the Assembly seeking the member's assistance but was told, 'I can't help you. We're not in government any more. Go and see Bernie Finn'. The door was slammed in his face.

The Melton resident took his local member's advice and caught the train to Sunshine, where my office is now assisting him. To reject somebody's plea for help on the basis that 'We're no longer in government' is a total abrogation of an MP's responsibility to those he should represent. It stinks of Labor members' ongoing neglect of their electorates and is intolerable on any measure. Sadly it is what we have come to expect from Labor MPs from one end of Melbourne's west to the other. The bottom line is this: Labor just does not care about those it should care about. Labor governments come, and Labor governments go, but we know contempt for the people of Melbourne's west on the part of the ALP goes on forever.

Republic of Cyprus: presidential visit

Mr ELASMAR (Northern Metropolitan) — On Friday, 27 May, along with federal parliamentary colleagues I attended the Grace of Mary Greek Cypriot Elderly Hostel in Epping where a function was held in the honour of the First Lady of the Republic of Cyprus, Mrs Elsie Christofia. We were given a tour of the hostel and spoke to the residents. Mrs Christofia planted an olive tree in the garden. The afternoon ended with afternoon tea. I thank the executive committee of the Community of Cypriots of the Northern Suburbs of Melbourne for arranging a delightful event.

On Friday, 27 May, I attended with parliamentary colleagues and other community leaders a function held by the Cyprus Community of Melbourne and Victoria honouring the President of the Republic of Cyprus the Right Honourable Demetris Christofias. Mr Christofias addressed the Melbourne Greek Cypriot community, whose members were very happy to meet and talk with him after all the speeches. I congratulate the organisers on a very well-run event.

Maronite community: 'Puttin' on the Ritz'

Mr ELASMAR — On another matter, on Saturday I was an honoured guest of the Victorian Maronite community. The fundraiser this year was called 'Puttin'

on the Ritz'. The occasion was a grand affair, with all money raised going to the Our Lady of Lebanon Church fund. Monsignor Joseph Takchi presided over the event, which was, as always, a resounding success. I congratulate the committee.

Southern Cross Care: Keon Park facility

Ms MIKAKOS (Northern Metropolitan) — On 19 May I was pleased to attend with the Catholic Archbishop of Melbourne, Denis Hart, the member for Thomastown and board members of Southern Cross Care the blessing of the land and sod-turning ceremony to mark the start of construction of a \$15 million ageing-in-place residential facility in Keon Park. The 96-room building on Tunaley Parade will feature a chapel, cafe, library and cinema, and a therapy centre providing residents with access to on-site doctors and physiotherapists. The Keon Park facility will replace Southern Cross Care's Macleod Village home, situated adjacent to St Margaret's Community Retirement Village. The project is expected to be completed by October next year. I commend Southern Cross Care on its commitment to providing appropriate aged-care accommodation to an ageing population in Melbourne's northern suburbs.

Alphington Primary School: building program

Ms MIKAKOS — On 27 May I was pleased to attend with the member for Northcote the official opening of Alphington Primary School's library and classrooms, arts and resource centre project. This project was delivered through the federal government's Building the Education Revolution (BER) program, together with the Victorian government's capital works program. The project also involved linking the new BER building to the state-funded arts discovery centre. I particularly commend the member for Northcote for playing a key role in delivering this project. I commend principal Cheryl McCashney, her staff and school council members, who worked in partnership with federal Labor and the former state Labor government to deliver a great outcome for students.

Anglesea Primary School: redevelopment

Ms TIERNEY (Western Victoria) — On Sunday, 22 May, I had the great pleasure of attending Anglesea Primary School's farewell to the old school and welcome to the new school celebration. Beginning at what is now termed 'the old school', hundreds of students, parents, teachers and Anglesea residents relived memories of their days at the school, browsing through the classrooms filled with photographs and memorabilia. The school principal, Pamela Sandlant,

read out contributions from past students telling stories about past teachers, sports days, singing the times tables with a teacher playing guitar and even getting the strap. Members of the school community then formed an arch by linking their hands above heads, and the oldest registered school attendee, 86-year-old Olga Tomkins, and the youngest student, 5-year-old Alannah Fitzgerald, led the principal and current students on a walk through the arch to the new school.

The new school's excellent facilities, open spaces, ultra-modern IT equipment, modern learning facilities and first-class high-ball gymnasium, together with the wonderful staff and supporters of the school, will ensure that Anglesea students get the best possible start in life. I congratulate everyone involved in this great new school — the staff, students, parents, friends, architects and construction workers, the Surf Coast Shire Council and the previous state Labor government — for making this possible. You only have to see the number of people who turned out on what was a very wet Sunday afternoon to know that the Anglesea community is thrilled with its new school and strongly values the old school's past and the new school's future.

Israel Independence Day

Mr LENDERS (Southern Metropolitan) — Last night I had the privilege of attending a celebration of the 63rd anniversary of Israel's independence. I have been to many of these over many years, and as always it was a great bipartisan occasion where members of Parliament and members of the Jewish community, the consulate service and a range of others got a chance to celebrate the independence of Israel and the 63 extraordinary years since the formation of the state. It always puts a chill down the back of your neck when you hear *Hatikvah* played and sung well. It was great to be there again.

This year I have also had the privilege, like all of us in this house, of attending many Australia Day functions, in particular one in January. At the time I felt great pride in our country that we can celebrate the achievements of Australia's great multicultural society, just as Israel is a great multicultural society.

The trifecta for me, coming from a Dutch heritage, was in May when I had the great privilege of attending a Dutch community function at the Abel Tasman Dutch Club just down the road from my home in Carnegie. The function celebrated the Queen of The Netherlands ball, the Queen's birthday and Liberation Day, which is a great day for the Dutch to celebrate. The country has gone through a traumatic time, but the new generations

can look back and celebrate the country re-achieving democratic rights and moving forward.

I have attended at least these three independence or celebratory days. I look forward to attending many more. I took great joy last night in participating in Israel's Independence Day.

PUBLIC HOLIDAYS AMENDMENT BILL 2011

Second reading

Debate resumed from 26 May; motion of Mr DALLA-RIVA (Minister for Employment and Industrial Relations).

Ms PULFORD (Western Victoria) — I am pleased to speak for a moment this morning on the Public Holidays Amendment Bill 2011. I welcome the opportunity to talk about the importance of public holidays and celebrating our regionally significant occasions, like show days and racing days. In Victoria we are all pretty keen on our show days, racing days and other occasions, and these days are particularly important to communities in regional Victoria.

This issue has an interesting history that I would like to recap. In June 2008 the then Minister for Small Business, Joe Helper, introduced legislation into Parliament that endeavoured to correct a historical anomaly where some regional councils observed 11 public holidays and others observed just 10. A number of municipalities had not taken up Melbourne Cup Day or another day of local significance. Around 28 municipalities were the beneficiaries of that change, and I am told that change affected something of the order of 500 000 people.

The legislation the Labor Party introduced was part of work we were doing around public holiday legislation where one of the important principles was national consistency and ensuring that everybody had the same number of public holidays. The public holiday arrangements of many people do not come about as a result of the gazetting of a holiday or by way of the Public Holidays Act 1993, because there are many and varied arrangements that determine people's employment.

A great many people are covered by national employment standards and others are covered by an enterprise bargaining agreement in their workplaces or an award. These arrangements are terribly varied. It is entirely possible that in the one household you could

have two or three members of the family having different public holiday entitlements.

The purpose of the legislation introduced by Mr Helper in 2008 was to pick up the people who were falling through the gaps and missing out on the 11th public holiday. The councils that had not up to that point in 2008 gazetted a public holiday and were able, through the passage of that legislation, to celebrate Melbourne Cup Day or have a substitute day included Alpine, Ararat, Bass Coast, Baw Baw, Benalla, Campaspe, Colac Otway, Corangamite, East Gippsland, Glenelg, Golden Plains, Greater Shepparton, Hepburn, Indigo, Loddon, Mansfield, Mitchell, Moira, Mount Alexander, Pyrenees, South Gippsland, Southern Grampians, Strathbogie, Surf Coast, Towong, Wellington, West Wimmera and Wodonga. Quite a number of those councils are in my electorate, and I am sure many other members of this house represent regional communities on that list that will have benefited from that change.

I will take a moment to mention that in that same year, 2008, arrangements were made to provide a substitute public holiday for Anzac Day in circumstances where Anzac Day falls on a weekend or, like this year, when it falls on Easter Monday.

I would like to take this opportunity to acknowledge and credit Esmond Curnow, a former colleague of mine, for his involvement in — in a quiet, behind-the-scenes sort of way — and contribution to that change from which many Victorians benefited for the first time this year, with Anzac Day falling as it did in the middle of the Easter weekend. We commemorate that day of great national significance on 25 April, but the public holiday calculation, as part of people's wages and entitlements package, is the same for people year in and year out, no matter what day Anzac Day falls on. I would like to pay tribute to Esmond Curnow for his role in that and for a life of service to the labour movement. As always, I wish him well.

I was interested in the way in which the legislation at the time was affecting my electorate, so I availed myself of the wonderful services of the parliamentary internship program, which many members would also have done. I had a parliamentary intern, a young man by the name of Terrence Wu, undertake some research work for me. He travelled the length and breadth of my electorate to investigate and document the impact of the Public Holidays Amendment Act 2008 on the many municipalities in Western Victoria Region that were impacted on by this legislation. Such was Mr Wu's diligence in applying himself to this task that he even went over the boundary line of the vast area that is Western Victoria Region to have a chat to the people of

Yarriambiack as well. Twenty-two municipalities in regional Victoria were not quite enough for him. The residents of Yarriambiack had a lot to say about this issue at the time, and Mr Wu had a good chat to them about their situation. I will come back to that.

In his report Mr Wu found that the majority of non-metropolitan municipalities were reasonably indifferent to the legislation, but there were a handful of municipalities for which this legislation created some difficulty and, in some places, community angst. That is, I think, where the government's policy and approach and indeed this legislation had its genesis.

Mr Koch talks about Golden Plains, which is in our shared electorate. Golden Plains is probably the best example I can think of. Golden Plains Shire Council is a municipality that is located between Ballarat and Geelong. Residents there, as Mr Koch would well know, were concerned about how they would choose one day. If members are unfamiliar with the Golden Plains shire boundaries, they just need to grab a map and have a look — —

Mr Ramsay — Are you familiar with the Golden Plains shire boundary?

Ms PULFORD — Mr Ramsay is no doubt also aware of this. There are a number of communities which are much closer to the regional city of Geelong and which access a lot of the services there, while at the other end of the shire there are a number of communities which access a lot of their services in Ballarat. The Golden Plains shire does not have a secondary school. A great many of the services accessed by people who live in that shire are in Geelong or Ballarat. This means that when communities in the Golden Plains shire are forced to make a decision about whether to pick Geelong or Ballarat there is a massive conflict.

At one end of the shire the decision seems terribly obvious: of course you would choose the Geelong Cup Day holiday. At the other end of the electorate it would be a terribly logical and obvious thing to celebrate the Ballarat Cup Day holiday. The Golden Plains shire, as my colleagues from Western Victoria Region well know, is a particularly good example of the difficulties of having a municipality pick one day.

In Yarriambiack the issue was even further compounded because the shire has five days of significance, and people were even more conflicted. Mr Wu's report — —

Honourable members interjecting.

Ms PULFORD — If I can just ignore the interjections for a minute and get back to what I was talking about, Mr Wu undertook some work on the effects of this legislation on specific sectors and the impact on agricultural and pastoral societies and turnout at some of the show days. This was documented, and the media has reported on some of the impacts, including the impact of that legislation on some of the turf clubs. A number of years ago and over a period of a couple of years Racing Victoria moved many of our significant regional racing days to weekends, but a number of them may have been the types of days that people would have chosen to have as public holidays. Ballarat is an example of a place where there was some difficulty. In Ballarat there was quite some angst about Cup Day and its show day, and some of the school community leaders — —

Mr Ramsay interjected.

Ms PULFORD — That is right, Mr Ramsay. The councils were required to make a decision, and as I said in the instance of Golden Plains, it was a difficult decision for it to make, and that was the case in a number of municipalities. In my experience it was not difficult for the majority, but for those for whom it was a difficult decision, it was a really difficult decision.

In Ballarat leaders in the school communities advocated that the best message to send to the community about an important day of significance was that it ought to be show day, when we celebrate the wonderful contributions of our regional producers and provide an opportunity for schools, which have a strong tradition of taking a student-free day on show day. For them that was the obvious day. Of course all the people who love their gee-gees were in the other camp. It was a vexed issue for a number of communities, and I have provided but two examples. Again, I would like to thank Terence Wu for the work he did for me on this issue a couple of years ago, and members who are interested in the history of the issue might find that his report is of some assistance to them.

In 2010, in response to these issues, arrangements were made for part-shire celebrations to recognise days of local significance. What I think this demonstrates is that this bill is unnecessary, because in 2010 a series of part-shire arrangements were gazetted, and I will quickly run through those shires. I have a list of most of the municipalities affected, but I will just take members through the shires where there are split arrangements. I think this demonstrates that it is possible to have the flexibility that communities want without needing to change the legislation.

In Buloke shire, the Wycheproof show was celebrated on 20 October for that part of the shire. The remainder of the shire took Melbourne Cup Day. In Gannawarra, the Kerang show was celebrated in the township of Kerang, and the remainder of the shire took Melbourne Cup Day.

In Golden Plains shire a logical and sensible solution was achieved. The Geelong show was gazetted for Friday, 15 October, for those east of Wingeel Road, Gumley-Mount Mercer Road and Meredith-Mount Mercer Road, and the Ballarat show was gazetted for 12 November. In the Greater Bendigo region Bendigo Cup day was gazetted for Wednesday, 27 October, for all areas west of the Campaspe River, and Tuesday, 2 November, was gazetted for the remainder of the shire for the Heathcote show. This demonstrates for people who live in those communities where it has been necessary to make a decision that it is not that hard to apply a little bit of common sense and draw a line on the map covering areas that people in the affected community know really well in order to have split arrangements.

The Hepburn shire is also in my electorate, and on 12 November Clunes, Creswick, Smeaton and Newlyn celebrated the Ballarat show, and the remainder of the shire celebrated Melbourne Cup Day. The Hindmarsh shire, which is again in Western Victorian Region, celebrated the Rainbow show on Tuesday, 12 October, in Rainbow, Kenmare and Albacutya; on 14 October Nhill, Little Desert, Gerang Gerang, Kiata, Glenlee, Netherby, Lorquon, Yanac, Broughton and Kaniva celebrated the Nhill show; and everybody else celebrated Melbourne Cup Day. That shire came up with three separate arrangements under the existing legislation.

In the Macedon Ranges shire the Kyneton Cup was enjoyed by Cadello and Carlsruhe and by postcodes 3444, 3446 and 3458. The Kyneton Cup is a fine occasion for celebrating. Other areas celebrated Melbourne Cup Day. In the Mildura rural city municipality there were two arrangements. Yarriambiack, as I referred to briefly earlier, demonstrates the flexibility that is possible under the existing legislation better than anywhere else, and on Friday, 1 October, the Murtoa show was celebrated in Murtoa, and on 5 October the Minyip show was celebrated in Minyip. On 6 October the people in Rupanyup went to the Rupanyup show, on 7 October Warracknabeal celebrated the Warracknabeal show, and on 2 November everybody else had Melbourne Cup Day.

The existing legislation provides for flexibility, and that is demonstrated by the arrangements that people entered into last year. I have a couple of questions to ask in the committee stage about the half-day arrangements that are proposed, because the legislation seems pretty clearly to refer to Melbourne Cup Day or two half-days, and I am interested in exploring the idea of how the half-days work with the regional overlay and how that can all fit together. We might get to the nitty-gritty of that a bit later on, but on the question of half-days, I suggest that two half-days is not quite the same as a full day.

Mr P. Davis — Two halves don't make a whole?

Ms PULFORD — They generally do, but when you need to apply that 'two halves making a whole' notion to industrial arrangements that talk about 'a day', it adds additional complexity.

As members of the Legislative Assembly indicated during the debate on the bill in that place, some members have received correspondence from the Shop Distributive and Allied Employees Association which undertook a survey of its members. I do not know if any other employee groups have been widely surveyed on this question. The only feedback I have received that directly relates to this legislation applies to that union's membership, which covers the retail sector. However, the union surveyed its regional members and not its metropolitan members. It asked the question if they wanted to keep a full public holiday, either Melbourne Cup Day or whichever local holiday applied through the existing flexible arrangements, or if they would be happy with two half-day public holidays.

I spoke with Michael Donovan, secretary of the shop assistants union about this, and I think he was a little taken aback at how high the take-up in this survey was and at how quickly many people had responded. Everybody loves our regional public holidays and we take them all very seriously. Up to 3 May Mr Donovan had received responses from 1537 people who said they preferred a full day and 28 people who preferred the two half-day alternatives. That information from the people who would be affected by the half-day proposition is not insignificant.

Mr Donovan makes an argument, which I support, about the impact on people of a half-day arrangement, because when you are having a day off, it is nice to have a whole day off. I know Mr Davis's comment about two half-days making a full day is right when you think about an 8-hour day and you do 4 hours here and 4 hours there, but we need to take note of the impact of being at work for two of those days — and these are

important social events. A day at the races often starts a little bit before midday or 1 o'clock in the afternoon in my experience.

Mr P. Davis — You have got to do your hair.

Ms PULFORD — You have to do your hair, do your nails and foof your fascinator — that kind of thing. Half-day arrangements also have a tendency — —

Mr P. Davis interjected.

Ms PULFORD — I do not think my hair needs much more foofing than yours, Mr Davis, but others have more to work with. I could be distracted by the Spring Racing Carnival fashion thing, but I will resist the urge to go down that path.

On a more serious note, the havoc half-days wreak with child-care arrangements is but one obvious example of the difficulties caused by half-day holidays. In my experience most long-day child-care arrangements are full-day arrangements. I have had plenty of experience with child care. When people pay for a child-care place, particularly a permanent place, they pay for the whole day, so people may be paying the full amount for half the time. I do not think the government has thought about these arrangements much when advancing this legislation.

Nhill has a large and significant employer, Luv-a-Duck, which I have had the opportunity of visiting a number of times. Members will be familiar with Mr Millington and Luv-a-Duck's products.

Mr Koch interjected.

Ms PULFORD — I know Mr Koch is familiar with Luv-a-Duck. The company now does wonderful value adding, and its products are accessible to customers and through supermarket shelves and not just in Asian restaurants. We can all get into a fine bit of duck. That company was able to develop its business with the support of the Regional Infrastructure Development Fund — but I digress!

Luv-a-Duck has an enterprise bargaining agreement (EBA) which provides for New Year's Day, Good Friday, Easter Sunday, Easter Monday, Christmas Day and Boxing Day, being standard national public holidays. Other days vary from state to state, including Australia Day, Anzac Day, Queen's Birthday and Labour Day. Clause 32.1.3 in the EBA states:

Nhill Show Day, which by agreement with the majority of the employees may be observed on the Friday immediately following Nhill Show Day ...

I suspect that is a significant clause in that agreement for some good reason that the people working at Luv-a-Duck will understand better than I do. There are also some arrangements in the EBA about union picnic day and circumstances in which Christmas Day, Australia Day or New Year's Day occurs on a Saturday or Sunday, when they would be observed on the following Monday.

Clause 32.3 of the agreement states:

Where in a state, territory or locality, public holidays are declared or prescribed on days other than those set out in 32.1 and 32.2 above —

that is, the previous list of holidays —

those days shall constitute additional holidays for the purpose of this agreement.

That is just one example from one of the municipalities that will be affected by this legislation and by split arrangements for public holidays. I invite government members to respond by thinking about how this legislation will impact on the many and varied industrial agreements in workplaces right across Victoria.

Murray Goulburn Co-operative is another large employer that has many people employed at a number of locations in regional Victoria. That company's agreement provides for Melbourne Cup Day. I urge government members to think about the practical impact of this legislation. The examples I have used are only a couple that I grabbed because they raise a number of different questions.

Mr Somyurek will be moving an amendment during the course of this debate. I will leave it to him to speak about his amendment in more detail. However, in the context of the debate on the shop trading legislation, opposition members sought to move an amendment to the Public Holidays Act 1993 to provide that Easter Sunday is a public holiday, given that the actions of the government not so long ago mean it is now a retail trading day whereas it was not before.

Easter Sunday is caught in this funny place where it is adjacent to a couple of public holidays, but it is not a public holiday, which affects the way in which people are paid if they are required to work in a shop on Easter Sunday. Government members told us at the time that it was not the shop trading legislation that we should be seeking to amend, we needed an amendment to the public holidays legislation. Here we are talking about the Public Holidays Act 1993, so we will take the opportunity to make that case again, and Mr Somyurek will speak about that in a little more detail.

The opposition will not be opposing the second reading of this legislation, although we are keen to discuss some of its practical applications in the committee stage. I will finish by saying that I spoke to a number of local councils that were affected by the legislation in 2008 but were also involved in discussions around creating more flexible and responsive arrangements in 2010.

The feedback I have received — I certainly did not speak to them all, but I did speak to a number of them — was that they would be okay with this legislation if it did not cause any tangible changes to the arrangements that were in place last year. Flexibility and discretion are important. As I said, I am interested in how we apply the split holiday notion and the part-shire notion in combination, and I am sure that the minister who will be at the table when we are in committee will be able to answer some of those questions in a little more detail. I am grateful for the opportunity to speak on this bill. Public holidays are very important to a lot of people, and it is vital that we get the legislation right.

Ms PENNICUIK (Southern Metropolitan) — The Public Holidays Amendment Bill 2011 is before us to clarify arrangements for local councils declaring public holidays in lieu of Melbourne Cup Day. It could be argued that we should not be having a public holiday for a horse race in Melbourne, or indeed in any regional area, but I suppose that is a wider debate. Other people may want to have yet another debate about whether we should have a holiday to mark the monarch's birthday — we could go on and have a discussion about the reasons for all our public holidays. However, there has been debate in the community over a long time about whether there should be a public holiday for a horse race.

Mr P. Davis — Or any public holidays.

Ms PENNICUIK — Mr Davis says, 'Or any public holidays'. I note that 11 public holidays are gazetted in the state of Victoria. It is interesting that in years past, because of the non-observance of Melbourne Cup Day in regional areas, metropolitan people were getting their 11 public holidays whereas regional people were getting only 10 in many cases. Prior to 2008 the Public Holidays Act 1993 gave councils the powers to gazette one full day or two half-day public holidays and declare its applicability either for all or part of the municipality. The intention of those provisions was to accommodate local race days and agricultural show days in each local council area or part thereof each year.

The changes that were made in the 2008 amendment bill were argued for on the basis that arrangements for

alternative public holidays in lieu of Melbourne Cup Day were inconsistent across the state. Indeed some councils made no alternative arrangements at all. Adequate public notice also appears to have been an issue of considerable confusion in municipalities.

The 2008 amendments to the Public Holidays Act 1993 were intended to limit uncertainty about the status of substitute public holidays. The act was amended so that a request needed to be made 90 days before the first Tuesday in November — the first Tuesday in November being Melbourne Cup Day. The act was also amended so that non-metropolitan councils could apply for only one full substitute holiday which would apply to the whole of the municipality, overturning the flexibility of the previous act. However, as Ms Pulford has pointed out in her contribution, under the changes brought in in 2008 it has been possible for municipalities — she read out quite a number of them — to declare full public holidays in certain areas of shires to accommodate local events, and the surrounding areas of regional centres would mark those as full public holidays. Substitute public holidays are now published annually 90 days in advance of Melbourne Cup Day.

The act was also amended to ensure that there were a standard number of 11 public holidays throughout Victoria, effectively making Melbourne Cup Day the default public holiday in regional areas if there was no other regional public holiday declared. The act was also amended so that a weekday public holiday would still apply if a holiday fell on a weekend. Indeed with the unusual circumstance this year of Anzac Day falling on Easter Monday, the Anzac holiday was held on the Tuesday. The Anzac Day march was still on Monday, 25 April; however, the public holiday was Tuesday, 26 April.

The bill will reintroduce the regime for declaring public holidays in non-metropolitan council areas in lieu of Melbourne Cup Day that applied prior to the 2008 changes which I have just been through, excepting that proposed alternative days or half-days will still require a request to the minister 90 days prior to Melbourne Cup Day. There will need to be a request made in advance and publication of the result of that request in advance so that, hopefully, everybody will know what is happening.

In her statement of compatibility Minister Asher claimed that the amendments do not engage the charter of human rights because all Victorians will continue to receive the same net number of public holidays. In theory at least, in a municipality where two half-day holidays are declared an employee rostered on morning

shift would arguably not be entitled to a half-day holiday that is declared from noon until midnight. Emergency and essential services workers, for example, might fall into that category. I will be going to that issue at the committee stage because I think that with the declaration of half-day holidays there could be quite a number of workers who will miss out on taking advantage of the public holiday.

Mr P. Davis interjected.

Ms PENNICUIK — Mr Davis raised before the issue of whether we should have public holidays. There are 11 gazetted public holidays in Victoria, and the act as it stands at the moment makes it clear that everyone is entitled to 11 public holidays. In fact it would probably be a good idea to move to 12 public holidays so that we have one per month.

Mr P. Davis — Talk about the land of the long weekend!

Ms PENNICUIK — Australians do not enjoy a great number of public holidays compared to other countries, particularly those in Europe, and contrary to what members opposite might say there are good reasons for having public holidays and for not being consumed by work all the time. In fact more productivity improvements can be made by making sure people do not overwork. Australians are renowned in the English-speaking world for being overworkers.

I return to the contribution that the Greens made in September 2008 to debate on the bill which made amendments to the Public Holidays Act 1993 — the amendments which this bill today proposes to amend. We suggested at least two more things that could be looked at: a day to celebrate the role of the indigenous community as the traditional owners of the land and another to celebrate an international peace day, which we suggest would be on 6 August, which is Hiroshima Day.

Mr P. Davis interjected.

Ms PENNICUIK — August is bereft of a public holiday, Mr Davis, so there is definitely an opening there for another public holiday — an international peace day. That would be a good holiday on which people could reflect on the need for world peace.

Certainly Victoria is the home of the 8-hour day. Unfortunately in the last 20 to 30 years the 8-hour day has been creeping up to the 9, 10, 11 and 12-hour day. It is well documented in the medical and epidemiological fields that it is not good for the health of workers to be working such long hours. Working

anything over 10 hours a day has been shown to have an effect in terms of issues such as cardiac disease, breast cancer et cetera, particularly if those hours involve shift work. The evidence is very clear on that. We should not be overworking, as many workers are in Australia.

The reason I raise that issue is that I am concerned for regional workers who may, under the changes proposed by this legislation, find themselves with two half-day holidays. I do not agree with the minister that two half-days make a full day, because in terms of going to work some workers will miss out completely. The public half-holiday might, if they are a shift worker, be declared in the part of the day when they are not rostered to work. Also workers in regional areas may have to travel some distance to get to work, so their half-day basically becomes a full day.

Ms Hartland grew up in Morwell, and as an example, if someone lived in Morwell but worked in Traralgon and a half-day holiday was declared in Traralgon, they could have that public holiday. However, if a public holiday was declared in Morwell, where they lived, they would not be able to have that holiday because they would have to go to work in Traralgon, where it was not a public holiday on that particular day.

I am not convinced that these amendments are required. Ms Pulford went into some detail about how many municipalities have been able to be flexible under the existing arrangements. Certainly during the debate on this bill in the lower house evidence was presented that of 48 non-metropolitan councils which are eligible to apply for alternative public holidays, 14 alternative public holidays were gazetted across 9 shires. I am not quite sure how 14 goes into 9; perhaps I will ask the minister to explain that. It is unclear why there were no more alternative public holiday arrangements made. I think the answer is that they default to Melbourne Cup Day. There is a desire among some regional communities to participate in Melbourne Cup Day as well. I am not convinced that the legislation is needed, notwithstanding that it seems to be supported by the Municipal Association of Victoria and the Victorian Local Governance Association.

However, Ms Pulford also referred to the opinion of unions. We have had conversations with the Shop, Distributive and Allied Employees Association (SDA), which opposes the change and argues that where alternative half-days apply it will significantly disadvantage regional members. As Ms Pulford said, the SDA wrote to its members in regional Victoria and asked them to respond to two statements. The first was 'I want to keep a full public holiday (Melbourne Cup

Day or a local holiday)', and the number of answers of 'yes' to that statement was 1537. The other question was 'I am happy with two half-day public holidays (instead of one full day)', and only 28 members were in favour of that.

I think that regional members of the SDA — and these are people working in retail, which would be one area that would be affected significantly by this change — are overwhelmingly not in favour of the change. The purpose of the public holiday is for workers to enjoy a day off and to attend the event for which the public holiday has been declared or to celebrate that event although they are not attending it, such as by having a barbecue. For example, we would know — and I note that Mr Philip Davis is looking at me intently — that many people who wish to celebrate the Melbourne Cup do not actually attend the event itself. They might have a Melbourne Cup barbecue and invite their friends around to listen to the race. Observance of an event is not always done by attending it, and this is the case for many regional people.

For workers it is best to have the whole day off or, if they have to work on a day declared to be a public holiday, to be entitled to be paid public holiday penalty rates for the whole day. Having to attend work for half a day takes out the day. It is not as useful, it is not as enjoyable and it is not as accessible to a worker as a full-day holiday. As Michael Donovan of the SDA said in his letter to Minister Asher, which he has supplied to other parties in the Parliament:

In this instance two half-days do not make a full day. Under this proposal an employee is required to turn up to work for a period of time on each day with the associated travelling costs. They need to return home after work to change into casual wear —

presuming that the public holiday in this case is declared to be the afternoon —

They scarcely have proper time to get to the local event ... after just finishing work to enjoy the event. As is well known many people make a full day of celebration of an event which is in the afternoon. The government action would shut down such enjoyment for retail workers in regional Victoria.

Mr Donovan goes on to argue, as Ms Pulford has done, that this legislation is not necessary. If there are two events in a locality that are worthy of celebration, it is possible to recognise both events under the existing Public Holidays Act 1993 without stripping away any entitlements.

The Greens supported the changes to the legislation under the bill presented to the Parliament in September 2008 which created the current arrangements. It is not

clear to us that this new arrangement would not result in more confusion, particularly with the ability to declare half-day public holidays. It is our view that it is probably best to stick with full-day public holidays. It seems that under the current arrangements the half-day holidays can be declared in different localities and different municipalities. It also means that if there is no arrangement made by a local municipality, that municipality or particular area will still have the default position of Melbourne Cup Day being its holiday so that workers will be entitled to have the full day off or to be paid penalty rates if they are required to work on that day.

I am not sure that the argument for the need for this bill has been substantiated. It seems to me that the current arrangements are working okay and that there is no need for the changes. We will be interested to see what answers will be provided in the committee stage of the debate as to the way the implementation of the changes would be handled in terms of half-day holidays. The declaration of half-day holidays should be discouraged and indeed not introduced. That is our greatest concern with the bill.

Ms Pulford has also foreshadowed an amendment that would be moved by Mr Somyurek. He has not spoken yet, but Ms Pulford mentioned that he will be moving an amendment to allow for the declaration of Easter Sunday as a public holiday. The Greens will be supporting that amendment. We look forward to the minister's answers to concerns about the bill that will be raised in the committee stage.

Mr P. DAVIS (Eastern Victoria) — Acting President, I am just trying to clarify with the last speaker exactly what her position was after the long contribution that she made — of 25 minutes or something; I cannot quite work out how long it was, but it was a long time. I am unclear as to whether she was opposed or not opposed, or in support. Perhaps that will be distilled when this matter comes to a vote on the second reading. The previous speaker on behalf of the Greens was Ms Pennicuik, for whom I have a high regard and of whom I am very fond, and one of the things that always fascinates me — we are talking about the Melbourne Cup here, and there are fascinators around the Melbourne Cup — is the fascination she has with the magic pudding.

From her contribution we came to understand that the Greens see no problem with imposing additional costs on employers by declaring additional public holidays. Ms Pennicuik wants public holidays for this and public holidays for that, and at least one additional public holiday so there is one in every month. What would the

cost of that be to the community, I wonder? Anyway, she can answer that at another time.

Ms Pennicuik interjected.

Mr P. DAVIS — I think Ms Pennicuik's answer was that it would de-stress the society and we would all feel better for it. That was about the summary I got of it. I should turn back to the bill.

Ms Pennicuik interjected.

Mr P. DAVIS — I did. I was really interested in Ms Pennicuik's suggestion that we have a barbecue, and I wanted to know what it was she was proposing to put on the barbecue.

Ms Pennicuik — Vegieburgers.

Mr P. DAVIS — And I thought 'vegieburgers'. That is the iconic Australian day: to have a Melbourne Cup Day holiday and to have a barbecue of vegieburgers and tofu — fantastic!

This bill is a very important bill for rural communities in particular. It is a pity that those members who have spoken in this debate so far have not demonstrated an empathy for those small rural communities, and I will go to that in my contribution.

Ms Pennicuik — I am empathetic with the workers.

Mr P. DAVIS — I thank Ms Pennicuik for her interjection.

Ms Pennicuik interjected.

Mr P. DAVIS — I was just considering whether or not it was a good thing for Hansard to pick it up. Ms Pennicuik is saying she is empathetic with the workers, and that is fine — as are we all, because I think we are all workers. When Ms Pennicuik was making her contribution she was talking about 19-hour days and I was thinking that she was talking about members of Parliament. We are workers, are we not? I think we are. Perhaps in her log of claims for members of Parliament she may think about that.

On the bill, this is a small bill of only three pages and five clauses. It is very significant to small, dispersed rural municipalities. It is about self-determination; it is about devolving decision making. Rather than the elite corporatist view that the ALP and the Greens have, which is to control every waking moment of everybody's day in society, the Liberal Party and The Nationals — the coalition in this state — believe that people should be able to make their own choices and their own decisions about what is best for them as

individuals or collectively as local communities. That is what this bill is about. It is about devolving decision making so that local communities can fully determine what the most appropriate arrangements are for them for their local Melbourne Cup Day holidays.

I speak about local communities, and I will give some examples. We know that agricultural shows are a very significant part of the calendar of each local rural community, as are, where appropriate, the local cup day events. Racing clubs and agricultural society shows are critical to the wellbeing of local communities, because they provide a social lubrication which very few other community events provide. They are a massing together of people who have a common interest, which is the interest in the agricultural show or the races. The Sale Cup, for example, has been transformed over recent years by a recognition that it was difficult to get a date that suited everybody, so now it is held on a Sunday. It is a magnificent event. The numbers have grown from around 1500 to 2000 to over 7000 attendances in the last couple of years. It is a great event for the Sale community. That event is now an important part of the calendar for Victorian racing.

The arrangements for other important race meetings in Gippsland are such that there is a probability that there has not been an opportunity to create an iconic event for those race meetings. An example of that is the Bairnsdale Cup. It is not held on a date that is conducive to attracting a large crowd. It is an important meeting because it is part of the calendar for racing in Victoria. Unfortunately it has not gained a foothold because it has never been able to find the best time to have the event.

With this change to the act through the bill before us, the East Gippsland shire could elect to designate a holiday on the Bairnsdale Cup day. Already the Bairnsdale Racing Club provides a race meeting on the public holiday which is currently declared for the Melbourne Cup. It is just a Bairnsdale Racing Club race meeting; it is not a special meeting as such, other than that it falls on Melbourne Cup race day. As it happens it is reasonably well attended. It is a great event, and that is important.

However, it does not make any difference, it would seem to me, having attended that event for probably more than two decades, whether it falls on Melbourne Cup day or not. In fact the holiday better serves other community events — for example, last year the numbers for attendance at the Sale Agricultural Show were down significantly because there was no half-day public holiday on that day. I know that firsthand through my role as a volunteer with my local Rotary

club. Members of my local Rotary club and the Rotary clubs in Sale man the gates for the agricultural show, and the numbers were significantly down because there was no public holiday.

The point I want to make is about why this local decision making is important. If we take the Wellington shire as just one example, there is the Maffra show, the Sale show and the Yarram show, all within the one municipality and all of which are geographically dispersed and cater to different community interests. Clearly it is inappropriate for one of those events to be designated as a day for the whole municipality. Therefore the provisions of this bill will make it possible for the Wellington shire to accommodate the needs of each of those three important communities.

Similarly, as the flexibility under these provisions comes into effect, it may be that by negotiation between the Bairnsdale Racing Club and the Sale Racing Club there could be designated holidays for their special events, which I have just spoken about as being important to those communities but where there are some difficulties in accommodating them in terms of selecting a day on which to hold them.

I have to say that these are examples of events which have a great deal more significance to rural communities than does the Melbourne Cup. One could count on the fingers of two hands the number of carloads of people who would go to Melbourne from far east Gippsland for a Melbourne Cup Day meeting. The closest they get to it is possibly listening to it on the radio as they are driving their tractor or their ute around their farm.

Ms Pennicuik interjected.

Mr P. DAVIS — The interjection from Ms Pennicuik was something about eating vegieburgers. Most of those people who might be listening on their tractor or in their farm ute would not be eating vegieburgers; they would be probably eating high-country beef.

This bill provides flexibility. It applies to non-metropolitan councils, and it has no effect in relation to metropolitan councils, because clearly Melbourne Cup Day is a declared public holiday for the metropolitan area. The bill provides flexibility and a capacity for a municipality to request an alternative or substitute day, or two half-days to apply in the whole or different parts of the municipality.

I note the concern expressed by Ms Pennicuik and Ms Pulford about entitlements. Under this legislation the same number of holidays will apply to all residents

of Victoria. Melbourne Cup Day will be the default where no substitute has been requested. Where alternative holidays are declared in only part of a municipality the remaining part of the municipality will be subject to the default Melbourne Cup Day.

I have mentioned, and I will not recount it, the difficulty of the lack of flexibility in the present arrangements, which has had adverse impacts on a lot of rural communities. Significant community events have not been recognised in the allocation of important days. It is fair to say that Melbourne Cup Day becoming the default public holiday has not provided significant benefits to local communities. There are some exceptions to that, but on the whole that is rare.

We should note in terms of the comments made earlier about the relative number of public holidays that Victoria, New South Wales, South Australia and the Northern Territory have 11 public holidays in total. In Queensland, Tasmania and Western Australia there are only 10 public holidays.

Ms Pennicuik interjected.

Mr P. DAVIS — The interjection from the learned Ms Pennicuik is that they need more. They want more! Ms Pulford mentioned the issue of consistency across the jurisdictions. Why should we default to some model that is handed down from a tablet on high? Is it not a good thing that there is diversity between the states, between municipalities and between people? We celebrate cultural and ethnic diversity in this nation. Why do we want conformity here, in that everybody has to stop work on a day because they are being told, by the left in this place, that they should stop work?

Prior to 2008 the Melbourne Cup Day holiday only applied to metropolitan Melbourne. Rural councils could declare a holiday if they chose to gazette Melbourne Cup Day or an equivalent day or two half-days, and that is in effect the position we are reinstating. We are reinstating a pass for local councils to make a determination that they will adopt a position, which was relatively within their capacity to do before 2008 — that is, before the act was changed, with the Greens supporting the changes and the coalition opposing them. At the time we committed to repeal these provisions and fix them, which we are now doing.

I note that the opposition, at least, has urged that the government be held to account for committing to all its election promises, so I am looking forward to the opposition voting for the bill at the second-reading and third-reading stages, because the bill implements our election commitment to the Melbourne Cup holiday

arrangements. I do not know how the Greens will vote; I am still wondering, because I could not discern that from the speech of the lead speaker for the Greens.

The timing of the bill allows for this year's show and racing calendars to be coordinated, or at least holidays applied for in relation to municipalities where those are important events. I close on the point Ms Pennicuik made that she would advocate a significantly increased number of public holidays. I suggest the bill provides the flexibility for local councils to declare additional days other than Melbourne Cup Day to meet the requirements of their local communities. I strongly urge the house to support the bill.

Mr SOMYUREK (South Eastern Metropolitan) — I preface my comments by responding to Mr Philip Davis. Section 7 gives all the flexibility and self-determination in the world to local councils, and I will discuss that in more detail in my contribution.

At the outset I inform the house that I will move amendments during the committee stage of the bill, and I request that they be circulated. The amendments are contingent upon the committee agreeing to broaden the scope of the bill.

Opposition amendments circulated by Mr SOMYUREK (South Eastern Metropolitan) pursuant to standing orders.

Mr SOMYUREK — I will commence my contribution with some background information which I think has been lost in this debate. The bill does not operate in a vacuum; there is a background to it. In 2008 the Labor government ensured that all Victorians would be given a public holiday on Melbourne Cup Day or a day in lieu of Melbourne Cup Day, whereas prior to the introduction of the 2008 bill many Victorians in rural and regional areas missed out on a public holiday. Many Victorians not residing in Melbourne have missed out on a holiday on Melbourne Cup Day since it became a holiday for metropolitan Melbourne in the 1870s.

Melbourne Cup Day is a big national event, and Melburnians, as Mr Philip Davis explained, enjoy the occasion on the first Tuesday of November every year. We Melburnians tend to think it is a national day, or at the very least a mandatory holiday for all of Victoria. However, until 2008 it was not a mandatory holiday for all of Victoria. In fact Melbourne Cup Day was only a mandatory holiday for metropolitan Melbourne, and clearly that was a big problem. Why should Victorians in rural and regional areas miss out on a holiday? Sure, local councils in non-metropolitan Victoria had the

option of declaring Melbourne Cup Day a holiday or declaring a day in lieu of Melbourne Cup Day a holiday, but that did not always transpire.

In 2007, a year before the amendment of the legislation, 25 out of the 48 non-metropolitan municipalities elected to declare Melbourne Cup Day or a day in lieu of Melbourne Cup Day a public holiday. Just over 50 per cent of councils gave their ratepayers the opportunity to have that public holiday. That means 23 of the 48 non-metropolitan councils were not declaring Melbourne Cup Day or a day in lieu of it a public holiday, so a little under 50 per cent of the regional and rural Victorian population were not having the same number of holidays as the rest of Victoria. Clearly that was a travesty.

In view of the background information I have just mentioned, I believe the bill is a sinister piece of legislation aimed at duping rural and regional communities into believing the coalition is standing up for them. In reality all the bill does is erode their holidays. Alternative public holiday arrangements already exist in that non-metropolitan councils already have the right to elect an alternative day in lieu of Melbourne Cup Day. Furthermore, under section 7 of the Public Holidays Act 1993 the minister has the power to provide an extra half-day public holiday over and above and in lieu of Melbourne Cup Day.

The minister's second-reading speech, like Mr Philip Davis's contribution today, is littered with the word 'flexibility'. It dismisses current arrangements as being inflexible, yet as I mentioned earlier, section 7 gives the minister all the flexibility she requires to award a public holiday to regions or towns within non-metropolitan municipalities that warrant a public holiday over and above Melbourne Cup Day. This includes providing more than one public holiday for any non-metropolitan municipality.

It is amazing how quickly the government has changed its tune in the short time since the Shop Trading Reform Amendment (Easter Sunday) Bill 2011 was debated in this Parliament earlier this year. During that debate speaker after speaker from the government side got up, both in this house and the other place, and waxed lyrical about how messy and confusing the Easter Sunday trading arrangements were because of a lack of uniformity across the state. What I picked up from Mr Philip Davis's contribution to the debate on this bill and from the bill's second-reading speech is that non-uniformity is now a good thing. Non-uniformity and self-determination — these are obviously post-modern things.

I quote from the second-reading speech of the Minister for Innovation, Services and Small Business on the Shop Trading Reform Amendment (Easter Sunday) Bill 2011 — and members will notice that uniformity is not considered a good thing in this speech:

As well as such inconsistencies, implementation of the Easter Sunday trading restrictions became complex, unwieldy and confusing.

Let us remember those words: 'complex, unwieldy and confusing'. The speech continued:

The 2003 restrictions became especially disruptive in regional Victoria. A number of special exemptions from Easter Sunday closing were granted by the former government for different geographical areas of the state, creating an environment that became extremely confusing for the community.

Again I will repeat the final bit of that sentence: 'creating an environment that became extremely confusing for the community'. The speech continued:

These special exemptions meant that all shops in one municipality, or part of it, could open on Easter Sunday but not in other municipalities. For example, all shops could open in Bendigo —

Bendigo happened to have a local community celebration on that day —

but not in Ballarat or Geelong.

Obviously there was no local special day in those two areas.

I now turn to the second-reading speech of the Minister for Innovation, Services and Small Business on the Public Holidays Amendment Bill 2011:

The restrictive requirement for whole day and whole shire public holidays in lieu of Melbourne Cup Day ignores the fact that some —

and members should listen to this —

country municipalities have two or more communities within their municipality and that their communities have different local show day and cup day arrangements.

There is a convenient change of attitude towards flexibility. What hypocrisy! There is nothing more I can say; the quotes are clear. Just because shops could open in Bendigo on Easter Sunday due to a local Bendigo community event but shops could not open in Ballarat or Geelong, which I presume have no special local event on Easter Sunday, the coalition argued against Easter Sunday trading restrictions, saying it was all too messy. I refer again to the quote that the restrictions were 'complex, unwieldy and confusing' and created 'an environment that became extremely confusing for

the community'. Yet the government now argues that the restrictive requirement for whole day 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 the communities have different local show day and cup day arrangements. It is totally inconsistent. What hypocrisy! What nonsense!

Members opposite ought to be concerned about this bill. Mr Philip Davis conceded that it is a very thin bill, and it is. It is superfluous; we do not need this bill. I hope members opposite rectify this by supporting my amendment. Let us get something out of the bill; let us all support my amendment. The bill is thin, but let us add some meat to it by taking the opportunity to make Easter Sunday a public holiday.

In the debate on this bill in the other place the lead speaker from the opposition and other members of the opposition raised concerns about families possibly losing the opportunity to spend time together as a family unit on a public holiday. The member for Essendon, Justin Madden, spoke about the family unit being divided, with some family members potentially going off to work in another municipality or in a different region within the same municipality and therefore not being able to enjoy Easter Sunday as a public holiday. This is a legitimate concern; however, it is of greater concern that despite the posturing of coalition members the bill effectively diminishes the number of public holidays available to rural and regional communities.

I will explain why I say this. Most reasonable people understand that going to work for half a day kills the entire day. A person has to get up — and I am assuming that they are working the half-day in the morning — have a shower, get ready for work, eat breakfast and drive to work. I admit I have lived in metropolitan Melbourne all my life, so I do not pretend to know regional and rural Victoria as well as Mr Davis, Mrs Coote, Ms Darveniza or Ms Pulford. I do not pretend to know regional and rural Victoria that well, but having driven past some of these places and visited some of these places on holidays, for example, I assume that the drive to work is pretty long. I am informed that it may take people an hour to get to work — that is how long distances are between counties — —

Mr Koch interjected.

Mr SOMYUREK — It can take 5 minutes, Mr Koch — you are right — but let us go with the worst-case scenario. A person gets up, has a shower,

has breakfast, drives to work for an hour, spends 4 or 5 hours at work and then drives back for an hour. I understand that this is the worst-case scenario, but let us deal with it. That is 6 or 7 hours out of his day, and that is a long time. This person might be doing hard yakka, but he might not be doing hard manual work; he might be a retail worker.

If you are working hard, it is difficult to unwind. You cannot just come home, have a shower and go off with the family. It is hard. Even doing what we do, we go home, unwind and put our feet up. We have to recharge our batteries. There is such a thing as the quality of the time you have off. It is unreasonable to say that two half-days off equal a day off. They do not.

There are also costs involved. If you drive an hour, there are petrol costs. Can Mr Finn imagine catching a taxi for an hour? That would cost a lot of money. I do not think two half-days off make a day off. These are not just my suppositions. The Shop, Distributive and Allied Employees Association carried out a survey of its members in rural and regional Victoria, and the results emphatically support my suppositions. The survey gave members the option of ticking one of two boxes labelled with these statements: 'I want to keep a full day public holiday (Melbourne Cup Day or a local holiday)' and 'I am happy with two half-days'.

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

Mr ONDARCHIE (Northern Metropolitan) — I rise to speak on the Public Holidays Amendment Bill 2011. I commend the bill to the house; it is an absolute no-brainer. I have to say that listening to Mr Somyurek's submission to the house today left me a bit frightened. I felt like I was in an economics 101 tutorial and Mr Somyurek was my tutor — now that is a worst-case scenario! Mr Somyurek used the example of a worker in regional and rural Victoria, and he used the word 'he' — 'he needs to get up', 'he needs to have a shower', 'he needs to have some breakfast' and 'he needs to drive to work'. Whether Mr Somyurek believes it or not, there are women in the workforce as well — women that this coalition supports. It is not just blokes in the workforce; it is women as well. Mr Somyurek had best remember that on the other side of the house.

Mr Somyurek said this is a sinister bill — what hypocrisy! Let us talk about sinister — let us talk about a government that leaves the Victorian community with a desalination plant, myki, a fast rail project — —

Mr Koch — Smart meters.

Mr ONDARCHIE — We have smart meters from a not-so-smart government, and there is the Victorian Funds Management Corporation, which lost half a billion hedging against pensions in the United States of America. Talking about sinister, the previous government wanted to put — wait for it — fairy lights on the West Gate Bridge. This is one of the essentials that rural Victorians are looking for — fairy lights on the West Gate Bridge — and Mr Somyurek talks about the bill being sinister!

I note that in her submission today Ms Pennicuik called for an increase in public holidays. The Greens would call for an increase in public holidays!

Ms Pennicuik — By one day.

Mr ONDARCHIE — They called for a 10 per cent increase.

Ms Pulford talked about the current legislation and how it is cumbersome and has no application process. This bill will fix that. This bill is about supporting rural and regional Victorians. Philip Davis called it a thin bill. I agree — it is a thin bill. I think about being thin every single day and it is not working, but I am getting there.

This bill will allow regional councils to declare part-shire arrangements and substitute half-day holidays for the Melbourne Cup Day holiday. Currently councils can only apply for one full day. This bill will provide flexibility and freedom to regional and rural Victorians. Those opposite would benefit by taking note of the term 'regional and rural Victorians', because those people were forgotten over the last 11 years. Non-metropolitan councils can decide to substitute one full day or two half-days. It is not too difficult. They can decide whether the holiday will apply to the whole or parts of their shire. This is a no-brainer. Councils can make application to the minister 90 days before any alternative arrangements are made. Now there is flexibility — 90 days — and new arrangements will be published on the Web once it is done. The bill allows regional communities the flexibility to use those half-day holidays for such events as agricultural shows or regional cup days. It repeals an unnecessarily restrictive and inflexible provision handed down by the previous government in 2008 — a government that forgot about regional and rural Victorians.

Under previous restrictions many regional race days and festivals lost money and customers because people could not attend them. Mr Davis talked about that very well today. I compliment my colleague Mr Davis on his submission to the house today because he gave an

accurate view. He is a great regional-rural member for Victorians, who supports his constituents very well.

Mr P. Davis — Hear, hear!

Honourable members interjecting.

Mr Leane — Are you speaking just to suck up to Mr Davis? Spare us all.

Mr ONDARCHIE — We are all friends on this side; members of the opposition should take note of that.

Local events are vital for tourism and for getting people out to regional and rural Victoria. As Victorians go about their holidays this year I urge them to think about regional and rural Victoria. In the Easter break I went down to Phillip Island, which is a great and wonderful part of Victoria. Victorians should commit to travelling within the state for their holidays.

Mr Leane — Did you see the penguins?

Mr ONDARCHIE — Interestingly I did see the penguins. It was terrific. They were so tiny that they looked like Dale Thomas of the Collingwood Football Club.

Mr Somyurek talked about his recent holiday. What he did not tell us was where he went. Did he stay in Victoria? Did he visit regional-rural Victoria? I wonder about that.

This bill is good for kids. This house has heard me talk about children a lot. I think this bill is terrific for kids because it will enable local schoolchildren to attend and celebrate their own local events. That will create a sense of community; they will be able to attend local events and celebrate them with their classmates as a local community. Here is an opportunity for regional and rural Victoria to participate. As I said at the outset of my contribution, this is a no-brainer. I expect the house to completely support this bill, as I understand it will.

This bill gives councils more control over what public holidays are suitable to their local region. The Baillieu government's Victorian families statement talked about supporting families and giving them opportunities in their local area. It is not a sinister bill; it is a no-brainer. It serves all Victorians and gives them an opportunity to participate in their local community.

Mr Somyurek — As Mr Davis said, this is a very thin bill. Add some meat to it.

Mr ONDARCHIE — I have got enough meat. I do not need any more. I have got quite enough.

Ms Darveniza interjected.

Mr ONDARCHIE — What a shot from Ms Darveniza. She has knocked me over with that one!

No more effort is required from this side because it is obvious that this bill is good for regional and rural Victoria. I am expecting all members to support this bill, and I commend it to the house.

Ms DARVENIZA (Northern Victoria) — I am pleased to rise to make some comments on the Public Holidays Amendment Bill 2011. We Australians, and indeed we Victorians, hold our public holidays very near and dear. We organise very important family occasions and activities around those public holidays. Working families take a great interest in any changes the government makes to public holidays and believe them to be very important.

Prior to 2008 Melbourne Cup Day existed as a public holiday in metropolitan Melbourne only. In 2009 an amendment was made to make Melbourne Cup Day a statewide public holiday. I remember that all the time I was growing up in Shepparton in regional Victoria whilst we always listened to the Melbourne Cup — it was played over the loudspeakers at our schools — it was never a public holiday for us. However, it was always something we took an interest in. It was a public holiday only in metropolitan Melbourne.

From 2009 onwards an adjustment could be requested by local governments for an alternative full-day public holiday across their shires. The flexibility that members of the government believe this bill will provide already exists. Councils have the opportunity to have a substitute day in place of Melbourne Cup Day if they desire — that is, they can have an alternative public holiday. Mr Somyurek pointed out that section 7 of the act allows for this.

Under the heads of power that were provided to the former Minister for Small Business, Joe Helper, in the 2009 amendments, adjustments were gazetted and in April 2010 there were 14 full-day alternative holidays across nine shires. That flexibility that has been talked about by government members has existed for a number of years now. Local shires are currently able to have an alternative full-day public holiday for an event in their community. The major change to this bill is about provisions that allow for part-shire arrangements and part-day holidays. It will allow local councils to free up half a day for a local agricultural show or a race

meeting, while still allowing a half-day to coincide with the Melbourne Cup.

There has been a lot of banter across the chamber during this debate about whether two half-days make a full day. I have real concerns about this because I do not believe that two half-day holidays are equivalent to a full-day holiday at all. Under the proposal employees would still be required to turn up to work on that half-day holiday for a period. What that means is that all the associated arrangements and costs that go with the working day will still be experienced by a family. In the majority of cases the organisation involved in getting family members to work or school falls mainly with the woman of the household — the mother. All of the work, arrangements and costs associated with travel will still exist on those two days that are going to become two half-day working days to allow for the two half-day holidays.

We know that people do make a full day out of a public holiday. People do not want to have to do all the organisation and make all the arrangements that go into getting family members off to work or school and then come home and get the family reorganised for family day activities. That involves a lot of work and organisation, and it is not the way we generally celebrate our public holidays. That is not the sort of organisation and arrangement that would lead into the wound-down, relaxed mode that we Australians associate with our public holidays.

The reality is that some of the family activities in which we participate on those public holidays require a whole raft of other arrangements and organisation within the family. Again the majority of that falls to the mum and the other women in the family. I know that many people make a full-day celebration out of the events held on a public holiday — not just an afternoon, not just a morning. The government's action would shut down such enjoyment for workers in regional Victoria.

My main concern is that the bill is quite mean-spirited. It is a mean-spirited approach by the state government to strip employees in regional Victoria of their current entitlements to a full day's public holiday. I have other concerns as well. It is not just the mean-spiritedness of taking away a full day's public holiday for people in regional Victoria, I am also concerned that the amendments we have before us in this bill will create confusion and uncertainty amongst employers and employees.

Many enterprise agreements anticipate that outside metropolitan Melbourne another day may be taken as a public holiday in lieu of Melbourne Cup Day.

However, they normally assume within these EBAs that it is a full-day public holiday. It is a single day. If the government's amendment goes through, I anticipate that there is going to be confusion and uncertainty about whether, by virtue of the enterprise agreement or through the operation of the national employment standards, employees are entitled to two half-days, one full day or one full day plus one half-day.

We know about this confusion. I certainly know about this confusion, having worked in industrial relations for many years prior to coming to this place. I spent a lot of time in the industrial relations commission arguing about enterprise agreements and the details and interpretation thereof. We know about this confusion because this confusion and uncertainty existed in the past. We had disputes with employers over whether the act or the enterprise agreement provisions took precedence until we, the previous Labor government, tidied it up by providing very clear options within the act.

Mr Finn — Is that what you did?

Ms DARVENIZA — That is exactly what we did, Mr Finn. We tidied up the existing confusion. I do not want to see that confusion reintroduced. My concern is — and it is a very genuine concern — that with the introduction of this bill that confusion will come back into play.

The government should be putting the interests of workers and their families who live in regional Victoria first. It should not be stripping away their right to a full day's public holiday for Melbourne Cup or a full day's public holiday for a local event. I believe the government's amendments are unnecessary. If in a locality there are two events worth celebrating, then it is possible that under the Public Holidays Act 1993 both events can now be celebrated without stripping away any existing entitlements. That flexibility already exists. I have said it before, but I will say it again: the government keeps on talking about flexibility and saying that is why it is stripping away this entitlement of a full day's public holiday, yet that flexibility already exists within the act.

Currently employees are entitled to either Melbourne Cup Day or another full day for a local event, and this should remain. The minister has the right under section 7 of the existing act, as Mr Somyurek pointed out in his contribution, to appoint an extra day or a half-day as a public holiday in a particular locality for a particular local government or shire. If the minister believes an extra half-day public holiday should be given, then that can be done under the current act

without stripping away the rights of an employee to have a full-day public holiday for Melbourne Cup Day or a full-day public holiday for an equivalent local event. The flexibility is there.

It is a mean-spirited bill. It is unnecessary, and I am very concerned that it is going to create confusion for both workers and employers in the future.

Mr FINN (Western Metropolitan) — Having listened to Mr Somyurek and to Ms Darveniza over this last period of time, it occurs to me that if that is the best they can come up with, if that is the general tone of the discussions they held at the ALP conference a couple of weeks ago, no wonder everybody left, because I was tempted to do that as well. Is it any wonder they could not get a quorum? I have never heard such claptrap in all my life — or since the last time they got up, anyway.

Mr Somyurek — You hear it at caucus every week.

Mr FINN — You hear it, Mr Somyurek. Mr Somyurek is a very honest and honourable man. He has just told us he hears it in caucus every week, and that is the truth. I have never been in caucus, and it has to be said it is very unlikely that I ever will be, but if Mr Somyurek says that he hears that sort of claptrap in caucus every week, then I will not argue with him. I will take his word for it —

The ACTING PRESIDENT (Ms Pennicuik) — Order! Mr Finn will come to order. Mr Leane on a point of order.

Mr Leane — On a point of order, Acting President, the matter I raise is relevance. I am loath to move a point of order on relevance because with Mr Finn you could constantly be doing so during every one of his speeches. They all seem to be the same, so maybe I will raise an overriding point of order about relevance.

The ACTING PRESIDENT (Ms Pennicuik) — Order! There is no point of order. Mr Finn had just commenced his contribution, although I would remind Mr Finn to keep to the bill in his contribution to the debate.

Mr FINN — Absolutely, Acting President. I would not dream of departing from the text of the bill at any time.

In this day and age, when there are a lot of shysters about and a lot of people who do not stick to their beliefs, it is a wonderful thing to see the shoppies in here today doing the bidding of those outside the chamber. It is great to see them in here. We know that when the shoppies do a deal, they stick with it. When

they come up with the money for the Labor Party at election time and they do a deal, years later they want to continue the deal even when the government has gone. They continue the deal, and when the shoppies, as personified by Mr Somyurek, see a dead horse they do not just want to flog it; they give it mouth-to-mouth resuscitation and rush it off to intensive care. That is how keen they are on this Easter public holiday thing.

The ACTING PRESIDENT (Ms Pennicuik) — Order! I remind Mr Finn that in his contribution he needs to stick to the provisions of the bill.

Mr FINN — Acting President, I was just making reference to the comments that were made by a previous speaker on this particular matter. I will indeed move on — —

Mrs Peulich interjected.

Mr FINN — We will get to Trades Hall in just a moment, because it is very important that we do that.

As I said before, Mr Somyurek is a man of honour, and clearly, if his union tells him what to do, he will come in here and do it. That is a very honourable and decent thing for any Labor man to do. No doubt he will be sufficiently rewarded when his preselection is next up for discussion, and most certainly I wish him well with that. The reason I have jumped to my feet — —

Mr Leane — There is no reason. What bill are you on?

Mr FINN — I do not know if Mr Leane has been — —

The ACTING PRESIDENT (Ms Pennicuik) — Order! Mr Finn has not listened to my previous reminders to stick with the provisions of the bill. I ask him to do that.

Mr FINN — I was referring to Mr Somyurek's contribution on this debate a little time ago; I do not know if the Acting President was in the chamber when he was speaking for a little bit longer than he should have, but that is another thing altogether.

There is provision for flexibility in this bill. Flexibility in the workplace, as indeed flexibility in life, should be a good thing. I think it is good, and certainly members on this side of the house — members of the government — think that flexibility is wonderful; it is good for all involved. But no, even though members of the Labor Party are apparently going to support the bill, they have just spent the last hour speaking against it, and speaking against flexibility and against all of the

benefits that the provisions of this bill will bring to Victoria, particularly to country Victoria. Those sorts of comments show a total lack of understanding of what happens in country Victoria.

I grew up in the country, and I recall that whilst my city cousins had the day off on Melbourne Cup Day, we were dutifully sitting in class and listening to the radio. I remember I backed a couple of winners in those days — —

Hon. M. P. Pakula — Name them!

Mr FINN — Gold and Black was one of them; I remember that.

Hon. M. P. Pakula — You weren't at school then!

Mr FINN — I backed Gold and Black — —

Hon. M. P. Pakula — On a point of order, Acting President, there is no way that Mr Finn was at school in 1977.

The ACTING PRESIDENT (Ms Pennicuik) — Order! There is no point of order.

Mr FINN — In fact I was at school in 1977, although not for much longer than that.

Mr Somyurek — After 10 years in grade 6!

Mr FINN — Thank you very much, Mr Somyurek.

I have listened to a number of speakers on the bill today, and speakers from the Greens indicated, to my way of hearing what they had to say, that they would like to see every day as a public holiday. In a perfect world, if indeed we were all off with the pixies, that would be a wonderful thing. However, that would be as devastating to small business as would be the introduction of a carbon tax, which strangely enough is being advocated by the same people. Why would the Greens want to wipe out small business in that way?

Further, the arguments put forward by the comrades opposite, and the union delegates who come in here masquerading as members of Parliament, show that they do not understand small business. They do not understand the difficulties that small businesses face everyday. They do not understand that the true heroes of the Australian economy are small business men and women who put themselves on the line — and they put their homes on the line not only for their own good but also for the good of the Australian economy — and they create employment.

Hon. M. P. Pakula interjected.

Mr FINN — I advise Mr Pakula that without small businesses taking the risks they do, his union members would not have jobs, and that is the biggest and most important point. It is one thing that members of the Labor Party just do not seem to be able to understand — that is, without business and without a strong private sector, there would be no jobs. Labor members come into this chamber and, as we heard this morning, bash the private sector and put forward proposals that would harm the private sector. There is no understanding of the importance of the private sector not just to the Australian economy but indeed for the jobs of the union members who they claim to represent.

I will conclude my brief comments at this point, because I understand there is another speaker to come. I sincerely hope that members opposite will deeply consider what I have had to say, because small business is an important part of this state and this country.

Mr ELASMAR (Northern Metropolitan) — Oddly enough it was the Kennett coalition government that revoked the Show Day public holiday in Victoria. I say ‘oddly’ because Show Day was the farmers’ opportunity to showcase their wares and to demonstrate the importance of rural communities to the urban-bred population. It was probably the children who enjoyed themselves the most at the show. Between the farm animals, the show bags and carnival rides it was a wonderful family outing, and I remember taking my own children to enjoy the fun.

Show Day goes back to 1884. Originally it was a half-day holiday, but later a full-day holiday was proclaimed. The Show Day public holiday continued until 1994 when Liberal Premier Jeff Kennett, without regard to his coalition partners or their constituencies, brought the axe down by repealing the public holiday. This meant that many families could not afford to take the day off work, so the children missed out and the farmers missed out as well. Show Day attendance fell sharply and it has never truly recovered.

This bill gives nothing and only seeks to rob Peter to pay Paul. The whole point of having a show day is missing. To simply substitute Melbourne Cup Day or part thereof is a miserable attempt to hoodwink the rural population into thinking that this government is actually redressing show day inequities in rural Victoria. The bill is petty and mean-spirited. Non-metropolitan councils are being given the authority to determine which public holiday its workers can take. It is either/or, but not both — Melbourne Cup Day or show day. This bill treats rural Victoria as —

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Children: Take a Break program

Ms MIKAKOS (Northern Metropolitan) — My question is for the Minister for Children and Early Childhood Development. The minister, at the Public Accounts and Estimates Committee hearings, confirmed that the Take a Break occasional child-care program would be defunded after 31 December this year, leaving many families, particularly young families in rural and regional Victoria, without access to affordable community-based occasional child care so they can undertake employment, family shopping, study and other activities. In towns like Swifts Creek, where the local community will be forced to discontinue its occasional child-care program without funding assistance, what will her government do to ensure that Victorian families in regional areas are able to access occasional child care?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I am glad that the shadow minister has asked a question about the Take a Break occasional child-care funding, because as the shadow minister should be well aware, child care is a federal government funding responsibility. We also need to look at the history of this particular program. This program was originally funded on a 70 per cent commonwealth-30 per cent state basis. The state indexed its funding and increased that proportion of funding, but by far the bulk of the funding was commonwealth funding because child care is a federal government responsibility.

As part of its budget last year the federal government withdrew its funding in the middle of May, which would have meant that services would close on 30 June 2010. The former state government allocated additional funding to allow the Take a Break program to continue for one year, but the then minister, Maxine Morand, made it very clear that that funding was for one year only and was to provide an opportunity for communities and families to find alternative care. The way she did that was to bring forward funding from the 2011–12 budget to provide for services in 2010–11. Funding that should have been available to us this year to continue to fund that program was taken out of the budget and used last year to fund services to get us past a federal election and a state election.

Hon. D. M. Davis — It was a funny money deal.

Hon. W. A. LOVELL — It was a funny money deal by the former government. As soon as I became the minister I wrote to the federal minister for child

care, Kate Ellis, asking her to reinstate federal funding for a federal area of responsibility. I am still waiting for an answer to that letter. She has not even responded, and she showed in the federal budget that she was not prepared to continue to fund this program. If the shadow minister wants this program to continue, she should join with the coalition government and lobby her federal counterparts to reinstate funding for occasional child care, which is a federal government responsibility.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — Last week, on 26 May, Premier Baillieu was asked a question about the withdrawal of funding for the Take a Break occasional child-care program. He seemed to imply in his answer that the program had been scrapped because of a lack of scrutiny. Can the minister advise the house what the problem was with the quality of the care offered under the Take a Break program, and will she publicly release the KPMG report that reviewed this program?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — I think I gave a fairly comprehensive response in my substantive answer, and I have nothing further to add.

Hospitals: performance data

Mrs PEULICH (South Eastern Metropolitan) — My question without notice is directed to the Minister for Health, who is also the Minister for Ageing, the Honourable David Davis, and I ask: will the minister inform the house of any new — —

Honourable members interjecting.

The PRESIDENT — Order! Mrs Peulich obviously has a cold or something that is making it difficult for her. She is not being assisted by members of the chamber. She has the call. I want to hear what she has to say and, particularly given the voice issue that she has today, I would have thought a little bit more respect ought to be accorded to the member.

Mrs PEULICH — Thank you, President, for your protection, and my apologies for the laryngitis.

Mr Jennings interjected.

Mrs PEULICH — I did catch the germs from Lee Tarlamis, so — —

Honourable members interjecting.

Mrs PEULICH — I am not sure who is more red-faced — Mr Tarlamis or me! My question without notice is directed to the Minister for Health and Minister for Ageing, the Honourable David Davis, and I ask: will the minister inform the house of any new data that indicates how the Victorian health system is performing and how the Baillieu government is improving health system performance? I have a vital interest in this.

Hon. D. M. DAVIS (Minister for Health) — I thank the member for her question, and I can see that she will need to use the health system at some point quite soon — and I wish her a speedy recovery. But in answer to her substantive question, what is very clear is that the data released yesterday for the period 1 July to 31 December shows that the Victorian health system was not performing well under the previous government. What is more, additional data has been released — data that has never before been released formally and data that reflects directly on the hospital and health system.

I have got to say that this was a cover-up by the previous government and by the previous health minister, who is now the Leader of the Opposition in the Assembly — a minister who refused to tell the truth about the Victorian health system. Why did he not release the list of hospital-initiated postponements?

Hon. M. P. Pakula — Who is paying your legal bills?

The PRESIDENT — Order! Mr Pakula's interjection was far too robust. The minister will continue through the Chair, and perhaps Mr Pakula will not find it necessary to be quite so robust.

Hon. D. M. DAVIS — We also released data on the number of emergency department mental health patients who waited longer than 8 hours for admission, the number of emergency department patients with a length of stay greater than 24 hours, ambulance attendances and the proportion of ambulance transfers that were over 40 minutes, individual hospital category 4 and 5 emergency department data and the number of bed days a patient is waiting in major metropolitan health services for residential aged-care assessments.

These were all datasets that were kept secret by the previous government — information that we will release routinely into the future, information that should be in the public domain, information that will assist hospitals and the system to plan and information that will enable better performance. It is information that the

previous government, the previous health minister, kept secret and chose to keep secret. Why did he keep secret the hospital early warning system data — the mini-bypasses? Why did he refuse to say that in July there were 505 of them, in August there were 602 of them, in September there were 560, in October there were 497 — and I could on.

In terms of ambulance transfer times, ramping is a significant problem in our health system — under all governments. I accept that, but at least now we are prepared to put this information into the public domain. In November, the election month, 84 per cent of ambulances transferred their patients within 40 minutes, but that meant that 16 per cent of ambulance patients waited more than 40 minutes for transfer. This is a bad use of resources for ambulances.

I have to say it is important that the data be in the public domain. It is important that we are honest about the data. It is very important that the information is available to the Victorian community and to the Victorian health system. It is sad that the previous health minister was not prepared to be honest about the performance. He failed. There were 11 long, dark years of Labor, 11 years of secrecy, 11 years of failure to be truthful about the system and 11 years to be up front — and it is shameful.

Anglesea power station: environmental impact statement

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Planning, Mr Guy. As the minister knows, Victoria has a bilateral agreement with the commonwealth that allows matters referred under the Environment Protection and Biodiversity Conservation Act 1999 to be considered through a state-based environment effects statement. Can the minister tell me whether in relation to the Anglesea coalmine expansion and extension he has spoken to the federal government about an assessment through this mechanism or whether he is considering doing so?

Hon. M. J. GUY (Minister for Planning) — The answer to Mr Barber's question is: no, I have not spoken to the federal government about it at this stage.

Supplementary question

Mr BARBER (Northern Metropolitan) — Why not?

Hon. M. J. GUY (Minister for Planning) — When the matter comes to my desk I will make an assessment on the material provided to me at the time.

Planning: Wyndham Harbour development

Mr ELSBURY (Western Metropolitan) — My question is also to the Minister for Planning, the Honourable Matthew Guy. Can the minister inform the house of the innovative proposals for new communities in the Werribee South area?

Hon. M. J. GUY (Minister for Planning) — I thank Mr Elsbury for his terrific question in relation to urban development in the western suburbs of Melbourne and indeed for the interest he has taken, as has Mr Finn — two members for Western Metropolitan Region who both live, work and play in their own electorate. It is terrific that they live, work and play in their own electorate in the western suburbs of Melbourne.

It is important to ensure that residential growth in Melbourne's west occurs and is promoted. I was recently joined by Mr Finn, Mr Elsbury, the lower house member for Tarneit, Mr Pallas, Wyndham's mayor, John Menegazzo, and CEO Kerry Thompson to support and turn the first sod at the Wyndham Harbour development in the city of Wyndham on Port Phillip Bay. This proposal has been mooted for some 25 years, and it was with absolute pride that I was able to go down there and launch the project by turning the first sod on a project that the coalition has been supportive of in opposition and that it has launched in government.

This side of the house does not just believe that good-quality, high-quality new urban development should be restricted to the trendy inner suburbs. Some people in academia or indeed the political left might believe that the only areas of Melbourne that should be subject to new urban development should be inner city areas.

Mr Finn interjected.

Hon. M. J. GUY — In fact I have noted with interest the talking down of much of outer urban Melbourne from former planning ministers who referred to 'McMansions', as Mr Finn said; I think 'obese housing' was the comment of the former Minister for Planning, who referred with scorn to quality outer urban development, particularly in places like Wyndham.

Let me say that this government believes outer urban Melburnians and regional Victorians have every right to benefit from good quality urban design and urban accommodation. We are putting our money and support where our mouth is. We are supporting this development, and I was pleased and proud to go and launch this development as a sign of this government's

support for urban renewal and urban projects in outer urban areas as much as inner city growth areas.

This development that will bring a \$440 million injection to the Wyndham economy. Once operational, there will be an \$8 million tourist expenditure with 72 000 annual trips to the marina each year. It will bring thousands of people to Wyndham. It will open up an area of Port Phillip Bay that has previously remained untouched and unable to be accessed by people across our city. It is a development that we are proud to be associated with.

Hon. M. P. Pakula interjected.

Hon. M. J. GUY — I note the interjection of Mr Pakula. Well, well, well! I am so glad to have an interjection from a member for Western Metropolitan Region who lives in the eastern suburbs — someone who treats the west with such disrespect he does not even bother to live there. But the Liberal members who live there and who joined me at the launch — Mr Finn and Mr Elsbury — are all proud to be associated with a development that is part of rejuvenating Melbourne's west in a manner that only a Liberal government is proud to support.

Planning: major hazard facilities

Mr TEE (Eastern Metropolitan) — My question is also for the Minister for Planning — while his voice lasts. On 31 March the *Hobsons Bay Weekly* lodged an FOI application seeking a copy of the Ports and Environs Advisory Committee report. Four days later, on 4 April, the minister wrote to the member for Williamstown in the Assembly saying that he had the report and:

I am currently considering the recommendations of the Port and Environs Advisory Committee ...

Yet on 25 May the minister's media adviser, Bronwyn Perry, told the *Hobson's Bay Weekly* that the minister did not have the report. She stated:

When he has received the reports he will make a decision about whether or not to release them publicly.

Who is telling the truth — the minister or his adviser?

Hon. M. J. GUY (Minister for Planning) — When I receive the report I will make a decision on it. When material is published in newspapers, as Mr Tee knows, sometimes it is told to a newspaper and it lasts beyond the week in which it might have been given to the journalist, and it might become dated from that period of time. Mr Tee should follow the advice of the former Leader of the Government in this chamber,

Mr Lenders, who scorned people for taking their stories from newspapers.

Supplementary question

Mr TEE (Eastern Metropolitan) — I am not referring to the news article; I am referring to the minister's letter of 5 April wherein he said, 'I am currently considering the recommendations'. This is an important report dealing with people living next to major hazard facilities. It is an issue that is causing anxiety in this community. When will the minister release the report?

Hon. M. J. GUY (Minister for Planning) — I have already stated that after I receive the report and make an assessment I will release it at the proper and appropriate time. What I find astounding about this report is that it was commenced by and was around under the previous government. If the member for Williamstown in the Assembly, Wade Noonan, and other Labor members felt so strongly about this issue, why were they silent on it for 11 years, only to suddenly find their voices now that they have been thrown into opposition?

All these crocodile tears that the Labor Party cries for the western suburbs! Where were the crocodile tears when Justin Madden rezoned land being considered by this report? Where were the crocodile tears when Justin Madden rezoned land in Williamstown near an area that is being considered by this report? Where were Labor's crocodile tears then? They were never to be seen. Now they walk into the chamber — and wow, what a difference opposition makes!

Manufacturing: industrial action

Mrs COOTE (Southern Metropolitan) — My question is to the Minister for Manufacturing, Exports and Trade, Mr Dalla-Riva, and I ask: can the minister inform the house of the significance of yesterday's Fair Work Australia ruling that unions could use strike action to force employers to the negotiating table?

Hon. R. A. DALLA-RIVA (Minister for Manufacturing, Exports and Trade) — I thank the member for the question, because the ruling to force employers to the negotiating table is an important matter. This was a decision announced yesterday involving the Transport Workers Union and J. J. Richards and Sons. I note the concerns of employer groups about the potential for the decision to encourage greater strike action and industrial unrest. The point I make is this: nobody questions the right of workers to take lawful industrial action, but surely in any sensible enterprise bargaining arrangement that right should be

exercised as a last option, not as the first option. I note that the — —

Hon. M. P. Pakula — On a point of order, President, as a matter of clarity, the question Mrs Coote asked the minister was about a development in the federal industrial relations sphere. I am just wondering whether the minister's answering of this question means that he will now be required to answer any and all questions about industrial relations in the federal sphere in the future.

The PRESIDENT — Order! My view as Presiding Officer is that if there are industrial relations matters that occur in the Federal Court that impinge upon Victorian administration, then the house is entitled to believe the minister may well have comments to make on those matters. Victoria has referred its powers, but there are issues for the Victorian economy and for the minister's administration. I think the question that the minister is responding to today is an appropriate question, and I think he is proceeding with an answer that is apposite to what he has been asked.

As I said, whilst the decision might have been in the jurisdiction of the Federal Court and whilst Fair Work Australia is a federal agency, there are implications for Victorian industry. I think the minister is aware of that and has made comment about that in various contributions to this Parliament in the past. I would expect that questions might well reflect that going forward.

Hon. R. A. DALLA-RIVA — I think Mr Pakula would be aware that we ceded most of our industrial relations powers to the commonwealth in 1996. However, I think it is important to put on the record that that does not mean we will not act to protect the interests of Victorians. It is important that as a state we strengthen Victoria's industrial relations reputation. We need to encourage future investment and sustained economic growth for all Victorians. I am confident that our government will support industry in Victoria by making sure it is up to the challenges that exist at a most difficult time, such as those arising from shifting patterns of trade and the like.

I note that in the context of the decision that was handed down yesterday the federal workplace relations minister, Senator Evans, is promising a review of Labor's Fair Work Act 2009 in the first half of next year. Our view is that the review cannot come soon enough. Workplace laws should be encouraging productivity and competitiveness and not inviting pre-emptive strikes. If Labor's workplace laws have the effect of discouraging investment and the jobs that go

with it, Labor must be held accountable. We cannot compete with low-wage economies on labour costs, but we can compete by increasing our productivity. We need to build on our reputation for quality and reliability through the development of higher end products and services.

For the record, in the 1990s Victoria's productivity growth exceeded the national average, but from 2000, under Labor, it fell below the national average. Victoria has been underperforming on this key important issue. We need to understand that if we are to reverse the position that Labor has put this state in and give its people the economic opportunities they need for a prosperous future, we need to encourage innovation and build our skills base. We need our industries to be dynamic, outward looking and agile, and we need a workforce that is highly skilled and highly adaptable. As I said, the review undertaken by the federal workplace relations minister, Senator Evans, is undertaking cannot come quickly enough.

Health: commonwealth-state agreement

Mr JENNINGS (South Eastern Metropolitan) — My question is for the Minister for Health. As the minister is well aware, as part of the commonwealth allocation of \$16 billion to support the health industry across Australia, the intention is to establish a national accountability and health pricing mechanism. The minister has commented on that in recent times. Can the minister tell the house what constructive proposals he has put to the commonwealth to enable the degree of transparency and accountability that it requires to secure that funding for Victoria?

Hon. D. M. DAVIS (Minister for Health) — The Victorian government is committed to greater transparency and a more effective health system. We are also committed to working collaboratively with the commonwealth government to deliver that. What I would say to the member is that one suggestion we have made to the commonwealth is that if the new National Health Performance Authority is established in the form that is being mooted, it ought not have an excessively large bureaucracy, it ought not be an intrusive bureaucracy and it ought to work collaboratively with the states. We have also made the suggestion that that body could be much more effective if it also scrutinised commonwealth health activity.

Another constructive suggestion we have made is that the Australian Institute of Health and Welfare could take on a larger role in ensuring transparency and greater scrutiny of the health system. It has a well-established reputation, it is respected by the states

and the commonwealth, and it has a good history of bringing together datasets that enable genuine comparability. This is one alternative that would see good transparency with less bureaucracy.

Supplementary question

Mr JENNINGS (South Eastern Metropolitan) — I would like to congratulate the minister on providing the best answer he has given me, in my view, to any question I have asked him. In the spirit of being constructive, I ask the minister — —

Mr P. Davis interjected.

Mr JENNINGS — I still believe it is the best answer he has given. In the spirit of being constructive, I want to know whether it is the intention of the minister to account to the commonwealth so as to provide it with the confidence of knowing that every dollar the commonwealth allocates for health expenditure in Victoria will be acquitted within the health portfolio.

Hon. D. M. DAVIS (Minister for Health) — This is not strictly a supplementary question, but nonetheless I am happy to answer it. It is a question that Mr Jennings has asked on a number of occasions, and I will give him the same answer I have given previously, which is a direct answer. The state spends far more on health care than the commonwealth does. The state's contribution dwarfs the commonwealth's contribution. In the case of Victoria about 60 per cent of our hospital system costs are met by Victoria and not by the commonwealth. I am confident that we are pulling our weight and increasing our share. I am very happy to provide an assurance to the member that Victoria is more than pulling its weight.

Higher education: federal funding

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, and I ask: can the minister inform the house of the Liberal-Nationals coalition government's position on commonwealth legislation to create a demand-driven funding system for higher education?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mr O'Brien for his question and the chance to comment on what is a very important issue for all of us in Victoria. Mr O'Brien's question referred to the recent actions of the commonwealth government to introduce a bill to the federal Parliament that would bring about a demand-driven system for the

funding of undergraduate places at certain higher education providers. I say 'certain' because therein lies some concerns for the Victorian government.

Essentially we welcome the move to a demand-driven funding system for undergraduate courses, starting in 2012. We hope it will complement the already successful demand-driven vocational education and training funding system we have in Victoria. Those reforms led to a 24 per cent increase in enrolments in diploma and advanced diploma courses in Victoria between 2008 and 2010. That is to be welcomed. We hope that the higher education demand-driven funding system will bring about similar results, because all of the planning undertaken by the previous government and the current government demonstrates the need for greater acquisition of skills in the Victorian community to meet workforce needs.

There are some significant differences between both of these demand-driven systems. Firstly, the Victorian demand-driven funding system for vocational education and training applies to all providers, whether they are public providers, private providers or community providers. Under this bill the proposed federal system makes it clear that private providers of higher education are excluded from demand-driven funding, and essentially anything other than those universities listed under certain schedules of federal acts will not be eligible for demand-driven funding.

This is of particular concern in Victoria, as two of our finest TAFE institutes currently have commonwealth-supported places, deliver bachelor of early childhood education and bachelor of nursing programs. Holmesglen TAFE currently has 40 bachelor of nursing places and 120 bachelor of early childhood education places, both of which currently attract commonwealth funding. The Northern Melbourne Institute of TAFE also has 30 bachelor of early childhood education places that receive commonwealth-supported funding.

Under the new bill it is not clear whether those places will continue to receive commonwealth funding. If they do not, it would be a real concern to Victoria, especially as both these professional areas of nursing and early childhood education are in demand. In this state we need to be training as many nurses and early childhood educators as we can. Moreover, it seems apparent that neither of these institutions will be eligible for demand-driven funding — that is, they will not have the opportunity to expand the provision of those particular courses. We say that is a real concern.

If our universities have, as they should, the opportunity to increase the number of places under a demand-driven model, then equally, to meet our professional needs in this state, we will argue strongly that those organisations — particularly the two TAFE institutes that already have the accreditation to deliver those programs — should have the opportunity both to continue to participate and to be eligible for expansion under a demand-driven model.

We also have some concern about the ability under this legislation for the federal minister to cap certain professional areas of training. We would want to see that the states have some input into that decision, because the professional workforce needs of this state need to be considered before any such decision is made. I urge all members to show an interest in this issue because it is the future of the Victorian economy and the Victorian people that is at stake.

Department of Premier and Cabinet: catering

Mr LENDERS (Southern Metropolitan) — My question without notice is to Mr David Davis in his capacity as the minister representing the Premier. Does the minister stand by his comments on ABC radio on the Thursday before the election last year that the Department of Premier and Cabinet should not cater for cabinet and cabinet committees because ministers are paid a lot of money?

Hon. D. M. DAVIS (Minister for Health) — I have learnt over the years not to be verbally by the Labor Party, so I need to check precisely what I said and not accept Mr Lenders's assertion about what I have said. Let me be quite clear on that.

Supplementary question

Mr LENDERS (Southern Metropolitan) — My supplementary question to Mr Davis is: does the Department of Premier and Cabinet pay for catering of meals at cabinet and cabinet committee meetings?

Hon. D. M. DAVIS (Minister for Health) — I will have to take that question on notice and find that out. As you will understand, President, I do not administer the details of the Department of Premier and Cabinet, but I will take on notice the points that have been made. I am the minister representing the Premier in this chamber, and I will take that question on notice.

Northern Hospital: performance data

Mrs PETROVICH (Northern Victoria) — My question on notice is for the Minister for Health.

Mr Lenders — On notice?

Mrs PETROVICH — Without notice, my apologies. I ask: can the minister inform the house of any new data that indicates how the Northern Hospital is performing and how greater transparency is assisting to improve this?

Hon. D. M. DAVIS (Minister for Health) — I am pleased to answer the question from Mrs Petrovich concerning the Northern Hospital, an important hospital that caters for an increasing population in the northern region of Melbourne. The house will be aware that yesterday we released additional data which has not been available before and which points to the performance of hospitals around the state. As I said, the Northern Hospital is an important hospital that caters for not just the northern region but also the northern country region from where people come towards the city to seek emergency department care.

A number of new performance measures for the Northern Hospital have come forward. In the second quarter of this financial year the hospital achieved 69 per cent performance against a target of 75 per cent for category 3 emergency care; 59 per cent against a target of 80 per cent for transfer in 8 hours; 63 per cent against a target of 80 per cent for length of stay of less than 4 hours; 88 per cent against a target of 90 per cent for patient transfer time within 40 minutes; and 61 per cent against a target of 80 per cent for category 2 elective surgery patients waiting longer than 90 days.

A number of these new measures are important. The hospital initiated postponements were 209. This is data that Daniel Andrews, the former Minister for Health, would not declare, and it relates directly to his time as the minister. The hospital early warning systems figure of 56 hours was also information that Daniel Andrews would not release. The clear point here is that this is an important hospital that needs assistance as a result of the growth in population. As a government we have made the decision that we will fund the emergency department building there, which will cost a significant amount — more than \$25 million — which represents a significant contribution to the community of the northern suburbs and those who move from the northern country region into those northern suburbs to seek emergency department care.

I make the point that the Northern Hospital is doing well in the circumstances in which it finds itself. However, we have made the capital contribution that will deliver better services for that hospital.

I make the point that Daniel Andrews, when he was health minister, refused to release data like hospital

initiated postponements, hospital early warning systems data and like data on transfer times. That information ought to have been in the public domain to enable the system, the hospital and the community to make better judgements about how the system is performing and to assist it to improve.

QUESTIONS ON NOTICE

Answers

Hon. D. M. DAVIS (Minister for Health) — I have the following answers to questions on notice: 178, 255–318, 323–35, 598, 622, 623 and 676.

PUBLIC HOLIDAYS AMENDMENT BILL 2011

Second reading

Debate resumed.

Mr ELASMAR (Northern Metropolitan) — As I was saying before question time, giving the non-metropolitan councils the authority to determine which public holidays its workers can take is an either/or decision. It is not both Melbourne Cup and Melbourne show days. This bill treats people in rural Victoria as second-class citizens, not sophisticated enough to stop work to celebrate the race that stops the nation but hopefully sufficiently dedicated to their own rural communities to choose their own show day. I think it is heartbreaking that we cannot celebrate a public holiday on Melbourne Show Day as we used to. It is a fantastic family event that ranks with school holidays.

The honourable man, as Mr Finn called my colleague Mr Somyurek, has proposed an important amendment to this bill. That amendment is about Easter Sunday, which is a very important day for families. I urge members in this house to support the amendment as I will support it.

Motion agreed to.

Read second time.

Referral to committee

Ms PULFORD (Western Victoria) — I move:

That the Public Holidays Amendment Bill 2011 be referred to the Standing Committee on Economy and Infrastructure Legislation Committee for inquiry, consideration and report by 28 June 2011 and that the committee consider in particular the impact of the half-day public holiday provisions in the bill on employers and employees.

I will make a couple of brief remarks in support of my motion as it is reasonably self-explanatory. Mr Finn was right when he said the committee was busy, but this is a very narrowly defined matter with a short reporting date of something less than four weeks. The reporting date I am seeking is the Tuesday of the sitting week before the long recess. We are hoping to use the legislation committee in the way it was intended — that is, as a quick Senate-style committee to look at a very narrow subject. I envisage the committee will consider the specific impact of the half-day provisions in this bill on employees and employers who may be affected by these changes.

I am proposing this inquiry because we are concerned about the way in which the provisions in this legislation intersect with other types of industrial arrangements that govern various workplaces in regional Victoria. We are concerned to ensure that Victorian businesses are not overly burdened with additional red tape and that councils, when making the types of decisions that are envisaged by the legislation, can do so knowing they have as much information as possible about the impact on businesses in their municipalities and on the employees who work for them.

Ms PENNICUIK (Southern Metropolitan) — The Greens will support Ms Pulford's motion to refer the bill to the Standing Committee on Economy and Infrastructure Legislation Committee for inquiry, consideration and report by 28 June, which is not that far away and will allow for the bill to come back to be reconsidered by the house.

There have been issues raised in the debate on this bill about the implications for workers and employers of the provision which would allow the declaration of half-day holidays and also half-day holidays in different parts of the municipality. This may create confusion, whereas the existing provisions that were put in place with the 2008 amendments to the act allow for flexibility but also allow for more clarity across a municipality as to what is a public holiday, whether there is a particular holiday for that locality or whether the default public holiday is in fact Melbourne Cup Day.

The issue is worthy of consideration by that committee. However, I also remind members who attended the address by the Clerk of the Senate, Dr Rosemary Laing, that she said as a matter of course many bills were referred to Senate committees for even short periods of time, and many of them came back with small changes or amendments. In most cases small changes or amendments to the bill to make sure it operates properly are actually put forward by the government; they are not put forward by the other parties.

Referring a bill to a legislation committee enables further consideration of the bill and provides the opportunity to call witnesses et cetera. More information can be gathered than is otherwise possible during the second-reading debate on a bill or even during the committee stage. Many government bills are amended by the government. If legitimate concerns are considered by the committee, the government can improve its own bill.

Everyone knows that despite governments thinking their bills are perfect, in most cases we find they are not. In the last Parliament we saw bills that the government considered were perfect, so no amendments were considered, but often those bills came back to the house 6, 12 or 18 months later. I predict the same will happen in this parliamentary session — that legislation will be returned to the Parliament for further change because it was originally rushed through without enough consideration. I anticipate, and I hope it is not the case, that this may be one such bill, because the provisions have created confusion in communities, which is what we foreshadowed could be the case.

I also draw the attention of members to the fact that in the Victorian Parliament bills are introduced into the lower house without the knowledge of the opposition parties, particularly without the knowledge of the Greens. They pass through the lower house in a matter of a week or two, come to the upper house and then debate is put off for a sitting week, which could mean two or three actual weeks. The bill comes back and, as a routine, passes through the Parliament. That is not the case in the Senate, where most bills are considered by a Senate committee. In other parliaments in Australia bills go to legislation committees. In the New Zealand Parliament bills go to select committees, and exposure drafts of bills are put out.

We need to adopt a culture where there is more time for legislation to be considered by the community and by other parties in the Parliament so we make sure we end up with better legislation which does not have to be returned to the house. That is the function of a legislation committee. So far the government has been resistant to availing itself of that function, but I would urge it to change that resistance. As I mentioned the last time I tried to refer a bill to one of the committees, if a member feels that a bill needs to go to a committee and the member is supported by other members in the house, that should be agreed to, especially if it is only for a short time.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank Ms Pulford for her motion. However, the government has made it very clear that this bill fulfils an election

commitment. My understanding is that there was extensive debate on this issue before question time. We can obviously clarify some issues during the committee stage. I note that a contingent notice of motion has been listed on the notice paper to enable Mr Somyurek to move an amendment and a new clause in the committee stage. There has been ample discussion on this bill. It is not a complex bill in the context of some bills that come before this chamber and, as I said, will fulfil and complete an election commitment that the coalition took to the last election. We will not be supporting Ms Pulford's motion.

Ms PULFORD (Western Victoria) — Just quickly in response, it is disappointing that the government's approach to motions from the opposition or the Greens to use our new committee structure as it was intended is to continually reject them. This is a very narrowly defined matter. It is a matter of real importance and significance to albeit only part of the state, but to those communities that are affected by this legislation it is very significant. There is some common purpose about the way in which we would like people to be able to celebrate public holidays and do so in a way that does not overly burden organisations. This is exactly the type of thing the committee could be used for and is in no way seeking to overly tie up the government's legislative program or detract from its stated desire to fulfil its election commitment. It is to just have a look at the specific impact of the bill on a number of people and at a couple of the bill's provisions.

House divided on motion:

Ayes, 19

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

Noes, 21

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

Motion negatived.

Sitting suspended 12.56 p.m. until 2.01 p.m.

Instruction to committee

Mr SOMYUREK (South Eastern Metropolitan) — Pursuant to standing order 15.06 I move:

That it be an instruction to the committee that they have the power to consider an amendment and a new clause to amend the Public Holidays Act 1993 to appoint Easter Sunday as a public holiday.

This motion effectively broadens the scope of the current debate to allow my amendments, which were circulated during my speech, to be debated. Given that Mr Dalla-Riva made the comment — —

Mr P. Davis — On a point of order, Acting President, the problem has been solved by the clerks.

The ACTING PRESIDENT (Mr O'Brien) — Order! I believe at the time Mr Davis raised it the problem still existed, so I thank him for his prompt attention.

Mr SOMYUREK — Mr Dalla-Riva's objection to the referral of the bill to an upper house committee for scrutiny was based on the grounds that I had circulated amendments. I do not mean to verbal Mr Dalla-Riva, but I think he said that gave the house plenty of opportunity to debate the bill. Given that, I would expect the government to support my motion to broaden the scope of this debate.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The verballing continues. I indicated that the bill was an election commitment, so there was plenty of time before, during and after the election campaign to consider the policy position. For the record, only recently we had a discussion about the Easter Sunday matter in which all those issues were flagged again. I think this is more about the Shop, Distributive and Allied Employees Union pushing the buttons of those opposite than the question of what is legitimate legislation. We will not support Mr Somyurek's motion.

Ms PENNICUIK (Southern Metropolitan) — The Greens will be supporting Mr Somyurek's motion to broaden the scope of the debate to allow the committee to consider amendments regarding Easter Sunday being made a public holiday. We supported it during the previous debate on the bill. We have a bill before us that amends the Public Holidays Act 1993, so it is an appropriate time to introduce amendments to that act. We support the motion.

Mr SOMYUREK (South Eastern Metropolitan) — All my motion does is correct a historical anomaly. It is

a historical anomaly that Easter Sunday is not a public holiday, because when the Public Holidays Act 1993 was introduced by the Kennett government, shop trading hours had not been fully deregulated and therefore shops were still closed on Sundays. For this reason the act did not specifically identify Easter Sunday as a public holiday. The intent of the Public Holidays Act 1993 was not to exclude Easter Sunday from being a public holiday.

Mr Drum interjected.

Mr SOMYUREK — It is a historical anomaly, Mr Drum. I am disappointed that the government has used a technicality in the standing orders to refuse to even debate my amendments. This issue affects 200 000 Victorian retail workers. The legislation in effect deprives these people of the chance to spend Easter Sunday with their families and friends.

House divided on motion:*Ayes, 19*

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

Noes, 21

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

Motion negated.**Committed.***Committee***Clause 1**

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I seek leave for Mr Philip Davis to join me at the table for this committee of the whole.

Leave granted.

The DEPUTY PRESIDENT — Order! I remind members who join the minister at the table that they can speak but need to do so from their place.

Mr SOMYUREK (South Eastern Metropolitan) — Can the minister advise the house on which stakeholders the government consulted with prior to the formulation of this bill?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank the member for his question. The bill implements our election commitments by restoring to country Victorians their ability to celebrate their local show days and race days with their local public in lieu of Melbourne Cup Day, with the flexibility to do as they choose.

Firstly, there was our election commitment, which is on the public record; and secondly, there were press releases dated 30 September 2009 and 16 December 2009 that were released by the then Deputy Leader of the Opposition and shadow Minister for Small Business. So it has been out there. And I have been led to believe by my honourable colleague next to me that the minister has written to the councils seeking comments from them.

Mr SOMYUREK (South Eastern Metropolitan) — What briefings has the minister had with respect to the impacts this legislation will have on small and medium-size businesses?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank Mr Somyurek for his question. The impact this legislation will have on businesses has been noted. There has been some documentation of this in the *Weekly Times*, and I am happy to provide the member with that after the committee hearing. On 14 October 2009, for example, there were concerns about the people of Warracknabeal putting on a brave face, despite the fact that their recently held local show was much quieter than usual. This legislative change offers the flexibility for non-metropolitan councils to do as they choose in terms of local show days and race days.

What has been found is that businesses are suffering. There is confusion and a lack of capacity to have part-day holidays, two half-day holidays or part-shire holidays, so this legislation will make it easier for businesses to work and not undergo suffering. Equally, it appears that the current structure, which was created by the former government, made it difficult for large shires to have a show in one part of the shire on one day and a second in another part on a separate day. Councils

basically had to make a choice as to which show they would hold in lieu of Melbourne Cup Day.

In our view what this legislation does is allow local and regional councils the ability to make arrangements for either half-day or part-shire holidays in lieu of the Melbourne Cup holiday. We think this will allow greater flexibility for businesses in their capacity to operate.

Mr SOMYUREK (South Eastern Metropolitan) — I thank the minister for his answer. The minister spoke about half-days. Surely the proliferation of half-days will have some impact on the regulatory burden faced by small and medium-size businesses? Has the minister had a briefing as to the potential impacts of half-day holidays on small and medium-size businesses?

The DEPUTY PRESIDENT — Order! I have called clause 1 only for the purpose of the bill. Mr Somyurek is asking about issues which relate more directly to clause 3. I am happy to allow that question if the minister wants to answer it or hold it over until clause 3. But other members are wanting to speak on clause 1, so I am trying to keep some order in the debate. Would the minister like to respond to that question or hold it over until clause 3?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — No, I was going to say the issues relate to clause 3.

The DEPUTY PRESIDENT — Order! Let us deal with it in clause 3. I will give Mr Somyurek the opportunity to re-ask the question then.

Ms PENNICUIK (Southern Metropolitan) — Mr Somyurek asked a question about stakeholder consultation. The minister mentioned that he had written to all the councils. There are two parts to this question: what local government areas raised this as an issue with the minister prior to the election; and how many responses did the minister receive from local councils when he wrote to them?

Mr P. DAVIS (Eastern Victoria) — I am delighted to have the opportunity to pre-empt the minister's response in relation to Ms Pennicuik's implied suggestion that this was not a significant issue. In her question she asked the minister, 'Who raised this with you?' If Ms Pennicuik had been able to get off her bicycle, into a motor car and out of metropolitan Melbourne into the country she may have found that the country communities affected by the changes in 2008 were in revolt — and they were, right around the state. All Ms Pennicuik has to do is go through the press clippings. If Ms Pennicuik had gone to the library

and asked the librarian to help her find the press clippings she would have found any number of pieces of commentary in the media about these changes and their effects and impact. Ms Pennicuik supported these changes in 2008. The coalition opposed them and committed to repeal them at that time.

Ms Pennicuik — Is this a second-reading speech?

Mr P. DAVIS — It will be whatever Ms Pennicuik wants it to be. This bill before the house in effect repeals those changes made by the Labor government in 2008, which Ms Pennicuik supported. It is in response to the overwhelming representation made to local members, shadow ministers and the media more broadly about the negative and adverse impact of these reforms — reforms which Ms Pennicuik supported because her party was not in touch with rural communities. Rural communities regard the capacity for flexibility in identifying opportunities to promote their icon events by way of a public half-day holiday, or a full day where appropriate, as an alternative to Melbourne Cup Day as being a very important local determination.

I do not think it takes very much imagination to know that when a policy is formulated when legislation is before the Parliament, proclaimed at that time and then transmitted by way of further policy announcements during a formal election campaign, that policy will be implemented. It should be no surprise that this policy is being implemented by this bill before the house. We could save a lot of time in discussion of this bill if Ms Pennicuik would go back and have a look at the policy commitment which the coalition made in opposition in 2008 and repeated in 2010 during the election campaign and which the minister is advancing as legislation today.

The DEPUTY PRESIDENT — Order!
Ms Pennicuik may wish to respond, because I think a number of new factors have been opened up in that response.

Ms PENNICUIK (Southern Metropolitan) — My question was not answered. I did not ask about how many media releases there were. I asked a specific question. I wish to take this opportunity to say that Mr Davis, for whom I have high regard, should not impugn my motives in asking this question. My question was asked in good faith, and I ask it again: how many municipalities approached the coalition to have changes made to the 2008 act, and when the minister wrote to the municipalities how many responded?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I think there is probably a good explanation: it is called a dog's breakfast, because fundamentally mass confusion occurred across country Victoria as a result of the 2008 changes and then the 2009 changes. The changes created such confusion in the municipalities that they just gave up.

I go back to the example of Melbourne Cup Day, which was raised by Mr Somyurek. To put it in context and to answer the question about engagement, an article from the online *Weekly Times Now* of 14 October 2009 states:

Locals were worried about their show's future in the wake of the Victorian government's decision —

that was the former government —

to prevent local councils from allocating individual holidays for their towns.

Yarriambiack shire chose not to pit one town against another, opting instead to declare Melbourne Cup Day as a shire-wide holiday.

It then goes on to talk about a woman who protested by closing her clothing business and losing a day's trading — which answers Mr Somyurek's question — so she could volunteer as a show steward at the local show. This woman also took her three sons out of school so that they could attend the show. The uprising that Ms Pennicuik supported has created a concern that shires would be left in a position of losing trading opportunities and patronage at local shows. In that *Weekly Times Now* article it was said that crowds did not turn up to the show until late in the day, and revenues were down; that is one example. Then there is another example of where, because of the confusion, 20 out of 250 students attended their local secondary college on show day last week because it was not declared a holiday.

Mary Bluett from the Australian Education Union said the new holiday legislation was divisive and had a negative impact on small communities. In the *Weekly Times* of 14 October 2009 she is quoted as saying:

Shows provide a lot of rich educational material for children and it would be much better if local communities were allowed to determine their own holiday, like before ...

And it goes on. I hope I have answered Ms Pennicuik's question, and I hope I have answered parts of Mr Somyurek's question.

Ms PENNICUIK (Southern Metropolitan) — I want to assure Mr Dalla-Riva that what I am trying to

do is make sure we do not — in his words — create confusion. I think there was confusion before. He is saying that confusion was created; I am hoping that confusion will not be created for local councils and shires, for employers and for employees. That is why I am asking these questions.

The minister has not answered the question, which was in relation to how many responses he got to the letters that he sent out. It was a fairly simple question. We heard in the debate that many councils were approached by Ms Pulford, who conveyed to us in the debate that there was not a great amount of angst so long as people would be able to put in place the arrangements that they put in place last time. In answer to a question from Mr Somyurek, the minister said he had sent a letter to every municipality. I ask: how many responses did he get?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Just to clarify the matter, it was the Minister for Innovation, Services and Small Business, Ms Asher, who wrote the letter; it was not me. It is my understanding that there have been six responses at this stage. I reiterate that it was a very clear election commitment which stated that we would bring the situation back to what it was before. There is nothing new, and the councils are very well aware of that. My understanding is that the councils have also been advised that there need to be time lines in place with the way the legislation is currently operating, irrespective of the two days shown in the amendments. That is also part of the process of engagement with those municipalities.

Ms PULFORD (Western Victoria) — I have a question on clause 1. In the earlier discussion Mr Davis indicated that this was in effect a repeal of the legislation that the previous government had brought to this place in 2008. In some of the minister's responses he has talked about confusion in some municipalities and the desire to clarify arrangements. He cited some media reports from 2009 around issues of smaller attendance numbers at municipal shows and the like. These are matters I am very aware of, as a great many of the municipalities that were affected are in my electorate.

As I indicated in the second-reading debate, of all the rural shires there was a relatively limited number that were aggrieved by this legislation. That is not in any way to detract from the extent to which those that were aggrieved were aggrieved because they were quite unhappy about it, and they certainly made those representations to the then opposition. I think this is where the genesis of the policy that brings us to this

point today was. Those shires certainly also made representations to government MPs.

We have talked about 2008, and we have talked about 2009, but in April 2010, within the existing legislative framework, there were nine councils that opted for and had arrangements gazetted for split-shire celebrations of their important public holidays. My question to the minister is: how does this legislation substantially change the arrangements that were in place in those nine municipalities that opted for multiple locality holidays in 2010?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — We are introducing half-days in part shires. That is basically what the amendments will bring in. Ms Pulford made it sound as if it was smooth and operating well, but I have in front of me the *Victoria Government Gazette* of 22 April 2010 in relation to the Public Holidays Act 1993. I do not want to embarrass members of the former government by reading it out, but if they read it, they will see it was absolutely confusing for poor Mr Joe Helper, the member for Ripon in the other place, who was then the Minister for Small Business. I say 'poor' because it is totally confusing. Under sections 8(1)(a), 8(1)(b) and 8(2) of the Public Holidays Act 1993 he had to declare that:

Tuesday 2 November 2010 (Melbourne Cup Day) is not a public holiday in:

the township of Kerang in Gannawarra shire ...

Then there is a whole list of the townships, including Rainbow, Kenmare and some other names that I struggle with. Members who represent electorates up there would know them better than I, so I am not going to embarrass myself, but the list also includes the townships of Cadello and Carlsruhe and the postcodes of 3444, 3446 and 3458 in Macedon Ranges shire and so on. The act then goes on to say:

The following days are appointed as public holidays in lieu of Melbourne Cup Day 2010 ...

Friday 1 October 2010 in the township of Murtoa in Yarriambiack shire;

Tuesday 5 October 2010 in the township of Minyip in Yarriambiack shire;

Tuesday 5 October 2010 in the township of Kerang in Gannawarra shire ...

and it goes on. It is confusing.

What we have done is free it up to make it easier for the respective shires to write to the minister saying, 'We are going to declare, in lieu of the Melbourne public

holiday, that this full day or these two half-days in these parts of the shire or the entire shire will be a public holiday'. All we have done is give them the flexibility and the choice, as I indicated in my initial presentation. I believe that is a good thing. It is good for business, it is good for the shires to have a bit of control and it is also a great outcome for all those who are operating under difficult circumstances.

Ms PULFORD (Western Victoria) — I thank the minister for his response. I am also familiar with the way in which the public holiday arrangements for 2010 are expressed in the document to which he referred. I would like to assure the minister that that is a reflection of the express wishes of those municipalities, so what the minister has just described as being a — —

Mr P. Davis — Could the member repeat that? We could not quite hear what Ms Pulford was saying.

Ms PULFORD — Sorry. Those arrangements are as a consequence of discussions between the former government and those municipalities. Whilst it may look a little untidy as an overall Victorian picture, in that postcode 3444 gets one arrangement — that is Kyneton, where they have the Kyneton Cup — and Carlsruhe might have a different arrangement, and in Yarriambiack we talked about five different townships wanting to celebrate on five different days, in my experience those arrangements are very clear to the communities involved.

In the Golden Plains shire there is a line on the map expressed in that document that splits the shire two different ways, so what I would assert to the minister is that the flexibility he is seeking to introduce with the legislation has in many circumstances worked well. It has worked well by agreement and discussion with the nine councils — out of the 79 in Victoria — that sought a split-shire arrangement. I could perhaps just take the opportunity, given that the minister has mentioned the Yarriambiack shire — —

Mr Koch — On a point of order, Deputy President, I would like to mention in this committee stage that what has been indicated by the member is not the case.

The DEPUTY PRESIDENT — Order! That is not a point of order; it is a point of debate.

Ms PULFORD — Briefly in response, that is my recollection of how those arrangements were entered into. Those arrangements are a reflection of the desires of those municipalities in 2010, so the arrangements that were made in 2010 — —

Mr Koch interjected.

The DEPUTY PRESIDENT — Order! I will call Mr Koch if he wishes to make a contribution in a minute.

Ms PULFORD — The Golden Plains Shire Council arrangements with the two dates are in the document Mr Dalla-Riva referred to. I appreciate that the minister has indicated that the substantive difference therefore is the opportunity for half-days, and perhaps on clause 3 we might come back to that, but the minister did mention the Yarriambiack shire experience. I am keen to understand how the legislation applies to the Yarriambiack shire, because it was a particularly challenging situation with five distinctly separate communities.

When I read the bill I wondered how the split days and the split localities worked together, because the bill seems to suggest two half-day options, but how does that work in a shire that wants to celebrate on five separate days? As I understand it — and again my recollection is from dealings on this issue last year — the bill certainly seems to suggest you can have two half-days, not five half-days. I would appreciate some clarification — —

The DEPUTY PRESIDENT — Order! I think Ms Pulford is raising questions that relate to clause 3. If members have completed their contribution on the purpose clause, let us move on and raise the direct questions in relation to those specific questions. Does the minister want to respond?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advisers have explained the complexities of the way it was operating, and I stand by the comments I made earlier to Ms Pennicuik. The legislation has caused mass confusion. I was just illustrating that with some examples. As I said, I am happy to provide this document to Ms Pulford so she can understand it, but the bottom line is that there are 48 councils that had the capacity to have different arrangements. Nine shires had 14 different arrangements. They had no half-days. The councils could not request half-day or part-shire holidays unless they went through a convoluted process. What we are doing with this legislation is very clearly and simply keeping our election commitment. I think the details we are getting into now relate to later clauses in the bill, and I will be happy to go into them.

Ms PENNICUIK (Southern Metropolitan) — I want to follow up on two things the minister said. Firstly, he was kind enough to tell me that 6 of the 48 shires he wrote to responded. Could he tell me which 6 they were?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I do not have that information at hand.

Mr SOMYUREK (South Eastern Metropolitan) — The minister spoke a little earlier about the confusion in 2008 because of the 2008 bill. Is it true that prior to 2007 only 23 out of the 48 non-metropolitan municipalities actually declared a public holiday on Melbourne Cup Day or a holiday in lieu of Melbourne Cup Day?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — My advice is that the question asked is not relevant to this bill and that prior to that the councils had taken a different course, so things applied differently after 2008.

Mr Somyurek — On a point of order, Deputy President, Mr Dalla-Riva did talk about how things worked in 2008 and how things were prior to 2008, so I suggest that Mr Dalla-Riva himself ventured into this territory. I am now taking up —

The DEPUTY PRESIDENT — Order! That is not a point of order. It is a point of debate which the member is entitled to make but not as a point of order. Does the member wish to make a further contribution?

Mr Somyurek — My point of order was that the minister himself broadened the scope of the debate by actually referring to it, therefore it became relevant for me to ask that question.

The DEPUTY PRESIDENT — Order! The question was not ruled out of order; the question was allowed to stand, and the minister responded to the question. I cannot direct the minister to respond in any particular way; I can only provide him with the opportunity to respond. I cannot direct the minister to answer a question.

Mr SOMYUREK (South Eastern Metropolitan) — I suspect the minister is not going to answer this question either, but I will try. How many days in 2007 — I say 2007 because that is the year before the 2008 legislation was implemented — were half-day holidays? Non-metropolitan shires or councils had a choice of taking up the half-day holidays at that stage. How many non-metropolitan councils at that stage took up the half-day holiday option?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I will be more polite. That does go to the history, but what we are about with this legislation moving forward is giving the choice and opportunity to councils and the

flexibility to do as they choose. We could go right back to the principal act of 1993, but I do not think we should be prosecuting every legislative change. There were changes in 2008 and there were election commitments in 2009. The then government backflipped and tried to modify the legislation, but it was still a dog's breakfast.

We went to the election with a very clear mandate to make this change, and we have put this amendment to the house. I put forward the proposition that clause 1 basically deals with the principles. The principles were an election commitment, and there was an understanding that this position would be taken in this chamber.

The DEPUTY PRESIDENT — Order! I am not advising the minister on this, but it is not uncommon, where specific information has been requested, for ministers to provide that information to a member at a later time once they have obtained that information. It is obviously not a direction, but it is not uncommon for that to occur in committee stages.

Ms PULFORD (Western Victoria) — I have one final question on clause 1. I would be curious to know what the government's expectation is of how many of the shires and rural councils are likely to take up the half-day option. Like many of my colleagues who represent areas that are affected by this legislation, I have had many representations — from local government, communities, turf clubs and show societies — about when the date could be and to what locality it could apply, but I have not encountered a great demand for information on the half-day option. What is the minister's expectation about the likelihood of this being widely applied?

Mr P. DAVIS (Eastern Victoria) — Deputy President, I am delighted to have the opportunity to make a few remarks.

The DEPUTY PRESIDENT — Order! Thank you for the correct title too, Mr Davis. You are doing better than the minister.

Mr P. DAVIS — I had not picked that up. I am trying to contain myself here. I have recently sat through 54 hours of estimates hearings. Those hearings were sometimes laborious, but they were not nearly as laborious as the process we are going through now.

Mr Somyurek — It is called scrutiny.

Mr P. DAVIS — I will take up Mr Somyurek's interjection.

The DEPUTY PRESIDENT — Order! We were doing really well for a long while. That is enough.

Mr P. DAVIS — The interjection infers that the government is not making itself available for scrutiny. What does Mr Somyurek think this process is? We are in the committee. The issue is that — —

Mr Somyurek interjected.

The DEPUTY PRESIDENT — Order!
Mr Somyurek! I will give Mr Somyurek the call to respond to anything that Mr Davis says he objects to if he wishes. All he needs to do at the conclusion of Mr Davis's remarks is get my attention.

Mr P. DAVIS — Mr Somyurek and Ms Pulford are seeking information from this minister about legislation which their government amended in 2008. It seems to me that if those members of the previous government were not well informed when they supported the legislation in 2008, about which now they are asking questions, then they should explain themselves to the house.

It seems to me that the changes that were implemented in 2008 were interfered with by the previous government, because those changes have caused problems for rural municipalities. We are now trying to fix those problems because those changes have had a disastrous impact on and caused a mess for those municipalities that had arrangements in place for local holidays to reflect the needs of their iconic events — whether it was a race meeting or an agricultural show. We are now seeing members of the previous government asking questions about matters that relate to their responsibility — changes that occurred on their watch when they were responsible for administering the foregoing legislation.

This bill deals with a narrow and specific set of changes. Those changes, as the minister has clearly laid out, are about the opportunity for individual municipalities to make a choice as to whether or not to substitute the Melbourne Cup Day holiday with other days — a day or half-days — and how those days will be applicable in different parts of the municipality. It provides discretion for the council in consultation with the local communities. To suggest that there is a capacity for the minister at the table to provide information about which shires are likely to take what decision at this point is a fallacious argument.

The bottom line here is that we have had the second-reading debate, and the prosecution in the committee stage should be restricted to an understanding the mechanics of the bill. Opposition

members are trying to construct some rhetorical debate about something they messed up in 2008 which they cannot quite adjust to. My view is that the minister is providing information as diligently as he can in response to their requests, which frankly are arcane.

The DEPUTY PRESIDENT — Order! I do not need Mr Davis's advice about how to manage the debate. We are on clause 1, which outlines the purpose of the bill. A wide range of issues can be raised, and they have all been in order.

Mr SOMYUREK (South Eastern Metropolitan) — That bit of synthetic indignation from Mr Philip Davis has me totally bemused. Where did that come from?

Mr P. Davis — From the heart.

Mr SOMYUREK — It did not come from your heart, Mr Davis, because if it did, I know you would do better than that. How dare you question our right to scrutinise your legislation? How dare you question our right to hold you accountable? How dare you?

The DEPUTY PRESIDENT — Order! Through the Chair, Mr Somyurek.

Mr SOMYUREK — Through the Chair, of course. In terms of 2007–08, Mr Philip Davis referred to the period before 2008, and the minister referred to a period before 2008, so I merely asked a question about that. My information is that 23 out of the 48 non-metropolitan councils did not invoke a public holiday in lieu of Melbourne Cup Day in 2007. That is just under 50 per cent of rural and regional Victorians who did not get a public holiday — —

Mr P. Davis — That is irrelevant.

Mr SOMYUREK — It is relevant. All I have done is ask a question. Why should I be subjected to that diatribe because I asked a question? It was synthetic indignation. I am totally bemused as to why he did that. I am sure it was not to rescue Mr Dalla-Riva, because I know Mr Dalla-Riva does not need rescuing.

Ms PULFORD (Western Victoria) — I take the opportunity to again ask my question about the government's expectation of how the half-day shire arrangements, which are a key feature of this legislation, will work. This is my final question on clause 1, and I am not interested in having a lot of MPs spend their Thursday afternoon in this place caught up in some rhetorical flourish-type exercise.

My question was simply about the government's expectation about the likely take-up of the half-day

option, because it has not been my personal experience that that flexibility is what is desired. The flexibility that people have spoken to me about relates to full days in different localities. I acknowledge I have not spoken to every council that is affected by this legislation, but a good number of the nine that have part-shire arrangements are within my electorate. I have had quite a bit to do with them on this issue over the period since the 2008 legislation. My question was about what the government's expectation is of the likely take-up of the part-day arrangements. That is all I was hoping to find an answer to.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have had in the meantime is that there were 11 half-days across eight shires prior to the 2008 amendments, as was thought. In the context of Ms Pulford's discussion, I think it is important to note that this is about choice, and it will be up to the shires to make that choice. If you look at clause 1 again, you will see it sets out the main purpose of the bill, which is to amend the public holiday laws:

to provide that non-metropolitan Councils may nominate alternative public holiday arrangements in lieu of Melbourne Cup Day.

If they do not wish to take up the option, they will continue to have Melbourne Cup Day as the holiday, but if they do wish to take it up, they can take a full-day holiday for an entire shire or two half-days for a part shire. That is all we are doing. As I said, the changes were intended to allow the councils to have that choice.

As to the take-up rate, I guess that will be subject to this information getting out, as was raised by Ms Pennicuik. The minister has written to the councils advising them that this legislation is before the chamber, and obviously we need to go through that process. Members need to understand, though, that what we are doing is clearly laid out in clause 1. Other than that, the public holiday will remain the Melbourne Cup holiday.

The DEPUTY PRESIDENT — Order! I am happy to call Mr Davis, but I ask that we avoid the throwing of petrol on the debate to the extent that was done a moment ago by members in the chamber. I am not directing that entirely at Mr Davis, but I just ask that we maintain some decorum in our discussion on the balance of clause 1.

Mr P. DAVIS (Eastern Victoria) — Thank you, Deputy President, I hear your advice. I am not sure that I am going to adjust what I intended to say in response to Mr Somyurek, who made accusations about me

which I resent — deeply. I have been in this place for a very long time and at no time — —

Mr Somyurek — What were the accusations? Just tell me. If they were unfair, I will withdraw them. Tell us the accusations.

Mr P. DAVIS — You were suggesting that the government and I were trying to shut down scrutiny on this bill.

Mr Somyurek — Come on! You said it!

Mr P. DAVIS — That is what you suggested. I did not say that. What I said in the chamber during the debate — —

The DEPUTY PRESIDENT — Order! That is enough from both members. This is the committee stage of a bill in which the house goes through the detail of the clauses in the legislation. If members wanted to pursue this sort of debate, they should have done so during the second-reading stage. I will not accept two members throwing accusations at one another across the chamber. They will contribute to the debate through the Chair.

Mr P. DAVIS — I am delighted to comment, through the Chair, on the fact that the learned member of the opposition Mr Somyurek is suggesting that the government and I are endeavouring to shut down scrutiny on this bill. The reality is that we have been in committee on this bill for nearly an hour now, and the government has no intention of going anywhere. We will stay today and tonight and tomorrow morning if required. It is up to the opposition. We are happy for the opposition to ask any questions and make any point it likes in the process; however, as you quite rightly pointed out, Deputy President, it should be relevant to the bill and the clause we are considering.

We are considering clause 1 of a bill which amends the Public Holidays Act 1993 and does not relate to legislation that was before this house in 2008. The law changed in 2008. It seems to me that opposition members are fixated on some sort of analysis of what it — I will try to be polite about this — made a bit of a mess of, in more colloquial terms.

The opposition, when in government, did make a mess of it in 2008. We had an extensive debate in 2008. At the time we received powerful representations from rural communities against the changes. As a result of that we committed at the time to repeal this bill, as I have stated before. I know the committee is no place for tedious repetition, but I have to respond at this point to Mr Somyurek and Ms Pulford. The issue is this:

members can raise any matter they wish, they can ask any question they like and they can make any debating point they like, but it needs to be relevant to the bill and the clauses in this bill and not to ancient history.

The DEPUTY PRESIDENT — Order! I give Mr Somyurek the same advice that I gave to Mr Davis. Let us not continue this debate as an extension of the second-reading debate. I will say this in relation to some of the points raised in Mr Davis's contribution, which was almost a point of order: clause 1, the purposes clause, has been used in the committee by both the minister and members to cover a broad range of issues, including some historical issues. It is now a little late in the debate to be suggesting that members cannot continue to pursue those matters of concern. I call on Mr Somyurek, but let us try to progress as efficiently as we can through the clauses of the bill.

Mr SOMYUREK (South Eastern Metropolitan) — I feel I deserve a right of reply after what Mr Davis said. I would not want to lecture Mr Davis on Westminster tradition, but he clearly thinks that our system of democracy is a winner-takes-all system: once you get 50 plus 1, this place becomes a prize that is given to the winner.

The DEPUTY PRESIDENT — Order! We are on a specific clause of a bill. Mr Somyurek's contribution is progressing into a broader range of issues than is before the Chair in relation to the bill before the house. We are discussing clause 1, the purposes of this particular bill, which seeks to amend the Public Holidays Act 1993. It is not a bill about the Westminster system. Does Mr Somyurek wish to make a further contribution?

Mr SOMYUREK — I preface my question by saying that we reserve the right to scrutinise the government in any way we wish. What briefings has the minister been given in relation to the impact of this bill on workers?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — What briefings have I had? We have made it clear that this is about being pro-jobs. It has been about supporting shows, supporting municipalities and providing choice, and I think we need to understand that we are creating an opportunity for job development and job creation.

I gave examples before, which I will go through again. We have shires pitting one town against another. Some shires opt to declare Melbourne Cup Day as a shire-wide holiday. I have given the example of a clothing shop shutting down because it could not

operate; it lost a day's trade. The evidence was fairly substantial in terms of why we thought it was important, and I would suggest that if the member is insinuating that there will be some decline in jobs, he might find it goes the other way. We are positive about it. We see it as a good opportunity for job creation and job development.

Mr P. DAVIS (Eastern Victoria) — I will try to assist the house by giving a local anecdote. It comes from my experience last year at the Gippsland agricultural show in Sale. It is a well-known agricultural show and one of the few shows that does not have to pay the Victorian Showmen's Guild to hold a carnival in the area. Most small agricultural shows have to provide financial incentives to the Victorian Showmen's Guild to hold a carnival because they do not attract crowds and turnovers that are significant enough.

At the Gippsland agricultural show in Sale last November, because there was no public holiday and therefore the children who would normally attend the show on the Friday afternoon were not around, there was a significant loss of patronage, which also meant a loss of patronage at the night carnival. I understand that last year the Victorian Showmen's Guild found it was not profitable at all to have attended that particular event.

I use that as just one example of the significance of attendance and patronage to economic activity around those community events. If the community is unable to attend the event, then the operators of the event have a problem — and that is aside from not being able to get volunteers to staff the gates and all the other activities. The people whose business it is to provide services cannot trade profitably because they do not have the patronage.

In terms of the question that is implicit in Mr Somyurek's remarks — that is, how this will affect local economies — I am suggesting it is difficult to analyse that as an aggregate, but it is visible to local communities at a micro level. I could see it; I walked around the show and was stunned by how few people were there compared to previous years. There were hardly any kids there, and there was no activity.

On the first weekend of November, just before another momentous event in Victoria, the state election, I was interested to note that the local candidates were despondent before the election because they had turned up at the local show on the Friday afternoon to see all the constituents — the parents and their children — and there was nobody there to see. Those political

candidates who had set up tents and stalls and had balloons they could not give away were packing up by about 3.00 or 3.30 in the afternoon. It was a bust. This is a micro example of a much bigger picture. I suggest it would be difficult for a detailed analysis to be done to understand the local significance of this legislation to each of these many events.

The DEPUTY PRESIDENT — Order! I thank Mr Davis and ask him how his cattle went. Did Mr Davis get any ribbons?

Mr P. DAVIS — Yes, absolutely.

Mr SOMYUREK (South Eastern Metropolitan) — I would like to thank Mr Davis for his answer. It was enlightening. I thank him very much for that. The other part of the question obviously relates to awards and entitlements. Does the minister know what the impact of this bill will be on awards and entitlements?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The issue here is about ensuring that there are 11 public holidays in the state. In terms of aspects of employment entitlements, they will all be determined under the federal legislation, for example, under the enterprise bargaining agreements and the workplace agreements that are in place. Fundamentally the public holidays remain as they are, and that will be the situation in the future. My understanding of Mr Somyurek's amendment which was defeated was that it would have made Sunday a public holiday, which the principal act does not allow for. However, it would have reduced the number of public holidays from 11 to 10, and I am sure your union mates would not have liked that.

The DEPUTY PRESIDENT — Order! I assume the minister was making those references to Mr Somyurek, not to me.

Hon. R. A. DALLA-RIVA — I was looking at him, Chair.

Ms PENNICUIK (Southern Metropolitan) — It is interesting to note that there has been a lot of consultation with the 48 municipal areas outside metropolitan Melbourne but there does not seem to have been much consultation with the unions that represent workers or any examination of the current agreements that are in place regarding public holidays and what the effect on them might be of this legislation. I would have thought that would have been a fairly basic thing to do.

Mr Koch interjected.

Ms PENNICUIK — Mr Koch interjects, but this will affect ordinary people in their ordinary lives and how they organise their lives, and whether a half-day public holiday or a full day is declared will affect them. That should be looked at, and that is by way of a comment. Certainly one union has written to everybody outlining the possible problems. How these changes will affect people and how those effects can be ameliorated needs to be pursued.

Anyway, my question is not about that in particular, and I might return to it in the discussion under clause 3. I have been listening to what has been said by the parties in the last half hour, and what I have learnt and jotted down is that prior to 2008, when the act was amended, 23 of the 48 municipalities had a gazetted cup day or another day. Only half had a gazetted cup day or another day, which means that the other 25 had no holiday. If, for example, East Gippsland shire did not gazette a public holiday as Melbourne Cup Day or another day, there was no public holiday. That was the situation: people living outside Melbourne had 10 public holidays and people in Melbourne had 11 because they all got Melbourne Cup Day.

Mr Dalla-Riva decided that that was not relevant. However, it is relevant because the minister in her second-reading speech said that this bill repeals 'the unnecessarily restrictive and inflexible provisions enacted by the former government in 2008'. It takes us back to the arrangements that were in place prior to 2008. That is the whole idea.

Eight shires prior to 2008 had gazetted 11 half-day public holidays; some had no public holiday; and 11 places within shires — they sound like small places, but I do not have the detail — had half-day public holidays. That is not a demonstration of an overwhelming desire for half-day public holidays. What I am trying to get to as a representative of the Greens is: what is the need that is being addressed here? I do not see that prior to 2008 there was a great need for anything to be fixed, save that half of the people living outside Melbourne did not have a public holiday at all, whether it be a half-day, a full day, Melbourne Cup Day or an alternative day. The 2008 bill fixed that. It forced councils to either nominate a different day in a different place — as Ms Pulford has said, that could be different places within the same shire, and that has happened — or accept the default of Melbourne Cup Day.

We now have the situation where there has to be a full day declared or there is Melbourne Cup Day. At least every working person in Victoria is entitled to a public

holiday, either Melbourne Cup Day or another day gazetted by their shire.

Mr Dalla-Riva read from the *Government Gazette* and said, ‘So-and-so town has gazetted this day’ and so on, as if that was confusing. I do not agree that is confusing, and the issue I am trying to get to here is that we are not creating confusion. I do not think that is confusing, because it is gazetting publicly 90 days before Melbourne Cup Day what public holidays will apply everywhere. I do not see how that can be confusing, because prior to that it was not required.

I ask the minister: what is going to happen given that the 90-day provision remains in the bill and the default position will still be Melbourne Cup Day if there is no alternative day proclaimed? Now that there can be half-days as well as full days, is it not the case that that list in the *Government Gazette* is going to get longer?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The question goes directly to clause 4, and I suggest, with the greatest respect and through the Chair, that we are now on clause 4. Ms Pennicuik is asking specifically about the 90-day requirement and the half-days. I would prefer that we get through the clauses rather than spend 10 minutes on comments about clause 4 during a discussion of clause 1.

The DEPUTY PRESIDENT — Order! I am inclined to agree with the minister. However, I will just say this: if by answering questions on some detail of the bill in clause 1 we were to advance the rest of the bill more quickly, then I am happy to take them. But if members of the committee intend to pursue questions in relation to the specific clauses, I would rather they hold the questions for discussion under those clauses. I leave it to members to cooperate with me in that regard.

Hon. R. A. DALLA-RIVA — I was happy to answer the question; I have my notes open at clause 4. It is not that I do not want to answer the question, but it seems that we will discuss it under clause 1 and then again when we get to clause 4. The very issue that was raised about the workplace agreements relates to clause 4 as well, which is the advice I have received. I was going to hold that until we get to clause 4 and then answer the question.

The DEPUTY PRESIDENT — Order! I am inclined to put clause 1 to the vote.

Ms PENNICUIK (Southern Metropolitan) — I think the minister has the background to what I am saying, and I am happy to hold that off to clause 4. I have one more comment to make or question to ask

regarding clause 1, and that goes directly to the purpose of the bill.

During our discussion one of the things that was confusing me, and it has become clear during this discussion, was that we have a designated Melbourne Cup Day holiday in metropolitan Melbourne, which is now the default everywhere unless something else is declared, but what is being proposed to be declared — and possibly has been in other cases; I do not have the detail — is that in lieu of that day there can be a race day, an agricultural show day or half and half.

That is where the confusion comes from. It comes from Melbourne Cup Day being changed. The crux of the problem is the abolition of Melbourne Show Day by the Kennett government. If we were to reinstate show day, then we could have an alternative race day in a regional area and an alternative agricultural show day in a regional area. That is where the confusion comes from.

The DEPUTY PRESIDENT — Order! Every time Mr Davis speaks we end up with a much longer debate in clause 1.

Mr P. DAVIS (Eastern Victoria) — I was here. I supported that bill, and it is all my fault! The logic is profoundly challenging.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! I inform Mr Davis that it is not polite to laugh at your own jokes.

Mr P. DAVIS — I am laughing at Ms Pennicuik. I am sorry, and I apologise to Ms Pennicuik.

The DEPUTY PRESIDENT — Order! Mr Davis is to make his contribution.

Mr P. DAVIS — Ms Pennicuik has admitted she is confused, but that is understandable given the premise of her political disposition. I will focus squarely on the bill that is in front of us. There is one public holiday, which is Melbourne Cup Day. It is negotiable in the rural municipalities — —

Ms Pennicuik — It is creating confusion.

Mr P. DAVIS — No; no. The 48 municipalities outside the metropolitan area are able to negotiate within their communities and say, ‘We will move away from the default public holiday on Melbourne Cup Day’.

Ms Pennicuik — They are not doing it.

Mr P. DAVIS — The interjection is that they are not doing it. This legislation has not yet been passed; we are here debating it today. If it is passed, as I hope it will be, then obviously those councils will be able to make an application to have a different holiday, and that day may be a day across the whole municipality or it may be two half-days. It could be different half-days or whole days in different parts of the municipality. Ms Pennicuik need not be confused about that; she need not go outside Southern Metropolitan Region and be confused by it at all.

The people in my region of eastern Victoria and the various municipalities of Gippsland are pleased that their local council can reflect their will — that the Yarram community can have a Yarram show day or half-day, that the Sale community can have a Sale show day or half-day or that the Maffra community can have a half-day or a whole day for the Maffra show. That is what local people would like to think will happen. That is what this bill will deliver, and the only people who will be confused about it will be people who simply do not relate to local community events and the significance of them as regional events.

I am sure there are very important local events in Ms Pennicuik's metropolitan region, but these are whole towns or districts that focus around one major event in a community, be it an agricultural show, a race day or a cup day — major red-letter days, you might say. All the bill seeks to do is give those communities some flexibility, and if they do not want to choose that option and they do nothing, the default position is that the holiday will be Melbourne Cup Day. Everybody wins; everybody gets a public holiday. If they want to have some discretion, they can make local arrangements to suit them locally.

That is not confusing to anybody but somebody who lives in Southern Metropolitan Region, I suspect, because the people in the country know exactly what is going on. If they know there is a half-day holiday in their local community to reflect the day of their important icon event, race meeting or agricultural show, they will simply choose to trade or not trade on that day according to the nature of their business. For example, it might be a business that supports the activity of an agricultural show — it might be somebody selling saddles, bridles, grain, hay or other agricultural supplies, in which case they will think, 'It is a good day for us to trade today because all the farmers will be in town'. All that flexibility is retained.

Mr Ondarchie interjected.

The DEPUTY PRESIDENT — Order! Mr Davis may think everyone is a winner, but the Deputy President does not feel like he is winning right at the moment in terms of controlling this committee stage. However, I intend to win, and I intend to bring some order into this debate. I ask all members to cooperate in relation to providing some order to this debate. We have spent well over an hour on clause 1, and I think we are ranging over the same issues repeatedly. I will not allow that to continue. I will also remind all members, in particular Mr Ondarchie, that it is disorderly to interject and particularly disorderly to interject out of one's place.

Ms PENNICUIK (Southern Metropolitan) — I know everybody fell about the room laughing when I said that, but I was actually quite serious. The Kennett government did take away public holidays — Easter Tuesday and show days. There used to be 13 public holidays, and what I was pointing out was that rural communities are now having to choose between a race day and an agricultural show day as full-day public holidays. It can either have one or the other or two half-days. I think that is confusing, and I suggest that show days be reinstated.

Clause agreed to; clause 2 agreed to.

Clause 3

Mr SOMYUREK (South Eastern Metropolitan) — Creating a conducive business environment is important for small and medium enterprises, as it is for most businesses. I am concerned about the regulatory burden, which obviously comes under the heading of creating a conducive business environment. I am concerned about the regulatory burden on small businesses as a result of having half-days in a number of places.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — It is my understanding, based on my briefing — and it is written here — that clause 3 is consequential on clause 4. However, I am happy to answer the question by pre-empting what is in clause 4, because clause 4 crosses over with clause 3.

On the issue of the impact on businesses in regional Victoria, the businesses in the townships that may choose alternative arrangements are themselves active participants in their local communities and form a part of the local events support network. These businesses often provide organisers, committee members, volunteers, attendees and vital sponsorship. Metropolitan residents may overlook the important

business benefits that local shows and race days can provide. As well as a means of showcasing local produce, skills and enterprise, agricultural and pastoral shows are networking opportunities for many small, farming and family businesses that are geographically isolated. The proposed amendments are based on the provisions of the Public Holidays Act 1993 that had existed for many years — in many cases, decades — before the Labor government's 2008 changes.

Regional businesses experienced great confusion in 2008, 2009 and 2010 when the former government first took away their ability to enjoy longstanding half-day and part-shire arrangements. Their confusion only grew when the government subsequently backed down and gazetted a job lot of part-shire arrangements but not half-day arrangements in nine regional councils for 2010 only. I am led to believe, in fact, that so great was the confusion that some regional councils just continued to incorrectly gazette their pre-2008 holiday arrangements in spite of the fact that the act had been changed and the flexibility taken away. The longstanding local events that have traditionally been held in lieu of Melbourne Cup Day are relevant to particular parts of a council's municipality and are well understood without uncertainty.

In terms of the regional tourism impacts and the opportunities for businesses in that context, the annual AMP show or the annual race day would provide the entertainment, civic and business spotlight of the year. Not to diminish the significance of Melbourne Cup Day, but local events can have greater relevance and contribute more to social cohesion in a country town than a race meeting in a far-off capital city. Regional Victorians have suffered devastating floods and before those bushfires. There could be few events more uplifting than the annual local show day or race day that allows regional residents the opportunity to enjoy and celebrate the resilience of their communities.

Local events with regional colour encourage tourist visitors and increase economic activity in a town and region. If you want an example of that, Mr Philip Davis's contribution was from the heart in terms of his understanding of the importance of these events in various parts of the shires. We do not resile from that. We think this is important for business.

Mr SOMYUREK (South Eastern Metropolitan) — Let me put this another way, and a yes or no answer would suffice. Has the minister had a briefing from the department with respect to the potential impact of this bill on the regulatory burden faced by small and medium-sized enterprises?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Did the member talk about regulatory impact? I just want to get some clarity as to what he means by regulatory impact.

The DEPUTY PRESIDENT — Order! Would Mr Somyurek like to clarify his question? He is not required to; he is invited to.

Mr SOMYUREK (South Eastern Metropolitan) — Does the minister want me to clarify the question?

The DEPUTY PRESIDENT — Order! Mr Somyurek is invited to clarify, but he has asked his question; he does not have to. That is what I am saying.

Mr SOMYUREK — I would have thought it was pretty obvious. There are all types of issues involved, such as the question of who is going to police this. Who is going to police whether shops are open or not? In terms of worker entitlements, what awards will employers pay workers? There are all sorts of red-tape issues involved. They might include car parking or a whole range of issues.

The DEPUTY PRESIDENT — Order! Is the minister happy now?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am, and it is important to understand exactly where the member is heading. His question is about workers' entitlements, and that is fair enough. I would have looked at it in terms of the impact on the employer, and I guess that is where we sit in terms of difference. For me it is important to understand how this impacts on employers as well. Equally, however, it is important to ensure the workplace arrangements are maintained — that is crucial as well.

It is important that I put on the record that while the commonwealth's Fair Work Act 2009 provides a basic statutory entitlement to eight public holidays, it also allows for the gazettal of substitute or additional public holidays by state and territory governments. Therefore, the declaration and substitution of public holidays is primarily a matter for state laws. In contrast, employees' entitlements in respect of public holidays are determined primarily by the commonwealth's laws and awards and agreements made under them.

Payment for any work performed on a public holiday, including public holiday penalty rates, is determined by any applicable employment contracts, awards and agreements made under the commonwealth laws. There are many, possibly thousands, of employment agreements in place across Victoria, and I suggest it

would be impossible to single out one agreement as a general example of all agreements. It is therefore also important to note that the relationship between such agreements and the Public Holidays Act 1993 is a matter to be addressed by the parties to each agreement within the framework of the commonwealth laws.

Accordingly, employers and employees should always refer to the relevant instrument, whether a modern award, enterprise agreement or contract of employment, that applies to them to ensure that employee entitlements are met. There are mechanisms available to the parties under the commonwealth's laws that might be utilised if there were an issue with the interaction between holidays declared under the Victorian act and employees' entitlements under a particular award or agreement — for instance, it might be possible for a party covered by an award or agreement to seek to vary an ambiguous or uncertain term. The issue of interacting statute instruments has not been raised by the regional correspondents in the many letters and emails generated by this matter since 2008.

Ms PULFORD (Western Victoria) — I have just two questions on clause 3. The first might call for a simple yes or no answer — I hope! I trust the minister still has reasonably handy the *Government Gazette* to which he referred earlier, with the arrangements that were gazetted for 2010. He read a number of these, including one for the Golden Plains shire, which was the one that described a number of roads and intersections where one side of the road had one set of arrangements and the other side had another. Could the minister confirm that if a continuation of that arrangement is the wish of the council, it would be appropriate and suitable for it to continue under this legislation?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Yes.

Ms PULFORD (Western Victoria) — I thank the minister for his answer and clarification on that point. I think we can take it from his answer that similar arrangements, like some of the others he referred to — for example, in the Macedon Ranges — would also continue to apply if that were the wish of the council. I appreciate that.

My one remaining question on this relates to the way in which the half-day arrangements and the locality arrangements might intersect. For example, last year the Yarriambiack Shire Council chose to enter into arrangements whereby there were four holidays for four different localities and for everybody else there was

Melbourne Cup Day. Would this legislation enable a half-day arrangement and a locality arrangement to coexist?

I will be a little hypothetical, but I ask the minister to bear with me. For example, let us say the western half of a shire had two communities that each wanted a half-day holiday and then their other half-day holiday — because this is not a debate about the total number of public holiday hours people are entitled to in a year — and then everybody gets the third day, Melbourne Cup Day, and in the eastern half of the shire a similar thing occurred. Combinations of the half-day arrangement and the geographical imperative might coexist in a way that meant a shire like Yarriambiack or Hindmarsh — which had three sets of arrangements last time — would have a number of different combinations of holidays. If that were the express wish of that community as articulated by its local government representatives, would that be okay under this legislation?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The answer is yes.

Ms PENNICUIK (Southern Metropolitan) — Many industrial awards and agreements cover a classification for the whole state, for example. Has the minister looked at Ms Pulford's example of a township declaring that it will have a half-day public holiday on one particular day and another half-day on another day to make up its full entitlement? How will that be implemented through the industrial agreements so that workers get the time off if a public holiday is declared or get paid at public holiday rates if they have to work?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I said, the issue of interacting statute instruments, which I raised earlier, has not been raised in any regional correspondence among the many letters and emails generated by this matter — that is the advice I have. As I indicated earlier in response to Mr Somyurek on the public holiday legislation and the workplace arrangements, there will be a blend of commonwealth laws in terms of the interaction between the holidays declared by the Victorian act and employee entitlements under a particular award or agreement.

It is up to employers and employees to refer to their relevant instruments — whether they be modern awards, enterprise agreements or contracts of employment — and ensure that the employees' entitlements are met. As I also said earlier, there may be literally thousands of employment agreements

operating around regional Victoria that may have some impact or may not. The bottom line is that there are still 11 public holidays, so the entitlements for those holidays remain.

Ms PENNICUIK (Southern Metropolitan) — I do not take issue with the minister's last point. I refer to the earlier part of his answer, where he said the issue was not raised with him through correspondence from municipalities. It was raised with the Minister for Innovation, Services and Small Business by the Shop, Distributive and Allied Employees Association in a letter that says:

Many enterprise agreements anticipate that outside metropolitan Melbourne another day may be taken as a public holiday in lieu of Melbourne Cup Day. However, they normally assume it is a single day. If the government's amendment goes through, there will be confusion and uncertainty as to whether by virtue of the enterprise agreement and with operation of the national employment standards employees are entitled to two half-days, one full day or one full day plus one half-day. (It may be possible under some enterprise agreements that employees may be entitled to two full days.)

This confusion and uncertainty existed in the past. We had disputes with employers over whether the act or the enterprise agreement provision took precedence until the ALP tidied it all up by providing very clear options in the act.

The minister might not agree with that last point. I am genuinely concerned about how this will be implemented and how it will affect ordinary people. How will they be able to ensure either that they get their entitlement to a half-day off or they get the half-day's pay at public holiday rates?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that it was not an issue raised by any of the regional correspondence in letters or emails generated in response to this matter prior to 2008. As I indicated earlier, employees' entitlements in regard to work on full-day or half-day holidays in lieu of Melbourne Cup Day are determined by the commonwealth's Fair Work laws and the employment contract agreement or award that applies to the employee. I think we need to understand that.

Ms PENNICUIK (Southern Metropolitan) — I am not happy with the minister telling me that because this issue has not been raised in correspondence with regional people he should not be required to give me an answer. I am raising the issue. It was raised in correspondence with the minister, and it is an important issue. I am raising the question of how this is going to be implemented, and I have every right to raise that. Whether or not it has been raised in correspondence is

probably not pertinent at all. I put forward the hypothetical example, which is actually not hypothetical, of a health service worker, a nurse, who is required to work on the day of the Traralgon show and is rostered on for a 7.00 to 3.00 or a 7.00 to 4.00 shift when a half-day public holiday has been declared for that day. What penalty rates will that nurse be paid for that public holiday? Under what instrument is that going to be made available?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I have indicated, the payment for work performed on a public holiday is determined by any applicable employment contracts, awards or agreements. Ms Pennicuik has singled out one example. I proposed earlier that we should not single out individual circumstances because they may not be representative of all agreements in terms of employment agreements, but I have identified that it is important to understand that the relationship between such agreements and the Public Holidays Act 1993 is a matter to be addressed by the parties to each agreement within the framework of the commonwealth laws. It would be unfair to single out one particular agreement, but I understand where Ms Pennicuik is at, and as I indicated earlier that would be dealt with by both her and Mr Somyurek.

Ms PENNICUIK (Southern Metropolitan) — I do not wish to labour this matter anymore. I think I have made my point. It is a genuine concern of mine as to how this is going to play out on the ground for ordinary workers in the different parts of the state that may declare different holidays in different locations, which would not be reflected in their industrial instruments. I ask the minister, as the Minister for Employment and Industrial Relations, whether he will, over the next year or two — at least two years I would suggest, but probably longer — monitor the situation and assist parties to agreements and industrial awards to make sure that workers covered by them either get the time off to which they are entitled without a fight or are paid their entitlements if they have to work.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I said before, the advice I have, and Ms Pennicuik may not like it, is that it is a matter of the agreements that are in operation between the employees and the employers, and the instrument that underpins that is the commonwealth's Fair Work Act 2009. It may be a modern award, an enterprise agreement or some other instrument. I cannot add any more to what I have said.

Ms PENNICUIK (Southern Metropolitan) — I am loath to ask this again, but I ask the minister this simple

question: as the minister, will he and his department monitor the situation over the next year or two to make sure that people are getting their entitlements?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — My original statement stands in regard to the employment arrangements, and in terms of the second part, as Ms Pennicuik would know, the industrial relations matters were ceded to the commonwealth in 1996. That does not mean we do not hold the commonwealth to account, particularly in regard to the Fair Work Act 2009. I know this is an important issue for Ms Pennicuik, but as I said, this is about what could be potentially thousands of individual employment agreements that are in operation, and parties to those agreements will work through those processes as they should, and we would support that.

Ms PENNICUIK (Southern Metropolitan) — Perhaps as a fallback the minister's department could write to the shires that declare half-days in different parts of their municipalities, drawing their attention to the need to make sure that the instruments that may apply in their municipalities are adhered to.

Clause agreed to.

Clause 4

Mr SOMYUREK (South Eastern Metropolitan) — I am interested in whether there are any guidelines to which local councils may refer in making requests to the minister — for example, are they required to consult with any particular individuals, bodies, groupings or community associations, or is it just a simple decision of the local council?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I indicated earlier, in regard to consultation with regional councils, Ms Asher, the Minister for Innovation, Services and Small Business, has written to the non-metropolitan councils advising them of the bill. Several councils, such as Buloke Shire Council and Pyrenees Shire Council, have commenced consultation with their communities to determine the preferred holiday arrangements. Early consultations will ensure that councils are ready in time for the 1 August 2011 notice period. Community consultations might include council correspondence, websites, township forums, progress associations, chambers of commerce, agricultural and pastoral societies, and media articles.

A question was asked earlier about correspondence. Since the bill was introduced in April this year the government has received eight letters regarding the

proposed amendments. This includes six letters from regional councils who supported the amendments and correspondence from — that is unusual! — the Shop, Distributive and Allied Employees Association and the Trades Hall Council, both of whom indicated their opposition to the proposed changes.

In regard to the regional councils, in that time over 25 articles have been published in regional newspapers generally indicating local support for the amendments. Melbourne Cup Day continues to be the automatic default public holiday across all of Victoria, meaning that all Victorians continue to enjoy the same number of holidays each year regardless of whether they live in regional Victoria or in Brunswick Street, Fitzroy.

Mr SOMYUREK (South Eastern Metropolitan) — I am seeking clarification, but the minister might have already answered this question. Are there any guidelines? Are councils compelled to consult with any particular bodies? Or would a decision of councils suffice?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Mr Somyurek has scored 1 point, because that is a good question. There are no guidelines outlined, as there have not been in the past, but if Mr Somyurek looks at clause 4, which inserts new section 8A, he will find that subsection (2) states:

A request under subsection (1) must —

- (a) be made at least 90 days before the Melbourne Cup Day to which the request relates; and
- (b) specify the day or 2 half-days of the substituted public holiday; and
- (c) specify the reasons for making the request.

I gather councils are now going through a process of consultation in order to get some idea about whether they should proclaim either a full-day holiday or two half-day holidays and whether that should be on Melbourne Cup Day or on another day or days. As outlined in the bill, new section 8A(2)(c) states 'specify the reasons for making the request', which is new.

Mr SOMYUREK (South Eastern Metropolitan) — From the perspective of the minister are there any guidelines, as far as Mr Dalla-Riva is concerned, on which to base a final decision about whether or not requests are looked upon favourably?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — My advice is that previously no reasons had to be given for why

there was a request. The new subsection in this bill will provide for the minister to be given some rationale as to why those requests have been made. Mr Somyurek asked whether there were guidelines. My understanding is that there are no specific guidelines, but the provisions in this subsection will allow the minister to understand why certain councils might have made such a request. Ms Pulford said before that a lot of areas fall in and then fall out. At least now councils will need to provide a rationale to the minister as to why a certain road may be divided and why a particular council has made that decision. The expectation is that they will be mainly for A and P shows and for — —

Mr P. Davis — Race days.

Hon. R. A. DALLA-RIVA — Race days. Could you refresh my memory as to what A and P stands for?

Mr P. Davis — Agricultural and pastoral.

Hon. R. A. DALLA-RIVA — Agricultural and pastoral. I have A and P. I am a metropolitan member, as you know, but I was country born. I just remember it being the show. I think that explains it.

Mr SOMYUREK (South Eastern Metropolitan) — This will be my last question. On what basis could the minister refuse such a request from a council?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The technical explanation of the changes states that proposed section 8A(1) deals specifically with Melbourne Cup Day provisions that enable non-metropolitan councils to request either two half-day public holidays or one whole-day public holiday in lieu of the Melbourne Cup holiday, which would be applicable to the whole or a part of a municipality.

This provision ensures that non-metropolitan councils may nominate Melbourne Cup Day itself as one of the two half-day public holidays. Proposed section 8(A)(2) is intended to facilitate requests made by non-metropolitan councils and to ensure that sufficient public notice — that is, 90 days — is given of the relevant substitute day or half-day.

Proposed section 8(A)(2)(c) creates the new requirement that non-metropolitan councils must specify reasons to the minister for their request for alternative public holiday arrangements. This is intended, I am advised, to provide some guidance to Minister Asher when she is exercising her discretion in making a decision to declare the substitute day or two half-days as holidays. Previously there was no guidance in this regard.

Subsections 8(A)(3) and 8(A)(4) are legislative safeguards intended to ensure that all Victorians continue to enjoy the standard number of 11 public holidays per annum. The intention of these provisions is to prohibit the nomination of weekends as substitute public holidays. In addition, these provisions clarify that where two half-days apply to part of a municipality, unless otherwise declared the other parts of the municipality will continue to enjoy Melbourne Cup Day as their default public holiday.

Ms PENNICUIK (Southern Metropolitan) — I had a question hanging over from clause 1, if you remember. During the discussion on clause 1 the minister quoted from the *Victoria Government Gazette* which gazetted those public holidays as if that was proof of confusion, but all it was was a list. The 2008 bill provided that all of Victoria took Melbourne Cup Day as a public holiday unless otherwise specified, and what the *Government Gazette* list did was simply spell out where it was specified that it was not Melbourne Cup Day.

My question to the minister is: under this bill, given that the 90-day notice and default position remains but local councils can put in place the arrangements they had last year or the year before or can change those arrangements and make two half-days in different parts of the municipality, would the minister not anticipate that that list in the *Government Gazette* will actually get longer?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — My understanding is that Ms Pennicuik is saying that what is already in the *Government Gazette* will remain in there this year, which does relate a bit to clause 1. If a regional council decides not to write to the minister, as defined in clause 4 — in other words, at least 90 days before the Melbourne Cup, specifying the day or the two half-days of the substituted public holiday and specifying the reasons — by default it will then be Melbourne Cup Day in that region.

Councils have up until 1 August to write to the minister — that is, the 90-day requirement if the bill is passed — specifying the reasons. I guess that is why there are already consultation processes being undertaken in some municipalities — to get some feel as to whether the half-days should be for race days et cetera. I am confused. Is Ms Pennicuik assuming that somehow the list will continue? I did not understand what she was on about.

Ms PENNICUIK (Southern Metropolitan) — The minister held up the list as if it was proof of confusion. I

am suggesting that there will still be such a list in the *Government Gazette*, and it may even be longer. Is that not the case?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I understand now what Ms Pennicuik is saying. No, there will not be this convoluted and confusing list. It will be dealt with in a way that respects what the individual shires want. Clearly the *Government Gazette* will indicate which days or part-days will be applied for each shire or parts of that shire. If a shire council is silent, then the default public holiday will be Melbourne Cup Day.

Ms PENNICUIK (Southern Metropolitan) — There will still be a list published in the *Government Gazette* of those places that are not having Melbourne Cup Day as their default holiday so everybody knows in which locality the public holidays are. Is that not the case?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am clear on this. There is not going to be one big and confusing list as outlined here. Ministers gazette all the time, so it will depend on what is in front of them. If a council decides to write to the minister in March or April next year in anticipation of a Melbourne Cup Day substitution, then that will go in. This is about the community having a say about when it wants its holiday. It is not about whether Ms Pennicuik is interested in a long-winded list. This is about what is important for communities and businesses and about trying to make sure we do not wind down agricultural shows like the former government did.

The DEPUTY PRESIDENT — Order!
Ms Pennicuik, have we long to go on this same point?

Ms PENNICUIK (Southern Metropolitan) — Not long to go. I ask the minister whether or not it is true that every time a new public holiday is flagged under clause 4 it will appear in the *Government Gazette*.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Yes, but it will not be the convoluted and confused list we had before.

Clause agreed to; clause 5 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

BUDGET PAPERS 2011–12

Debate resumed from 31 May; motion of Hon. D. M. DAVIS (Minister for Health):

That the Council take note of the budget papers 2011–12.

Mr O'DONOHUE (Eastern Victoria) — I am pleased to contribute to the take-note motion on the budget papers. In doing so I would like to congratulate the government on handing down its first budget, which it did in a shorter time than is normal for a government in its first term, given the timing of the election. I would like to thank the Victorian public service because obviously with a change of government it is also a transition time for the public service with new priorities and policies to be implemented. Public servants have been professional and courteous in any dealings I have had with them, and they have done their utmost to assist the new government. I thank them for that.

This debate has taken place over several days, and I have been listening with interest to the contributions of speakers from the opposition. I would like to take up a couple of points from those contributions and to talk about some of the assertions made. In his contribution, Mr Scheffer — and I am pleased to see him here this afternoon — made a number of assertions — —

Mr Scheffer interjected.

Mr O'DONOHUE — I will get to that, Mr Scheffer. He made some assertions about non-delivered promises. He asserted that Koo Wee Rup was being neglected because all that was in the budget was a feasibility study for natural gas for Koo Wee Rup rather than the extension. I will read part of a media release from the member for Bass in the other place, Ken Smith, dated 3 November 2010. It states:

Bass MP Ken Smith said the \$150 000 study was the first requirement in the process of getting gas connected to the new area.

It also says:

Natural gas for Koo Wee Rup is one step closer with an announcement by the Liberal-Nationals coalition that it will fund a feasibility study on bringing it to the town.

It was a very clear commitment that a feasibility study would be funded. Yes, we would all like to see natural gas brought to the town. After 11 years of a Labor government there is no natural gas in Koo Wee Rup, and we would like to see natural gas there. But we promised what we could deliver, and in this budget that feasibility study is being committed to.

Mr Scheffer also referred to the Somerville police station. It was a commitment of the government to deliver that in its first term. I can tell Mr Scheffer that there is funding to commence that process, and that a Somerville police station will be built and open before the next election in line with the commitment of the then opposition and now government.

Working through the contributions of some of the other speakers, Mr Pakula basically just recited some questions he had put at the Public Accounts and Estimates Committee and the responses he got from the ministers at the time. There was nothing more and nothing less; it was a very limited contribution. Mr Tee gave some generalities about various issues, but he also contradicted himself. On the one hand he criticised the government for referring to externalities beyond its control, such as GST funding being slashed by the federal Labor government, and on the other hand he spoke about externalities himself, such as the high Australian dollar and the two-speed economy.

He contradicted himself in what was a very weak contribution. But perhaps the best contribution, or the one I would like to highlight the most, was from the former Treasurer and now Leader of the Opposition, Mr Lenders, because in his quite bizarre budget response he spoke about Juan Peron and made other bizarre comparisons with the Baillieu coalition government. It made me think about the contribution made by Mr Rich-Phillips on behalf of the then opposition as the lead speaker this time last year when he spoke about the growth in spending on an annual basis. He compared the number of employees required before payroll tax was levied, on average, at the time the Kennett government left office in 1999 with the numbers under the former regime.

We saw none of that from Mr Lenders. There was no analysis of the facts or of the numbers. It is interesting that whilst he was the Treasurer, Mr Lenders used to personalise his attacks against Mr Wells, allege that Mr Wells had caused a run on banks and that Mr Wells had done all sorts of things. The reality was that Mr Wells, on behalf of the coalition, costed the promises made by the coalition before the election. Treasury ticked off those promises, ticked off that the promises made by the coalition were accurate — and that was with the meagre resources of the opposition.

But interestingly if we look at Mr Lenders's performance since he has had the apparatus of government removed, we see that his performance has diminished significantly. I will take the house to a story in the *Age* of 22 November written by Peter Ker, and I will quote parts of the article. The title of the article is

'Lenders feels the heat as pressure forces a fumble', and it states:

He was picked as Treasurer because he's got a 'safe pair of hands', but John Lenders had fumble fingers in several media performances at the weekend. The pain began on Friday when — in an attack on Ted Baillieu over water policy — Lenders got his dates wrong by three years.

The article goes on:

While anyone can misspeak under pressure, few can make a hash of things like Lenders went on to do at the stamp duty launch.

Asked a simple question about how many people Labor expected to benefit from the policy, Lenders turned a friendly half-volley into 9 minutes of media hell.

Unable to offer an estimate, the Treasurer opted for a very 'macro' view of the policy's merits, declaring that 'every Victorian will benefit'.

When the media pack made it clear they would not be fudged, Lenders offered a broad collection of historical numbers, leaving it to *Age* journalist David Rood to offer some quick calculations. A stumbling Lenders immediately accepted Rood's calculations, but when asked to restate the number Rood had come up with, Lenders was unable to repeat it.

The feisty conference ended with Lenders telling the media in a shrill voice that he would no longer 'play your games', and that Liberal Treasury spokesman Kim Wells needed to be put through the same sort of scrutiny.

We have seen the former Treasurer since that disastrous media performance fail to deliver as Leader of the Opposition and we have seen the opposition fail to deliver in general its alternative for the people of Victoria. They have failed to budget to this point for any concrete plans as to how they would do things differently. All we have seen are generalised attacks about issues without any substance, without any particularity and without any vision for the future.

However, back to the budget that has been delivered. I am very proud to be part of the coalition government that has delivered this budget which delivers to the people of Victoria the commitments the coalition made in very challenging fiscal circumstances, with an economy that has had external shocks as a result of natural disasters and that has had the commonwealth government axe funding to Victoria. That has presented significant fiscal challenges. Despite those fiscal challenges the coalition government is delivering on its commitments.

Looking at my electorate of Eastern Victoria Region, I am particularly pleased that a range of significant commitments that we made and that we took to the election — and that Labor failed to match, I might add,

or failed to deliver after 11 years in power — are being delivered through this budget.

There is funding for the Koo Wee Rup bypass, a \$50 million project which will start in this term. This will take hundreds of cars and trucks out of the township of Koo Wee Rup, make access to South Gippsland easier and improve the amenity of that town.

We have contributed \$15 million to the Officer special school. The Officer special school has been the subject of debate both in the other place and in this place. Indeed Mr Scheffer raised an adjournment matter on the Officer special school, criticising the commitment of the opposition before the election and in effect questioning its ability to deliver. I say to Mr Scheffer that the government is delivering. In fact we are delivering more than we promised — an additional \$5 million — because we want this to be an excellent school for people with special needs and a school that will service the growing Casey-Cardinia community. I am very pleased, and I thank the Minister for Education for that significant investment.

Funding is being provided to upgrade the emergency department of Warragul hospital. There is \$8 million towards the sealing of the Omeo Highway. The Emerald police station is being made a 24-hour-a-day station. There is \$1 million to upgrade the Kokoda Track memorial walk in Upper Ferntree Gully, home to the 1000 steps.

The unfair country fare for bus travel from Launching Place to Warburton East will be abolished. A new bus interchange in Mornington will be constructed. The ambulance stations in Belgrave, Emerald and Yarra Junction will be upgraded to 24 hours. Ferny Creek Recreation Reserve is being given funding to upgrade its facilities. There is \$200 000 for 10 new bus shelters in the shire of Yarra Ranges.

On a more micro level, the government is investing \$601 million in Victorian road projects. As I said, a significant investment in particular is the Koo Wee Rup bypass. Some \$403 million is being delivered to improve public transport statewide. I compare this with the previous government's project delivery. What a farce! The Cardinia Road and Lynbrook railway stations were being constructed without sufficient power for trains to stop and take off. Under the former government's plan trains could not stop at two brand-new stations that had been built. What an absolute joke! Has anyone heard of anything more incompetent in their lives? The Baillieu government is fixing that problem and working on that issue as we speak to ensure that — surprise, surprise — there will

be power for trains to slow down, stop and take off again.

Some \$20 million will be spent over four years to improve access to public transport for Victorians with a disability, and the coalition has allocated \$100 million over four years for ongoing rail maintenance and \$222 million for the purchase of 7 new trains as part of a commitment to introduce 40 new trains.

This budget has been delivered in challenging fiscal times and in a challenging fiscal environment. The government has had to deliver this budget after coming to government only in December. I congratulate the Treasurer, the Minister for Finance, the Assistant Treasurer, the cabinet and the Victorian public service for facilitating and assisting the government to deliver this budget which keeps faith with the Victorian public that elected this government. The budget delivers on the government's election commitments. It is a prudent, responsible and measured budget, and I congratulate the government on it. I look forward to the commitments that have been made being implemented over the course of this term and over the next 12 months.

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

Debate adjourned until Thursday, 9 June.

APPROPRIATION (2011/2012) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Statement of compatibility

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) 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 Appropriation (2011/2012) Bill 2011.

In my opinion, the Appropriation (2011/2012) 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 Appropriation (2011/2012) Bill 2011 will provide appropriation ‘authority’ for payments from the Consolidated Fund for the ordinary annual services of government for the 2011–12 financial year.

The amounts contained in schedule 1 to the Appropriation (2011/2012) Bill 2011 provide for the ongoing operations of departments, including new output and asset investment funded through annual appropriation.

Schedules 2 and 3 of the bill contain details concerning payments from advances pursuant to section 35 of the Financial Management Act 1994 and payments from the advance to Treasurer in 2009–10 respectively.

Human rights issues

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

The bill does not raise any human rights issues.

2. Consideration of reasonable limitations — section 7(2)

As the bill does not raise any human rights issues, it does not limit any human rights and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

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

The Hon. Gordon Rich-Phillips, MLC
Assistant Treasurer

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:

President, five months ago the Baillieu coalition government was elected to office with a simple but fundamental promise — to fix the problems and build the future.

That promise underlined what Victorians increasingly understood: that many of our state’s great qualities — its livability, its safe streets, its transport system, its affordable lifestyle — were steadily being eroded.

The government’s first budget delivers on that promise. It is not a budget of quick fixes or easy answers. It is not a budget of spin.

This is a budget which lays out the challenges with honesty and candour, and begins the hard work of addressing them.

Victorians have high expectations of government. They expect governments to honour commitments and support them in their daily lives.

Victorians want the cost of living eased.

They want their state to grow and they want that growth to be managed, for services to keep pace with demand. They want new infrastructure to serve new communities, and for our streets and civic spaces to be vibrant and safe.

They expect responsible government — focused and disciplined — but also a caring government.

That is why the Baillieu government’s election commitments — delivered in this budget — focus on these basic, community needs.

The government is making a record investment in community safety, centred on a significant rise in police presence.

The government is delivering a \$1.2 billion package of measures to ease cost of living pressures for Victorian families.

It is taking the first steps towards achieving an additional 800 beds across our public hospital system.

The budget will fund, in the coming year, one of the biggest infrastructure investments in Victoria’s history.

The government is purchasing new trains, fixing level crossings, planning new investments to expand and rejuvenate the rail network, and investing in arterial roads.

The budget will establish a \$1 billion Regional Growth Fund, which will set its sights not just on regional centres, but on our country communities which have been neglected for too long.

And there is a renewed focus on some of the most disadvantaged Victorians — those often forgotten over the past decade. The government will enhance disability services, expand child protection, deliver new mental health initiatives and fund a massive new upgrade to special and autistic schools across the state.

These are the things that set this government apart. This budget will deliver responsible and caring government, in challenging times.

Addressing financial and economic challenges

I would like to elaborate on those challenges — in particular, the financial and economic hurdles facing the state.

Last month, the Independent Review of State Finances released an interim report revealing that Victoria’s budget has been on an unsustainable path.

Expenditure growth has outstripped revenue growth over the past decade, with spending growing by an average of 8 per cent a year, in contrast to revenue growth of 7.3 per cent.

In recent years, the budget has relied on one-off commonwealth payments to boost revenue and the operating surplus.

This has led to an underlying imbalance and seen Victoria's infrastructure program increasingly funded from debt — a trend which cannot be allowed to continue indefinitely.

In effect, as the economy rebounded from the global financial crisis, Victoria's financial position remained vulnerable to unexpected shocks.

Those shocks have now materialised.

Our GST revenues have been reduced by \$4.1 billion over five years as a result of the Commonwealth Grants Commission's assessment to cut Victoria's share of the GST, and a slowing national economy.

There have also been significant delays in commonwealth infrastructure funding of \$550 million.

The recent floods across Victoria have required substantial additional expenditure on repair and rebuilding.

In addition, major projects inherited by this government — including myki, the regional rail link and HealthSMART — face significant cost overruns which total around \$2 billion and have further contributed to the run-up of debt.

These are significant challenges. They have already affected the state's financial position and have made framing the 2011–12 budget much more challenging. They need to be addressed.

To do this requires steady effort over time — working every day to build a stronger budget position, one which is capable of funding necessary services and investing in new infrastructure without relying on excessive debt.

The 2011–12 budget takes important steps in this task:

delivering on the government's commitment of a \$100 million minimum surplus each year, with average surpluses of \$164 million over the forward estimates;

achieving an additional \$600 million in efficiency savings from government departments, bringing the total value of savings delivered in this budget to \$2.2 billion over five years;

increasing the rigour and oversight of major capital projects, with a mandatory process of scrutiny by the Department of Treasury and Finance and the Treasurer;

lowering forecast expenditure growth with spending over the forward estimates period now expected to grow by an average 3.2 per cent a year, compared with 8 per cent a year over the past decade; and

reaffirming the importance of the government's public sector wages policy, stating that wage rises should be 2.5 per cent unless accompanied by productivity gains.

As a result of our fiscal strategy, net debt will stabilise at 5.9 per cent of gross state product.

In all, debt will be \$7.5 billion higher than previously forecast in the 2010–11 budget update. This debt increase can be attributed substantially to specific causes:

the reduction in GST revenue;

future infrastructure spending and cost blow-outs on existing projects; and

higher interest costs.

This debt increase represents the combined effect of external shocks and pre-existing vulnerabilities. It illustrates clearly what the Independent Review of State Finances has said — that Victoria would be poorly placed to deal with another substantial external shock.

That is why the government must continue to work hard to rebuild our state's finances in coming years.

A crucial element of its fiscal strategy has to be the ongoing reform of the Victorian economy.

Victoria has great economic strengths — a diverse economic base and a skilled workforce.

During the past decade, the budget was underpinned by strong windfall revenues from the property boom. This is unlikely to be repeated in the medium term.

Today, the resource-rich states have significant royalty revenue flowing into their coffers. Victoria does not.

The current commodities boom brings considerable benefits to Victorians, but poses challenges as well. The Australian dollar is now poised around \$1.08 US, compared with a post-float average of 74 cents — a difference of nearly 50 per cent.

That places a significant burden on many of our traditional export industries, like manufacturing, tourism and education.

The government and the Victorian community must manage those challenges and foster growth from our traditional and emerging industries.

The key to this is productivity. It is totally unrealistic to rely on population growth to underpin economic growth.

Productivity growth is the main driver of higher living standards and economic prosperity, but in the past decade it has fallen.

In the five years to 1999–2000, productivity growth averaged 2.8 per cent a year. In the five years to 2009–10 it grew by an average of just 0.7 per cent a year.

In the 1990s, Victoria's productivity growth exceeded the national average. Since 2000, it has fallen below the national average.

Reversing this trend requires a firm productivity reform agenda.

The government has already announced its plan to cut the cost of regulation on Victorian businesses by 25 per cent over three years.

Two important independent inquiries will be undertaken by the Victorian Competition and Efficiency Commission — one into manufacturing and the other into a state-based reform agenda, including a comprehensive benchmarking project to identify where Victoria could become more competitive relative to other states.

Further work will be required.

There is a need to improve the quality of education and skills.

And there is a need to ensure that our infrastructure planning is targeted on key economic and service delivery needs.

This means major capital projects must be properly planned — not rushed through for the sake of a media conference with a hard hat.

Ultimately these reform efforts — fixing our finances and strengthening our economy — are part of the broader agenda of the Baillieu government.

Without a strong budget position, the government cannot deliver the services the state requires or fund the new infrastructure required to keep pace with growth.

Flood response

President, one of the first tasks faced by the government was to respond swiftly and effectively to the recent floods.

Those floods directly affected over 5000 Victorians across areas covering roughly 20 per cent of the state.

The total cost of emergency response, repairs to state-owned assets and support for community recovery from floods is estimated at \$676 million, with \$115 million to be recovered from insurance.

In particular, the budget provides \$242 million for the restoration of assets, including:

repairs to the flood-damaged regional rail network;

fixing long-term flood damage to roads; and

repairing and reopening national and regional parks, including Wilsons Promontory National Park.

But it is not just about repairing assets. The government's flood response is about supporting local communities to maintain their economic self-sufficiency.

The Business Flood Recovery Fund will deliver \$10 million over two years to support flood-affected regional companies that show potential for business growth or investment.

In addition, funding is provided to support a spectrum of community needs, from grants to kindergarten and maternal child health service providers, to assisting the regional tourism industry.

As rural communities get back on their feet, the government must ensure that the state is better prepared for natural disasters in the future.

This budget strengthens our emergency and disaster preparedness through:

repair and improvements to Victoria's flood warning network;

a \$38 million funding injection to the Victorian SES;

\$67 million to the CFA to purchase new trucks and build new stations; and

\$50 million in the Safer Electricity Assets Fund to reduce the number of bushfires started from ageing powerlines.

Safe streets for all Victorians

One of the government's key commitments to the community is to tackle rising crime.

That means feeling safe and secure every day and everywhere — in homes, on the streets, travelling in taxis and on public transport — going about our daily routine.

For this reason, the budget provides for an unprecedented increase in the number of police and protective services personnel.

This budget delivers on the government's commitment to having more police, more quickly on our streets.

Specifically:

1600 additional police and 100 transit safety police will be in place by November 2014;

940 protective services officers will patrol metropolitan and regional railway stations; and

new police stations will be built and upgrades made to existing stations where they are most needed.

The government will also implement measures to deter crime and punish offenders.

It will do this through tougher sentencing and effective offender management.

To support this, the budget provides \$66 million to fund an additional 108 beds in the male prison system — the first phase of the government's election commitment to an extra 500 beds.

GPS and electronic monitoring will be imposed on serious offenders such as convicted arsonists and sex offenders.

These measures deliver on election commitments and reflect community views.

The budget supports local communities to develop effective ways to cut crime across our towns and suburbs.

These include:

setting up the Public Infrastructure Safety Fund to help local communities implement their own security measures;

renewing partnerships with local government to help them reduce graffiti; and

restoring Neighbourhood Watch access to local crime statistics.

Addressing cost of living pressures

One of the biggest everyday concerns for Victorian families relates to the cost of living.

The cost burden felt by Victorians is not about extravagance. It is about the basics — the water bill, the power bill, health

costs and whether young people will ever be able to afford their first home.

Some factors are beyond the government's influence. But families should at least feel that the government is on their side.

Victorians did not expect billions of dollars to be wasted on a desalination plant which will force up the cost of water for decades to come, or smart meters which have forced up power bills.

This budget provides a \$1.2 billion package of measures to ease cost of living pressures.

This includes half a billion dollars in stamp duty cuts for first home buyers, pensioners and farmers.

The stamp duty paid by a first home buyer will be cut in successive stages from 1 July this year. Before the end of this government's first term, first home buyers will benefit from a 50 per cent cut in stamp duty. On a median-price Victorian house, this means a cut of more than \$14 000.

Families will get relief through a 50 per cent cut in ambulance membership fees.

In addition, \$445 million has been provided for eligible households to benefit from a year-round electricity concession, and to enable water and sewerage concessions to keep pace with increasing costs. This will benefit an estimated 815 000 people across the state.

The government understands cost of living issues and is focused on easing the pressure, not adding to it.

Rebuilding our transport system

President, the daily pressures felt by Victorians are compounded dramatically by infrastructure problems.

Nowhere is this more evident than our failing transport system.

So this budget starts by fixing the basics. Any responsible householder knows that if you neglect basic maintenance, your home will start to crumble. On our public transport system, maintenance has been neglected.

This budget injects an additional \$100 million over four years for ongoing rail maintenance.

Further, the government will invest heavily in infrastructure and service expansions, such as \$484 million over five years for new public transport and rail freight infrastructure and operational improvements.

This includes \$222 million for 7 new trains — the first of 40 for Melbourne commuters — and planning for new railway stations at Southland and Grovedale.

In addition, the government's new Public Transport Development Authority represents a major governance reform which will help to ensure that public transport improvements are well planned, prioritised and coordinated.

To be serious about improving transport, the issue of level crossings must be addressed. For too long, country Victorians have had to put up with unsafe level crossings.

The budget commits \$47 million over four years to improve and upgrade regional level crossings.

It also commits initial funding towards the government's \$379 million investment in metropolitan rail crossings which will help alleviate traffic congestion.

In addition, the budget allocates \$601 million to fund key road projects and upgrade roads to cope with increasing traffic volumes.

The government is also taking decisive steps to reform our troubled taxi industry. To make this happen, we have commissioned a new taxi industry inquiry to be headed by former ACCC chair, Professor Allan Fels.

Improving our health system

Central to sustaining our quality of life is the quality of our health system. This year, the government will spend a record \$13 billion on our health system, including a new funding injection of \$1.3 billion over four years to expand and improve Victorian public hospitals. This includes:

\$448 million over four years to initiate the government's commitment to provide 800 new hospital beds in its first term; and

\$550 million to boost activity in the hospital system, particularly in elective and emergency departments.

Over half a billion dollars will be provided for hospital upgrades to increase the capacity of our hospitals to deliver more services.

This budget sets aside \$171 million over five years to employ more ambulance officers, build more ambulance stations, add more MICA paramedics and introduce a new motorcycle paramedic unit.

Mental health

For too long, problems in the mental health sector have been set aside as too difficult. Today I announce an \$88 million package to address this longstanding neglect. This package will:

improve community-based mental health services by supporting the redevelopment of facilities;

expand psychiatric disability, rehabilitation and support places, improving access to care for up to 120 people with a severe and enduring mental illness;

increase access to specialist clinical mental health services, particularly in outer urban areas;

provide new capital funding for Headspace outlets to improve services to young Victorians with mental health and substance abuse issues;

improve access to housing for people with severe mental illness and psychiatric disability, as well as developing better pathways to employment; and

create a Mental Illness Research Fund to strengthen our research effort in Victoria.

Boosting education

Central to the future of Victoria are our young people.

This budget focuses on providing education and skills for our young people.

It creates a new \$100 million school maintenance fund to help schools deal with wear and tear on school buildings, addressing years of neglect.

It invests \$208 million in school capital works, including \$97 million on land acquisition and construction of new schools in growing suburbs and regional centres.

The government is focused on improving learning outcomes through the employment of 100 maths and science specialists in primary schools, and 400 scholarships to attract science graduates into the teaching profession.

In addition, the budget will support choice for parents through a \$240 million funding boost to Catholic and independent schools.

The government is concerned about student wellbeing. It will seek to ensure our schools are safe and our children are nurtured. This includes new powers for principals to improve discipline.

It also includes an additional 150 primary welfare officers and new programs to combat bullying.

Today's budget also funds a record investment in special and autistic schools.

This includes election commitments for new and upgraded special schools at Officer, Wodonga, Yarrabah, Nepean and the Western Autistic School. It also includes regeneration and modernisation of special and autistic schools at Broadmeadows, Horsham, Hume Valley, the Eastern Autistic School, Rosamond Special School and the Northern School for Autism.

A focus on Victorians in need

President, the focus on special and autistic schools, like the focus on mental health, reflects the priorities of the Baillieu government.

The government was elected to deliver responsible government. But Victorians want a government that cares, a government with a heart.

This budget extends a hand to those in need. It includes:

a \$93 million package to support those with a disability, their families and carers through better access to aids and equipment, an extra 1700 days of school holiday respite for families and carers and 50 new supported accommodation places for people with a disability or mental illness;

extra funding will be provided to meet growing demand for programs for students with disabilities, including funding to special and mainstream schools to provide increased resources for these students;

\$34 million will be provided to strengthen palliative care, including more flexible funding for carers and

more funds to community-based palliative care services; and

\$98 million of new funding will be provided for child protection and early intervention, including \$22 million for improved out-of-home care, and \$19 million for an additional 47 child protection staff and innovative new programs to care for at-risk children.

These are fundamental responsibilities of government and the Baillieu government will continue to place priority on those most in need.

Regional and country Victoria

It is a matter of great pride that the Baillieu government contains strong representation from rural and regional Victoria.

The voice of country Victorians has never been stronger in the party room and cabinet.

Rural and regional Victoria is central to the Baillieu government's policy agenda. Our regional centres and country towns will be vital in driving future growth and prosperity across the whole state.

This budget provides the first contributions to the new \$1 billion Regional Growth Fund. The first allocation of \$500 million will flow over the next four years.

The fund will be used to provide greater prosperity, new opportunities and a better quality of life for our regional cities and country communities.

Further investment will be made through our regional aviation fund, devoted to upgrading aviation infrastructure to improve accessibility to our major rural towns and cities.

This budget helps drive a major revitalisation of our farm sector, with an unprecedented level of assistance to young farmers entering the industry. This includes new stamp duty concessions and an extension of the First Farm Grant.

The government is also investing in regional health and offering real incentives to attract and retain medical professionals in rural areas.

Protecting Victoria's competitive strengths

President, Victoria has always had distinctive qualities that set us apart from other states: its livability, its safety, its tolerance and cohesion, its neighbourhood character and its economic opportunities.

It is these attributes that set us apart. They are the qualities that a responsible government must protect.

The government has begun this process through the *2011 Victorian Families Statement — Starting the Discussion on What Matters to Families*. This provided insight into how Victorian families are managing and how the government can help.

The budget funds key community infrastructure, including new capital grants for community-based kindergartens and children's services, as well as ongoing capital funding for public libraries.

Additional resources are devoted to an improved planning strategy for metropolitan Melbourne, underpinned by community engagement.

A new grant program will provide support for small sport and recreation groups to upgrade their facilities, including lighting and change rooms.

Seventy-three million dollars will be provided to protect Port Phillip Bay beaches and foreshores, improve the financial sustainability of Parks Victoria, and manage weeds and pests on public land.

The budget funds 60 Landcare coordinators across Victoria and introduces a new \$20 million Community Green Fund grants program to assist local groups to undertake on-the-ground activities like revegetation, cleaning waterways or protecting habitat.

An additional \$45 million will be provided for a range of arts programs, covering our major iconic arts institutions as well as grassroots initiatives.

The budget also provides support for Victoria's volunteers, who make an important contribution not only in delivering services, but also strengthening our communities.

The budget includes new funding for multicultural programs, including increased support for multicultural language services, new festivals and events, a new focus on African community leadership, and new facilities for South Asian community organisations.

These initiatives all contribute towards the protection and enhancement of Victoria's distinctive attributes.

Integrity in government

Victorians have always expected high standards of integrity in their elected representatives and public officials.

Victorians expect and deserve a government with integrity.

This budget commits funds to the establishment of an independent broadbased anticorruption commission.

This commission will investigate, expose and prevent corruption across the entire public sector.

It will also educate the public sector and the community about corruption and its harmful effects on public administration and the community.

The commission is just one of many measures this government will implement to ensure Victorians receive the high-quality leadership they deserve.

Conclusion

President, budgets are about priorities.

The government has inherited many financial challenges, but despite those challenges, the Baillieu government is delivering its election promises. That is our priority.

Victorians deserve a responsible and caring government. This is what the Baillieu coalition government delivers.

Victoria is a great state, and this budget is the first step in ensuring that we build a great future.

President, I commend the bill to the house.

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

Debate adjourned until Thursday, 9 June.

APPROPRIATION (2011/2012) BILL 2011 and BUDGET PAPERS 2011–12

Concurrent debate

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

That this house authorises the President to permit the second-reading debate on the Appropriation (2011/2012) Bill 2011 to be taken concurrently with further debate on the motion to take note of the budget papers 2011–12.

Motion agreed to.

APPROPRIATION (PARLIAMENT 2011/2012) BILL 2011

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Statement of compatibility

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) 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 Appropriation (Parliament 2011/2012) Bill 2011.

In my opinion, the Appropriation (Parliament 2011/2012) 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 purpose of the Appropriation (Parliament 2011/2012) Bill 2011 is to provide appropriation authority for payments from the Consolidated Fund to the Parliament in respect of the 2011–12 financial year.

Human rights issues

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

The bill does not raise any human rights issues.

2. *Consideration of reasonable limitations — section 7(2)*

As the bill does not raise any human rights issues, it does not limit any human rights, and therefore it is not necessary to consider section 7(2) of the charter.

Conclusion

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

The Hon. Gordon Rich-Phillips, MLC
Assistant Treasurer

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The bill provides appropriation authority for payments from the Consolidated Fund to the Parliament in respect of the 2011–12 financial year including ongoing liabilities incurred by the Parliament such as employee entitlements that may be realised in the future.

Honourable members will be aware that other funds are appropriated for parliamentary purposes by way of special appropriations contained in other legislation. In addition, unapplied appropriations under the Appropriation (Parliament 2010/2011) Act 2010 have been estimated and included in the budget papers. Prior to 30 June actual unapplied appropriation will be finalised and the 2011–12 appropriations adjusted by the approved carryover amounts pursuant to the provisions of section 32 of the Financial Management Act 1994.

In line with the wishes of the presiding officers, appropriations in the bill are made to the departments of the Parliament.

The total appropriation authority sought in this bill is \$106.549 million (clause 3 of the bill) for Parliament in respect of the 2011–12 financial year.

I commend the bill to the house.

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

Debate adjourned until Thursday, 9 June.

**ENVIRONMENT PROTECTION
AMENDMENT (LANDFILL LEVIES) BILL
2011**

Introduction and first reading

Received from Assembly.

Read first time for Hon. D. M. DAVIS (Minister for Health) on motion of Hon. G. K. Rich-Phillips.

Statement of compatibility

For Hon. D. M. DAVIS (Minister for Health), 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 Environment Protection Amendment (Landfill Levies) Bill 2011.

In my opinion, the Environment Protection Amendment (Landfill Levies) 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 purpose of the bill is to amend the Environment Protection Act 1970 to increase landfill levies for municipal and industrial waste from 1 July 2011.

The bill increases the amount payable as landfill levy for each tonne of municipal and industrial waste deposited on schedule C premises and non-schedule C premises in increments, from 1 July 2011 for the 2011, 2012 and 2013 financial years and on or after 1 July 2014. The increase in landfill levies provides incentives for waste reduction and the reinvestment of levy revenues into programs that are effective, efficient and offer value for money can help deliver direct benefits to Victorian businesses and the broader community.

Human rights issues

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

The bill does not place any limitations or restrictions on any human right protected under the charter.

Conclusion

I consider the bill is compatible with the Charter of Human Rights and Responsibilities because it does not limit or restrict any rights under this charter.

David Davis, MLC
Minister for Health
Minister for Ageing

*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 Environment Protection Amendment (Landfill Levies) Bill augments Victoria's landfill levies to help deliver better waste management and achieve the government's goal of making our cities more livable and sustainable.

This bill will deliver on commitments made by the Victorian government to work with local communities and support innovative recycling and resource-recovery projects.

The new levy settings will create jobs, stimulate business growth and promote cleaner technologies. The revenues earned will be reinvested in environmental actions and programs that are efficient, effective and present value for money for the Victorian community.

This bill and the associated reinvestments in waste reduction and other environment programs will help boost Victoria's productivity and competitiveness in a global economy that increasingly values sustainability.

Victoria already recycles 6 million tonnes of waste each year but an increase in the landfill levy will deliver even greater levels of resource recovery from the remaining 4 million tonnes still going to landfill.

Every 10 000 tonnes of recycled material supports more than nine jobs, compared with less than three jobs supported by the same amount of material going to landfill.

Increasing the levies will help Victorians send less waste to landfill and reduce the harms to local households and nearby businesses — including noise, dust and odour.

It will render advanced recycling more viable and drive confident investment in better facilities that do not debilitate surrounding environments or upset local communities.

Without this increase in levies, Victoria runs the risk of stalling in our recycling, and foregoing greater economic, environmental and community benefits.

In Victoria, generating waste and disposing of it into landfills is a very minor component of business and household costs, and remains cheap compared to other waste management solutions, such as recycling.

As a consequence, the amount of waste generated statewide continues to increase and although recycling and resource recovery is also increasing, the absolute volume of waste going to landfill continues to climb.

Yet over the years, Victorian households and businesses have devoted effort to make a difference by introducing recycling into their daily routines — this bill will support their commitment.

To provide greater certainty to businesses and government planning, the bill designates staged levy increments and sets a fixed trajectory for the coming four years.

Recognising the difference in household and business cost factors between urban centres and rural Victoria, a difference between urban and rural landfill levy rates will be retained.

The new levy will set appropriate incentives for waste reduction alternatives, and strike the right balance between greater recycling and limiting the burden on households and businesses.

It will generate sufficient funding to support the important reinvestment of capital in environmental technology innovation and programs that will help improve Victoria's environment, yet reflect governmental prudence and deliver a sustainable fiscal position.

From 1 July 2011 the levy for every tonne of municipal (household and council) and commercial waste will increase by 10 per cent above the rates currently proposed for that year.

Following these initial increases of 1 July 2011, the levies will progressively increase by approximately 10 per cent each year over the following three years, to 2014–15.

Levy revenues will be reinvested in environmental actions and programs that are efficient, effective and provide value for money for the Victorian community.

In particular, the government is committed to making sure that waste programs and initiatives have sufficient funding to meaningfully secure the aims of the higher levies.

This funding commitment will be directed to better waste outcomes for local government, businesses and commercial operators involved in reducing Victoria's waste and capturing greater value from discarded resources.

Funding will:

- support Victorian businesses to dispose less waste to landfill;

- support innovators in the recycling industry and local government who are willing to invest early in better technologies, facilities and services;

- remove logistical and systemic obstacles to recovering commercial value from otherwise abandoned material; and

- finance value-for-money projects that produce meaningful and sustainable outcomes through the 'sustainability fund'.

Key government agencies involved in waste management, recycling and resource efficiency will continue to assist all sectors of the community, especially businesses and local government, to reduce waste and improve resource use efficiency.

These roles are vital to capture greater wealth from the materials passing through our economy and to protect local households, businesses and environments from the protracted problems created by less advanced waste management practices.

The bill reduces the continuing reliance on disposal activities that harm nearby communities and small businesses and diminish the value of nearby landscapes.

The bill incites new ventures that reduce waste and increase efficiency, enhancing productivity and providing new commercial opportunities.

The bill advances innovation in environmental technologies and services, particularly in businesses committed to recycling and resource recovery.

The bill brings forward landfill levy revenue to support priorities in waste avoidance and resource recovery, and other environmental initiatives.

I commend the bill to the house.

Debate adjourned for Mr JENNINGS (South Eastern Metropolitan) on motion of Mr Leane.

Debate adjourned until Thursday, 9 June.

JUSTICE LEGISLATION AMENDMENT (INFRINGEMENT OFFENCES) BILL 2011

Introduction and first reading

Received from Assembly.

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

Statement of compatibility

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

In accordance with section 28 of the Charter of Human Rights and Responsibilities Act 2006 (the charter act), I make this statement of compatibility with respect to the Justice Legislation Amendment (Infringement Offences) Bill 2011.

In my opinion, the Justice Legislation Amendment (Infringement Offences) 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 bill provides for the continued use of infringement notices for the following offences on an ongoing basis, following a three-year trial period:

offensive behaviour: s.17(1)(d), Summary Offences Act 1966;

indecent language: s.17(1)(c), Summary Offences Act 1966;

consume, supply, or possess liquor on unlicensed premises or permit the consumption, supply, or possession: ss.113(1), (1A), (1B), (1C), Liquor Control Reform Act 1998;

party bus operator permits liquor to be consumed on board without licence/permit: s.133A, Liquor Control Reform Act 1998;

failure by a drunk, quarrelsome or violent person to leave licensed premises when requested to do so: s.114(2), Liquor Control Reform Act 1998.

The bill provides for a further one-year trial period during which infringement notices will be able to be issued for the following offences:

shop theft of goods valued at up to \$600: s.74A, Crimes Act 1958;

wilful damage of property valued at less than \$500: s.9(1)(c), Summary Offences Act 1966.

Human rights issues

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

The bill, by making permanent or extending the enforceability of the offences referred to above by infringement notice, might be seen to deny an accused of the ability to have charges for the offences decided by a competent, independent and impartial court or tribunal after a fair and public hearing, and therefore to engage the right to a fair trial in section 24 of the charter act. However, as the Infringements Act 2006 preserves a defendant's right to elect to have the matter heard and determined by a magistrate in open court and provides opportunities to have matters reviewed administratively on a case-by-case basis, the bill does not limit section 24.

It is also noted that the issue of an infringement notice does not constitute a charge. Accordingly, the bill does not engage or limit the right of a person charged with a criminal offence to be presumed innocent until proved guilty in section 25 of the charter act. Further, if a person pays the infringement fine, section 33 of the Infringements Act 2006 provides that no further proceedings may be taken against the person for the offence, that no conviction is to be taken to have been recorded against the person for the offence, that payment must not be taken to be an admission of guilt in relation to the offence or an admission of liability for the purpose of a civil claim, and that payment must not be referred to in any report provided to a court for the purpose of determining sentence for any offence.

If, however, a person elects to have the matter heard and determined by a magistrate in open court, the Infringements Act 2006 deems the matter to be a charge and the usual rights of an accused person in relation to that offence would apply.

2. Consideration of reasonable limitations — section 7(2)

The proposed bill does not limit or restrict human rights in the charter act.

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. 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 infringements trial**

This bill provides for the ongoing use of infringement notices to enforce a number of common summary offences.

Traditionally, offences other than strict liability offences have not been considered suitable for enforcement by infringement notice. However, with the growth of the infringements system both in Victoria and in other jurisdictions, including the United Kingdom and interstate, together with the continuing pressure on court hearing resources, the use of infringements for somewhat more complex offences has grown.

Based on these trends, the 'infringements trial', which commenced in mid-2008, trialled the use of infringement notices for a small number of offences with varying complex aspects, with the aim of assessing their suitability for enforcement by infringement. The trial offences were:

two public order offences: offensive behaviour and indecent language;

liquor-related offences: consume, supply or possess liquor on unlicensed premises; permit the consumption, supply or possession of liquor on unlicensed premises; and failure by a drunk, quarrelsome or violent person to leave licensed premises when requested;

permitting or allowing the unauthorised consumption of liquor on a party bus;

wilful damage of up to \$500; and

shop theft of goods valued at up to \$600.

The power to issue infringements for these trial offences will sunset on 30 June 2011. The bill will ensure that infringement notices can still be issued for these offences after that date.

The evaluation of the trial indicates that the trial has reduced the volume of cases in relation to the trial offences going to hearing and at the Magistrates Court and relieved pressure on the diversion program in relation to these offences. Victoria Police report that the trial has freed up resources and boosted their ability to address antisocial behaviour in a timely and effective manner. It frees up police time for other law enforcement activities and enables them to more readily issue penalties against those offenders who deserve them. By providing police with as many enforcement tools as possible, Parliament is sending a strong signal that people who engage in criminal behaviour can expect to be dealt with under the law.

The trial also included two other offences — shop theft and wilful damage. Instead of making these offences infringeable

on an ongoing basis, the bill extends the trial period for these two offences. This is because evaluation indicates that further experience is needed and further consideration needs to be given to the impact of using infringement notices for these offences before it can finally be determined whether their ongoing use is appropriate. These were the most complex offences in the trial, with shop theft involving elements of dishonesty and wilful damage involving a range of potential victims. In the case of shop theft, more work needs to be done on understanding offending patterns and the consequences of issuing infringement notices. The data from the trial suggests that people receiving shop theft infringements are repeat offenders with a wide spectrum of offences on their record. Further evaluation will include the views of key stakeholders and the impact of expiated shop theft offences not going on a person's criminal record. In the case of wilful damage, more work needs to be done to determine whether the needs and rights of the victim of the damage are being taken into account as they should be when the infringements process is used.

CAYPINS amendment

The bill also makes a minor technical amendment to clause 17(1)(d) of schedule 3 to the Children, Youth and Families Act 2005 (CYF act), to replace the word 'registrar' with 'court'. This amendment will clarify that it is the court, rather than a registrar, which may cancel an infringement notice under part 3 of schedule 3 of the CYF act.

Part 3 of schedule 3 provides that while applications for cancellation are made to the registrar, it is the court that must determine the application and, if appropriate, cancel the infringement notice. The amendment will therefore promote consistency within schedule 3 of the CYF act and remove any potential confusion regarding the roles of officers of the court.

I commend the bill to the house.

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

Debate adjourned until Thursday, 9 June.

**STATE TAXATION ACTS AMENDMENT
BILL 2011***Introduction and first reading*

Received from Assembly.

Read first time on motion of Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).

Statement of compatibility

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) 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 (the charter act), I make this statement of

compatibility with respect to the State Taxation Acts Amendment Bill 2011.

In my opinion, the State Taxation Acts Amendment Bill 2011 (bill), as introduced to the Legislative Council, is compatible with the human rights protected by the charter act. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of this bill is to amend the Duties Act 2000 (duties act), the First Home Owner Grant Act 2000 (FHOG act), the Taxation Administration Act 1997 (TA act) and the Payroll Tax Act 2007 (payroll tax act) to enact the government's state taxation election commitments and a number of general measures aimed at updating the laws administered by the commissioner of state revenue (commissioner) in accordance with best practice tax administration.

In accordance with the government's state taxation election commitments, this bill amends the Duties Act to reduce the amount of duty payable by first home buyers, extends the concession card duty exemption and concession to holders of commonwealth seniors health cards and increases the threshold for the concession from \$440 000 to \$750 000, and provides a new duty exemption and concession to young farmers on the purchase of their first farmland property. In addition, the bill amends the FHOG act to maintain the first home bonus and first home regional bonus for newly constructed homes until 30 June 2012.

This bill also makes a number of general amendments to laws that are administered by the commissioner.

The FHOG act is amended to increase penalties for particular offences under that charter act and broaden the scope of the offence for providing false and misleading information in or in connection with an application for the first home owner grant.

The TA act is amended to establish a framework for assessments to be deemed to be made and served by the commissioner where duty is paid online.

Finally, the payroll tax act is amended to replace outdated references to commonwealth legislation in relation to employee share schemes.

Human rights issues

The bill engages the following human rights protected by the charter act:

recognition and equality before the law;

freedom of expression;

the presumption of innocence.

The impact of the bill upon each of these rights is discussed in turn below.

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

Recognition and equality before the law

Section 8(3) of the charter act provides that every person is equal before the law and is entitled to equal protection of the

law without discrimination. Discrimination, in relation to a person, means discrimination within the meaning of the Equal Opportunity Act 1995 on the basis of an attribute set out in section 6 of that act.

Clause 12 of this bill deals with who is an 'eligible pensioner' for the purposes of the concession card holders' duty concession. This clause amends the Duties Act to introduce a new category of eligible concession card that permits access to this benefit. The new eligible concession card is the commonwealth seniors health card issued under the Social Security Act 1991 (cth). Qualification for the commonwealth seniors health card is dependent upon a person's age. 'Age' is a specified attribute under section 6 of the Equal Opportunity Act 1995. Therefore, this amendment engages section 8 because it creates a law that limits access to this benefit on the basis of qualification for the commonwealth seniors health card which requires a person to be at least over 60 years of age.

On the balance, however, the limitations upon this right are reasonable and justifiable in a democratic society for the purposes of section 7(2) of the charter act, having regard to the factors set out below.

(a) What is the nature of the right being limited?

The prohibition on discrimination is one of the cornerstones of human rights instruments and this is reflected in the preamble to the charter act. However, as with all rights protected by the charter act, the section 8 right to equality before the law may be subject to reasonable limitations, pursuant to section 7 of the charter act.

(b) What is the importance of the purpose of the limitation?

Currently, the legislation provides a concession or duty exemption for Victorians who are 'eligible pensioners'. The amendment will expand the category of people who are eligible to receive the concession or exemption to include holders of a commonwealth seniors health card issued under the Social Security Act 1991 (cth). The purpose of this is to ensure self-funded retirees are also eligible for the concession or duty exemption.

The purpose of the differential treatment is to ensure that older Victorians that qualify for a concession card can afford to downsize their homes. This limitation is important because it will help older Victorians access suitable accommodation within the communities in which they have formed connections and attachments, where they may not otherwise have been able to afford to do so.

(c) What is the nature and extent of the limitation?

Seniors who hold the required concession card will now be entitled to a duty exemption or concession resulting in less stamp duty being payable on the purchase of a principal place of residence. However, the exemption or concession is available only once in a person's lifetime, and access to the benefit is subject to a number of other eligibility criteria, including that the property purchased must not exceed \$750 000.

(d) *What is the relationship between the limitation and its purpose?*

There is a direct relationship between the limitation and the purpose of assisting self-funded retirees living within restricted means to downsize their homes whilst remaining in the communities that they have lived in during their working lives. It is expected that this will contribute to their quality of life and the transition into retirement.

(e) *Are there any less restrictive means reasonably available to achieve its purpose?*

There is no less restrictive means available.

For these reasons, I consider the limitation on section 8 of the charter act to be 'reasonable' in the circumstances.

Clause 19 of this bill may also limit the right to recognition and equality before the law under section 8 of the charter act to the extent that it introduces a duty exemption and concession for persons under the age of 35 on the purchase of their first farmland property. This clause limits section 8 of the charter act because it discriminates between people by providing a duty exemption and concession on the basis of age. On balance, however, the limitations upon this right are reasonable and justifiable in a democratic society for the purposes of section 7(2) of the charter act, having regard to the factors set out below.

(a) *What is the nature of the right being limited?*

As noted above, the prohibition on discrimination is one of the cornerstones of human rights instruments and this is reflected in the preamble to the charter act.

(b) *What is the importance of the purpose of the limitation?*

The age limitation is targeted at increasing the number of young people who take up careers in farming. This limitation is important to redress the rapidly ageing demographic of people in the business of primary production and preserve the long-term future of agriculture and related industries in Victoria.

(c) *What is the nature and extent of the limitation?*

The nature of the limitation is the introduction of a duty exemption and concession for persons under the age of 35 buying their first farmland property. The extent of the limitation is confined, because the duty exemption and concession is a once-off benefit and applies only to eligible persons who purchase land on which they carry on or intend to carry on the business of primary production.

(d) *What is the relationship between the limitation and its purpose?*

The limitation has the clear purpose of maintaining the productive capacity of Victoria's primary production industries by providing young Victorians with an incentive to enter the agricultural industry. This purpose is directly related to the enactment of an age-based limit for receiving the duty exemption and concession.

(e) *Are there any less restrictive means reasonably available to achieve its purpose?*

A less restrictive means available would be to remove the age limit from the requirement. However, if the age limit was removed from the exemption or concession, it would not achieve its purpose of encouraging more young people to become farmers.

For these reasons, I consider the limitation on section 8 of the charter act to be 'reasonable' in the circumstances.

Freedom of expression

Section 15(2) of the charter act protects the right to freedom of expression. This is the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside of Victoria, and in any variety of forms.

Clause 31 of this bill alters and extends the current offence of providing false or misleading information to the commissioner under the FHOG act. Specifically, this clause makes it an offence to give information, make a statement, or produce a document in or in connection with a first home owner grant application that is false or misleading. It also makes it an offence to omit information from an application or statement or fail to produce a document, without which the application is, to the person's knowledge, false and misleading. Accordingly, clause 31 may engage the right to freedom of expression insofar as it prohibits an individual from imparting, or omitting to impart, certain types of information or ideas that are false and misleading.

However, under section 15(3)(b) there are special responsibilities attached to the right of freedom of expression and the right may be subject to lawful restrictions when reasonably necessary for the protection of public order. The limitation on imparting, and omitting to impart, false and misleading information, documents and statements under clause 31 is a lawful restriction under section 15(3)(b), as it protects the integrity of the first home owner grant scheme by ensuring those who defraud the scheme are adequately punished, and deters other from committing similar offences. This ultimately protects the public revenue, which is used to fund social and economic programs for the benefit of all Victorians.

Presumption of innocence

Under section 25(1) of the charter act a person charged with a criminal offence has the right to be presumed innocent until proved guilty according to law.

As outlined above, clause 31 makes it an offence to give information, make a statement, or produce a document in or in connection with a first home owner grant application that is false or misleading. The penalty for committing this offence will be one year imprisonment or 120 penalty units. However, an individual is not guilty of an offence if the court hearing the charge is satisfied that the individual did not know that the information, document or statement was false or misleading.

Clause 31 also makes it an offence to omit information from an application or statement or fail to produce a document, without which a first home owner grant application is, to the person's knowledge, false and misleading in a material particular.

To the extent that clause 31 introduces a defence to the relevant offences it imposes a legal burden on an individual to satisfy the court that the person did not know that the information, statement or document was false or misleading, or that they did not omit information from an application or statement or fail to produce a document knowing that without that information or document their first home owner grant application was false or misleading. These defences may limit the right to be presumed innocent in section 25(1) of the charter act.

On balance, however, the limitations upon this right are reasonable and justifiable in a democratic society for the purposes of section 7(2) of the charter act, having regard to the factors set out below.

(a) *What is the nature of the right being limited?*

The right to be presumed innocent enshrined in the charter act is a fundamental common-law principle that requires the prosecution to prove all elements of an offence beyond reasonable doubt.

However, the courts have recognised that this principle may be subject to limits particularly where, as here, the offence is of a regulatory nature, and a defence is enacted for the benefit of a defendant in respect of what could otherwise be an absolute or strict liability offence.

(b) *What is the importance of the purpose of the limitation?*

The purpose of this limitation is to provide an opportunity for an individual to escape liability, where they did not know that the information, statement or document given in or in connection with a first home owner grant application was false and misleading, or that omitting information or failing to produce a document would cause their application to be false and misleading. These are matters which are only within the knowledge of the defendant and therefore it is reasonable that they adduce or point to the evidence which puts this matter in issue for consideration by the court hearing the charge. Overall, this ensures an appropriate degree of culpability before an individual can be found guilty of the offence.

(c) *What is the nature and extent of the limitation?*

The limitation is confined to the extent that it only reverses the onus in respect of the defence. The prosecution is still required to establish that the defendant provided, or omitted to provide, the relevant false or misleading information, statement or document, and where a defendant raises evidence of lack of knowledge, the prosecution will have the burden of disproving those matters beyond reasonable doubt.

(d) *What is the relationship between the limitation and its purpose?*

The imposition of a burden of proof on the accused is directly related to its purpose. Unless a defendant can satisfy the court that he or she did not knowingly give information, make a statement, or produce a document that is false or misleading, or omit to give information or produce a document, without which the first home owner grant application is false or misleading, they will be convicted. This is information that is within the knowledge of the defendant, which would be difficult and onerous for the Crown to investigate and prove beyond reasonable doubt.

(e) *Are there any less restrictive means reasonably available to achieve its purpose?*

An evidential onus would be less restrictive upon the right to be presumed innocent, however, it would not be as effective because it could be too easily discharged by the accused, leaving the prosecution in the difficult position of having to prove what the accused did reasonably know. The inclusion of a defence with a burden on the accused to prove the matters on the balance of probabilities achieves an appropriate balance of all interests.

Conclusion

I consider that the bill is compatible with the charter act.

The Hon. Gordon Rich-Phillips, MLC
Assistant Treasurer

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:

During the 2010 election campaign this government promised to increase assistance for first home buyers and older Victorians, and provide a new stamp duty exemption for young farmers. This bill delivers on those election commitments, showing that this government is serious about easing the cost of living and providing a better quality of life for all Victorians, while helping Victoria reach its full economic potential.

This government is committed to making housing more affordable in Victoria and ensuring that stamp duty is not an impediment to first home ownership. In line with this commitment, this bill enacts our election promise to cut stamp duty for eligible first home buyers by 50 per cent. The stamp duty cuts will be available for all first-time buyers purchasing a principal place of residence up to the value of \$600 000 and will be phased in with a 20 per cent cut on 1 July 2011, with a further series of cuts commencing from 1 July 2013, 1 January 2014 and 1 September 2014.

In addition to this significant cut in stamp duty, this government will also maintain the existing first home bonus of \$13 000 and first home regional bonus of \$6500 for newly constructed homes. Under the previous government these measures were due to expire on 30 June 2011.

These bonuses are in addition to the \$7000 first home owner grant (FHOG), which means Victorian first home buyers will continue to be eligible for \$20 000 on the purchase of a new home in Melbourne and \$26 500 for a new home purchased in regional Victoria. All Victorian first home owners eligible to receive these payments will also benefit from the government's stamp duty cuts, representing a significant boost for Victorians wanting to enter the housing market for the first time.

This bill will also deliver this government's election promise to increase stamp duty relief for eligible pensioners by extending the threshold for the pensioner concession from \$440 000 to \$750 000 and making the concession available to self-funded retirees who hold a commonwealth seniors health card.

As their lifestyle and circumstances change, older Victorians may wish to downsize their homes. This measure will help relieve some of the financial burden felt by older Victorians and ensure stamp duty is not a disincentive to seniors considering downsizing. Extending this concession to self-funded retirees and increasing the threshold will mean many more Victorians will benefit from this assistance in the future.

During the 2010 election campaign, this government also announced the introduction of a stamp duty exemption for young farmers. In line with this announcement, this bill will introduce a duty exemption and concession for persons under the age of 35 on the purchase of their first agricultural property. A full exemption will apply to transactions up to the value of \$300 000, with a duty concession applying between \$300 000 and \$400 000.

Introducing a duty exemption and concession for young farmers is important to the long-term future of the agricultural sector and related Victorian industries. The average age of farmers is increasing, and the government's new duty exemption and concession will encourage more young people to consider a career in farming. This measure will also help preserve the viability of rural communities by delivering jobs and increasing investment in both rural and regional areas.

In addition to delivering this government's state taxation election commitments, this bill also makes a number of general amendments to various revenue laws.

This government is committed to enhancing the productivity and competitiveness of the Victorian economy by ensuring that no unnecessary burden is imposed on Victorian business. In line with this commitment the government has continued efforts to maintain the harmonisation of payroll tax legislation across Australia, which has seen significant administrative savings for business. This bill will amend the Payroll Tax Act 2007 to remove outdated references to commonwealth legislation in the employee share scheme provisions. To maintain harmonisation these amendments were developed in consultation with the other states and territories.

This bill also amends the Taxation Administration Act 1997 to establish a framework for deeming an assessment to have been made and served where land transfer duty is paid online. These amendments will ensure that individuals or businesses that pay duty online have the same rights and obligations as other taxpayers. An online duty payment system is currently being developed and will ultimately make it easier and cheaper to interact with the SRO and result in significant administrative savings.

The final measure in this bill is to increase the penalties for offences under the FHOG act. The FHOG is designed to give first home buyers the opportunity to enter the competitive property market. This government is serious about protecting honest Victorians and punishing anyone who has gained an unfair advantage using fraudulent means.

The penalty for providing false and misleading information will be increased from a maximum of 60 penalty units (\$7167) to a maximum of 120 penalty units (\$14 334) and will include the introduction of a 12-month maximum jail term. The scope of this offence will also be broadened to include the provision of false and misleading information in connection with an FHOG application. This should act as a strong deterrent for anyone contemplating making a false claim, and ensures the penalties available reflect the seriousness of this offence.

I commend the bill to the house.

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

Debate adjourned until Thursday, 9 June.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 14 June.

Motion agreed to.

ADJOURNMENT

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

That the house do now adjourn.

Department of Premier and Cabinet: catering

Mr LENDERS (Southern Metropolitan) — The matter I raise on the adjournment tonight is for the attention of the Premier, Mr Baillieu, and it regards the catering arrangements at the Department of Premier and Cabinet and also the lack of curiosity and lack of understanding on the part of the Minister for Health as to how his meals are paid for. I was surprised in question time today — I guess I was underwhelmed — by the minister's response to a question he was asked about catering, which is something he expressed a particularly strong view about when in opposition. He had in an FOI request and on Melbourne radio was thundering on about how evil it was that the catering costs at the Department of Premier and Cabinet were actually being met. He had a particularly strong view about ministers being paid so much money that they should pay their own catering bills.

That is all part and parcel of the election debate; I understand that. Two days from an election an

opposition will raise these sorts of matters. What surprised me today, and the reason I am raising the matter for the Premier, is that a senior minister in his government, six months into government, would not even have had the curiosity to ask where this food materialises from at every cabinet meeting, at every cabinet committee meeting and at other functions the Department of Premier and Cabinet caters for.

The reason I am concerned about that and the reason I am raising the matter for the Premier is that I would have thought that in a government that had a family statement, a government that was concerned about the cost of living, a government that believes strongly in propriety and accountability, a senior minister would not at least have had the curiosity, when his food is served up day after day, to ask the question, 'Where is this being paid from?'. I would have thought he would have asked who was paying for the food. I would have thought that, as this had caused him massive concern and was a matter about which he had spoken often, he would have made a contribution. It was something he made an issue about in the past.

The action I seek from the Premier is that he inform his minister of where the funds are coming from to pay for the ministerial catering. In the remaining seconds available to me I suggest that he perhaps advise his minister that if he is so concerned about cost of living pressures on ordinary working families in the community, he should acquaint himself with where the meals come from. Instead of just assuming that someone serves food up to you, he should recognise that someone pays for it, and if he is going to pontificate around the state of Victoria about this particular issue, perhaps he should practise what he preaches and have some affinity with and empathy for the citizens of his own state. Unlike Prince Charles, who has an equerry who follows him and pays for his meals, Mr David Davis perhaps needs to pay some attention to the issue — like ordinary Victorians need to.

Glen Devon Primary School site: future

Mr ELSBURY (Western Metropolitan) — My matter is for the attention of the Minister for Education, the Honourable Martin Dixon. The Glen Devon Primary School served the community of Werribee well for many years. The recent merger of Glen Devon and Glen Orden primary schools not only resulted in a monumental staff-up by the previous government in the provision of new facilities at the Glen Orden site, now renamed Wyndham Park, but also left a government facility without function.

I understand the Department of Education and Early Childhood Development is now exploring the potential of this site to host an English language centre to service the growing number of non-English-speaking migrants who call the west home. I have also been approached by the Werribee Community and Education Centre, as this community-based organisation has an interest in using the site to expand the educational services it delivers. The former Glen Devon site has also been of interest to the Wyndham City Council for the provision of community facilities in an area that is in great need of support.

Unfortunately, with limited foresight by the previous government, the school buildings while shuttered and locked are still the subject of vandalism and in some instances theft of fittings. This matter has been the subject of a great amount of media coverage in recent times, as locals fear that the antisocial actions that occur in this place will impact upon their families and property.

After the inertia of the previous government on the future of the Glen Devon site, I ask that the Minister for Education, the Honourable Martin Dixon, work with these organisations — the Werribee Community and Education Centre and the Wyndham City Council, in concert with the Department of Education and Early Childhood Development — in exploring the opportunities the Glen Devon site presents for the Werribee community. I would also like to invite the minister to inspect the site should he be in the area so that he can gain a firsthand appreciation of the potential this site holds in the future as an education and community asset.

Environment: Mornington Peninsula aquatic centre

Mr SCHEFFER (Eastern Victoria) — I raise a matter for the attention of the Minister for Environment and Climate Change, the Honourable Ryan Smith, concerning the Southern Peninsula Aquatic Centre development at Rosebud. The minister knows that the Mornington Peninsula Shire Council has developed the aquatic centre project as part of a community building plan to stimulate activity in an area of relative disadvantage.

The minister is required under the Coastal Management Act 1995 to determine whether consent should be given to site this facility on the Rosebud foreshore. The issue has caused some degree of community division and a range of views among Mornington Peninsula shire councillors. In an interview with the *Mornington Peninsula Leader* the minister said that he would be

guided by the lower house member for Nepean, Martin Dixon, in making his decision on the aquatic centre proposal.

The minister knows that the Coastal Management Act 1995 requires him, in considering whether or not to give consent, to have regard to the Victorian coastal strategy and any coastal action plan that applies to the land. Nowhere in the act does it say that the minister should be guided by the local member of Parliament. The minister's only duty is to make sure that the foreshore option is consistent with the Coastal Management Act 1995. The minister cannot pick and choose who he will be guided by; he is bound to make decisions in accordance with Victorian law. Telling the *Mornington Peninsula Leader* that he will back the foreshore site because it is close to public transport, that it would provide a focal point and that he would be guided by the local Liberal member, Martin Dixon, is completely out of order.

I presume that Martin Dixon, the member for Nepean, and Greg Hunt, the federal member for Flinders, persuaded the minister to go down to Rosebud and give the *Leader* an interview. We all know that Mr Dixon and Mr Hunt have made up their minds, and that is their prerogative, but they are not the Victorian Minister for the Environment and Climate Change and they are not charged with his weighty responsibilities. They should have cared more for their colleague and not used him so shabbily.

I ask the minister to immediately issue a clarification to reassure the community that he will uphold the law and not bend to his Liberal colleagues. The minister's job under the act is to make sure that there is a clear and demonstrated need for the aquatic centre to be located on the foreshore and that it could not work anywhere else. The shire identified four suitable sites that met all the criteria, and there are naturally different views in the community about the desirability of each of them.

Eaglehawk Primary School: future

Mr DRUM (Northern Victoria) — My adjournment matter is for the Minister for Education, Martin Dixon. It has to do with the Eaglehawk Primary School. As many in the chamber would know, prior to the last election the former Labor government tried to close down the Eaglehawk Primary School and merge it with two other schools: Comet Hill Primary School and North Bendigo Primary School. The community of Eaglehawk, led by councillors, business people, parents, the mayor, former mayors and a former Labor Party electorate officer, railed against that decision and

came out to make sure that the Eaglehawk Primary School stayed open in its own right.

The coalition, in response to the community pleas, gave a \$2 million pledge to fix up part of the school that had been let run down into a state of neglect and to put in some maintenance work that had been sorely lacking. Since coming to government we have appointed the independent consultant Scaffidi Hugh-Jones to conduct an independent consultation process with the stakeholders in the school. I was a member of a working group to ensure that that work was being done in a totally unencumbered and unaffected way and to make sure that the process was totally independent. That report is now finished. It is with the minister, and I hope the minister will be in a position to accept the recommendations of that report quickly.

The problem that we have is that the member for Bendigo East in the Assembly, Jacinta Allan, is still trying, even in opposition, to close the school. It is hard to believe that the shadow Minister for Education, Rob Hulls, could come to Bendigo even now and proclaim that his wish is for the Eaglehawk Primary School to close. Unfortunately these two former ministers are trying to undermine the school's future. They are effectively saying that the school has no future.

My request is that the minister give the families that are sending their children to Eaglehawk Primary School and the families that are making the important decision to send their children to Eaglehawk Primary School in the future some comfort and give them the confidence and security they need. I hope the minister will be able to take the opportunity to make a firm statement about how committed this government is to the future of Eaglehawk Primary School. We have invested the money that the Labor Party would not invest. We have invested in the community of Eaglehawk in a whole range of ways, no more so than in the Eaglehawk Primary School, and we are hoping now that the minister will come out and reinforce this government commitment to the future of Eaglehawk Primary School.

Rail: tender process

Mr SOMYUREK (South Eastern Metropolitan) — I raise a matter for the attention of Mr Dalla-Riva, the Minister for Manufacturing, Exports and Trade, concerning the procurement of the remaining 33 new trains out of the 40 committed to by the coalition before the election. The coalition's election commitment clearly stated that a tender process would be entered into for the purchase of the new trains and that superior local content would be achieved as a result of this new

tender. I will quote from the opposition's election commitment:

The coalition's plan will specify as part of the tender process that these new trains will largely be manufactured in Victoria, in contrast to Labor's policy of exporting jobs to Europe.

Wow, that is a big statement! Last month's budget revealed that the Baillieu government failed to deliver on its election commitment of holding a fresh, competitive tender process for the purchase of the first lot of seven new trains that it promised in opposition. Therefore I assume it will also fail to deliver greater local content, as it is merely extending the previous government's contract with the French firm Alstom to deliver the X'Trapolis trains. It is Thursday afternoon, and it is too late to go into a diatribe about hypocrisy and broken promises, but I am, however, keen to get an understanding of what the government intends to do with the purchase of the remaining 33 trains. I am keen to get an answer on that.

The action I seek from the minister is for him to inform us whether the government will fulfil its election commitment by holding a fresh, competitive tender process for the purchase of the remaining 33 trains.

Planning: Officer

Mr O'DONOHUE (Eastern Victoria) — I raise a matter for the attention of the Minister for Planning. I thank the minister for the advice he provided to the house yesterday about the future of the commercial heart of Officer and his advice that following his work and the work of the Minister for Environment and Climate Change, Minister Smith, and others that the road alignment proposed by the former government and endorsed by the former member for Gembrook, which would have destroyed the commercial heart of Officer — indeed it would have seen longstanding businesses such as Van Steensel Timbers and Rawson Motors destroyed as a result of the proposal of the former government — will not go ahead. I am pleased to see that that has been changed, and I congratulate the minister on that.

As a result of the advice of the minister, I invite the minister to come to Officer and meet with the business owners of Officer and local residents to learn of their plans for future investment in their businesses now that certainty has been delivered by this government.

Responses

Hon. G. K. RICH-PHILLIPS (Assistant Treasurer) — I have one written response to an adjournment matter raised by Mr Koch on 5 May. A

number of members have raised matters for the attention of ministers tonight.

Mr Lenders raised a matter for the attention of the Premier concerning the catering undertaken and funded through the Department of Premier and Cabinet. I say to Mr Lenders that to my knowledge catering arrangements in the Department of Premier and Cabinet are the same as those that existed under the previous government. Given that the Department of Premier and Cabinet is responsible for the protocol and special events branch of government, a range of catering matters are undertaken through that department and there is nothing improper or unusual about that. But I will refer that matter to the Premier for a response as he sees fit.

Mr Elsbury raised a matter for the Minister for Education in relation to the Glen Devon school site, and he asked that the minister work with the local Werribee community and the Wyndham City Council in exploring opportunities for the use of that site in the future.

Mr Scheffer raised a matter for the attention of the Minister for Environment and Climate Change in relation to the proposed aquatic centre development at Rosebud. I have to say it is disappointing that Mr Scheffer does not seem committed to the delivery of that facility to that community on the peninsula. I am advised that the minister, Mr Smith, has visited the peninsula on a number of occasions since his appointment as minister in relation to environment matters on the peninsula, in which he takes a great interest. I am confident, as all members of the government are confident, that the minister will discharge his responsibilities in relation to that project in accordance with the relevant law.

Mr Drum raised a matter for the attention of the Minister for Education in relation to the Eaglehawk Primary School. Mr Drum outlined that the previous government was intent on closing that school prior to the November 2010 election and apparently is still trying to close that primary school and undermine the school community. Mr Drum has asked that the Minister for Education restate the government's commitment to Eaglehawk Primary School so that the school community can have confidence in the future of its school.

Mr Somyurek raised an issue for the Minister for Manufacturing, Exports and Trade in relation to commitments around future train purchases by the Victorian government. Mr Somyurek asked questions about the procurement process that will be undertaken

by the government in relation to our election commitments around train purchases. I will respond to Mr Somyurek by saying that the Minister for Manufacturing, Exports and Trade is not responsible for the procurement of trains.

Mr O'Donohue raised a matter for the attention of the Minister for Planning in relation to Officer. Mr O'Donohue outlined how the previous government, through its planning regime, had been intent on tearing the heart out of the Officer community. As we heard in the house yesterday, the current Minister for Planning has ensured the future of the existing Officer community. Mr O'Donohue has invited the minister to visit that community and meet with those businesses that will now continue to operate in Officer so as to gain an understanding of the types of future investments they intend to make in relation to their businesses. I will pass that matter on to the Minister for Planning.

The PRESIDENT — Order! Mr Somyurek has raised with me the issue he raised with the Minister for Manufacturing, Exports and Trade and has noted Mr Rich-Phillips's response that that minister is not responsible for that matter. I would hope that if a different minister is responsible, presumably it will be the Minister for Public Transport in that case, then the matter will be referred to him for assessment of that matter.

I also take this opportunity to recognise the fact that Graham Tatnell is leaving the employ of the Parliament and the Legislative Council after some four years in the service of the Legislative Council. We have all appreciated his work in this place. Indeed the conduct and the professionalism of all the people we employ in the service of this house are appreciated by the members. Mr Tatnell has obviously acquitted himself very well in the four-year period he has been with us. We are sorry to see him leave the Parliament, but we wish Mr Tatnell well in his future career and life endeavours. We certainly celebrate the fact that we have had some engagement with him, albeit for a relatively short period of time. Our best wishes go to Mr Tatnell.

**House adjourned at 4.50 p.m. until Tuesday,
14 June.**