

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Tuesday, 22 May 2012

(Extract from book 9)

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

By authority of the Victorian Government Printer

The Governor

The Honourable ALEX CHERNOV, AC, QC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

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

Legislative Council committees

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

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

Legislative Council standing committees

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

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

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

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

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

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

Participating member

Joint committees

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

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

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

Education and Training Committee — (*Council*): Mr Elasmr 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*): Mr Brooks, Ms Campbell, Mr Gidley, Mr Nardella and Mr Watt.

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL
FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

President: The Hon. B. N. ATKINSON

Deputy President: Mr M. VINEY

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

Leader of the Government:

The Hon. D. M. DAVIS

Deputy Leader of the Government:

The Hon. W. A. LOVELL

Leader of the Opposition:

Mr J. LENDERS

Deputy Leader of the Opposition:

Mr G. JENNINGS

Leader of The Nationals:

The Hon. P. R. HALL

Deputy Leader of The Nationals:

Mr D. DRUM

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

CONTENTS

TUESDAY, 22 MAY 2012

CONDOLENCES

Hon. Frederick James Granter 2525

ROYAL ASSENT 2529

DISTINGUISHED VISITORS 2529, 2555

QUESTIONS WITHOUT NOTICE

Qantas: maintenance jobs 2529, 2530, 2531

Whooping cough: immunisation 2530

Sunbury: tertiary education facilities 2531

Aviation industry: maintenance jobs 2532

South Korea and Japan: trade mission 2533

Latrobe Regional Airport: upgrade 2533

Planning: metropolitan policy 2534

Higher education: Auslan programs 2535

Housing: Norlane 2535

Answers 2536

QUESTIONS ON NOTICE

Answers 2536

PETITIONS

Dingley bypass: construction 2536

Rail: Highett station 2536

ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE

*Greenfields mineral exploration and project
development in Victoria* 2536

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 8 2537

PAPERS 2538

PRODUCTION OF DOCUMENTS 2538, 2580

BUSINESS OF THE HOUSE

General business 2539

STATUTE LAW REPEALS BILL 2012

Concurrent debate 2539

STATUTE LAW REVISION BILL 2012

Concurrent debate 2539

MEMBERS STATEMENTS

La Trobe University Hockey Club:

45th anniversary 2539

Olivia Newton-John Cancer and Wellness

Centre: charity ball 2539

Spectrum Migrant Resource Centre:

immigration services 2539

Shire of Moyne: community leadership program 2539

Wind farms: Mortlake 2540

Dietrich Fischer-Dieskau 2540

Health: volunteer awards 2540

Higher education: TAFE funding 2540

Minister for Planning: performance 2541

Country Fire Authority: memorial service 2541

Public transport: western suburbs 2541

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION AMENDMENT (EXAMINATIONS) BILL 2012

Second reading 2542, 2556

Referral to committee 2563

Committee 2565, 2572

Third reading 2579

ADJOURNMENT

Department of Premier and Cabinet: regional

offices 2580

City of Port Phillip: charity bins 2580

Belmont Primary School: expansion 2580

Department of Human Services: performance 2581

Point Cook: swimming pool 2581

Wallan-Kilmore bypass: route 2582

Responses 2582

Tuesday, 22 May 2012

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

CONDOLENCES

Hon. Frederick James Granter

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

That this house expresses its sincere sorrow at the death on 14 May 2012 of the Honourable Frederick James Granter and places on record its acknowledgement of the valuable services rendered by him to the Parliament and the people of Victoria as a member of the Legislative Council for the province of Bendigo from 1964 to 1976 and the province of Central Highlands from 1976 to 1988, as Minister of Water Supply and Minister of Forests from 1973 to 1981 and as Minister for Police and Emergency Services from 1981 to 1982.

I did not know Jock Granter, but many people I know did, and he is extremely highly spoken of by those who represent areas of the state that overlap with his former electorates. In talking to people about Jock Granter it is clear that he was a true gentleman.

He was born on 6 March 1921 at Gardenvale and was educated at Gardenvale Central School and Caulfield Grammar School. On finishing school he became a bank officer and was employed in that capacity until 1954. He was known to his family and friends alike as Jock.

His career, as with many of his generation, was interrupted by the outbreak of World War II. He enlisted in the 2/164th Australian General Transport Company of the Australian Imperial Force in 1941 and served until April 1946, being discharged with the rank of corporal.

In 1949 Jock married Helena Ferrier Thomas, known as Ena, and they were happily married for over 62 years. She survives him, and we all offer our sincere condolences to her.

In 1954 Jock started farming at Heathcote. He was active in his local community, and I note that a number of newspaper articles refer to his football days. He played both for Wimmera and Heathcote. He was also a tennis player. He had a lifelong interest in racing and was president and a long-term committee member of the Bendigo Jockey Club. Last Thursday the Jock Granter Handicap was run again at the Bendigo races. He was also a trustee of both the Caulfield Racecourse and the Bendigo Racecourse.

Apart from his sporting interests Jock was an active member of the Heathcote rural fire brigade and president and a committee member of the Heathcote agricultural society. I note that Jock was also a member of the Heathcote hospital board and involved with many local hospital board committees. The local hospital board placed a notice in the *Bendigo Advertiser* this week mourning the passing of their life governor. He was involved with the Heathcote RSL, and it is fitting that his state funeral was held at the RSL hall, given his association and work for the league for more than 60 years.

Jock entered Parliament in this chamber in 1964 as the member for Bendigo, defeating the sitting member, Arthur Smith, who had held the seat for 12 years. His achievement had considerable significance statewide because, as former Premier Lindsay Thompson later wrote in his autobiography, Jock Granter's winning gave the Bolte government a majority in the Legislative Council for the first time. Indeed Mrs Petrovich might well see some parallels. He was returned at each subsequent election, and continued, when the electoral boundaries were changed at the 1976 election, as an MLC for Central Highlands Province.

He was appointed Government Whip in the chamber in 1970 and continued as whip until 1973 when the Premier asked him to join the Cabinet. He was appointed Minister of Water Supply and Minister of Forests and held those portfolios until June 1981. He oversaw the construction of the Thomson River Dam, which provides water security to the greater Melbourne area. When the Thomson was commissioned in 1984 it more than doubled Melbourne's water storage capacity, and it is interesting to reflect, as Melburnians and Victorians, on where Victoria and Melbourne would have been without the Thomson in recent years.

In 1981 the incoming Premier, Lindsay Thompson, asked Jock to take the important police and emergency services role. He was sorry, as he said, to give up water supply, but given his long experience with the rural fire brigade this new role was suitable. The next year, 1982, saw the election of the Cain government, and Jock continued as a member of the Legislative Council until 1988, when he retired. Through that period the chamber was a very finely balanced one. Those who remember that time — and I certainly do; from the outside, I might add — remember the tight votes in this chamber.

He was well regarded across the political spectrum — a person with genuine community links, actively involved in so many areas and with broad goodwill from right across the political divide. He supported young members of Parliament, and that was a matter

for which he was well known. In 2009 the F. J. Granter Scholarship was established in his honour. It provides an annual award for an essay promoting liberty, freedom, enterprise and community service on a topic chosen by a local committee. All schoolchildren living in the Bendigo federal electorate are eligible to apply.

He gave long service to the Parliament and the people of Victoria and, importantly, to this chamber as well. He epitomised many of the strengths of our chamber and many of the strengths of his time, and I am pleased to speak today to honour his service to the state and our nation and particularly to this chamber. Mrs Ena Granter and her extended family deserve our sincere condolences at this sad time. Jock is a role model for many of us — a person of great merit — and I mourn his passing.

Mr LENDERS (Southern Metropolitan) — On behalf of the Labor Party I would like to associate myself and the party with the comments Mr David Davis has made regarding the late Jock Granter. Like Mr Davis, I never met Mr Granter, nor, I believe, did anybody on this side of the house; it is one of those ironies, when somebody has made a 24-year contribution to this house and it is 24 years since they have departed — not even Mr Hall has been here that long.

From what Mr Davis said and what I have read he was certainly a very admirable man, and clearly in the 24 years since he left the chamber he continued to give to his community. That is clear from the obituaries and biographies. As I said, it is one of those things — great deeds were done by Jock Granter for many years, but because 24 years has passed there are none in this place who served with him, although I am sure some on the other side have served with him in the community since. I offer our condolences to his family and acknowledge his 24 years of service to this place and his lifetime of service to his community.

Hon. W. A. LOVELL (Minister for Housing) — There are few politicians more worthy of a state funeral than Frederick James Granter. I was honoured to attend his funeral yesterday, and I was also honoured to be the official representative of the Premier, Ted Baillieu, and the federal Leader of the Opposition, Tony Abbott, at the funeral.

Frederick James Granter, better known as Jock, knew this place well. As an upper house member for Bendigo Province and then Central Highlands Province, he was a key part of the Hamer and Thompson governments. Jock Granter spent 24 years serving his community at state level, and when in government he managed

portfolios including water supply, forests, and police and emergency services. As Minister of Water Supply he was a key player in the establishment of Melbourne's main water storage, the Thomson Dam. More locally, in his electorate he was a key player in establishing the Lake Eppalock storage. That is a legacy that will live on.

In his 91 years Jock Granter made a huge contribution to his community and to the state as a whole. A former bank officer, Jock served in the Australian Infantry Force during World War II. He was also a merino farmer and secretary of the Heathcote RSL as well as a member of the rural fire brigade. He had a close connection with the Heathcote hospital and the Bendigo Jockey Club, and he was a well-known local footballer. Jock Granter loved the community he served, and the community loved him in return. Jock's later life was dedicated to caring for his beloved Ena, whom he married almost 63 years ago, on 9 October 1949.

Jock was an inspiration to all of us who were fortunate enough to know him. For those of us who were fortunate enough to follow Jock as Liberals representing the area he loved, he would always have time to assist and to deliver a few well-chosen words of advice when needed. We all loved Jock. Local Liberals and supporters of Jock's have made sure that this special man is remembered long into the future with the F. J. Granter Scholarship, a writing award open to students in his much-loved Bendigo region.

Perhaps the last word should go to Maddy Burt, the winner of last year's F. J. Granter Scholarship. The Catholic College Bendigo student closed her 500-word essay with some words that could easily describe the attitude and approach of the man her award honours — she wrote: 'We need to live in a moment where we seize common occasions and make them great'. Jock Granter certainly did that. I extend my sincere condolences to Jock's beloved wife, Ena, and their extended family.

Mr BARBER (Northern Metropolitan) — On behalf of my Greens colleagues, I would like to join the motion of condolence for the late Honourable Frederick James Granter — Jock, to his mates, of which it is clear there were many.

He lived to the age of 91. An advantage that comes with that is the possibility of having a life before politics, as well as a life after politics and a distinguished career in politics in the middle. This is something I think all members of this place would be quite envious of achieving.

During his time he had a life which included war service. Perhaps he served in politics in an era when not everybody was in such a hurry to make a name for themselves and to achieve so much, yet he achieved a great deal. Those who have sought to memorialise him have also talked about things such as his fatherly concern for new MPs when they arrived in this place; a deep and broad community interest, which was not in the least bit diminished when he took on significant service in the ministry; and a well-earned retirement, somewhat delayed when he reached the appropriate age and found that there was a very tight situation with numbers in this upper house — even tighter than today.

Not having met him, I can only imagine that having had such a rich, distinguished and long life he would have been one of those guys who could tell you some stories. I am sure that his friends, family and others whom he touched are missing him greatly, and the Greens join in by offering our sincere condolences to his friends, family and loved ones.

Mrs PETROVICH (Northern Victoria) — I start by extending my sympathy to Jock Granter's family, particularly to his wonderful wife, Helena, known to all as Ena. We feel your loss, and you have our sympathy.

Yesterday many of us attended the state funeral for the passing of Jock Granter. In attendance were many of Jock's parliamentary colleagues, his friends, family and members of the communities he represented so well. Jock's door was always open to his constituents and to others. He had great energy and a love for people, and he served his community with a humbleness that endeared him to all. Jock was admired by all, and people loved to work for him and with him.

Jock was a member of the Legislative Council in this Parliament for 24 years. He was Minister of Water Supply and Minister of Forests from 1973 to 1981, and Minister for Police and Emergency Services from 1981 to 1982. Jock retired from politics in 1988, but he continued much of his work long after his political career was complete. His generosity and work extended to many, including my husband, Serge. A lovely lady, Rena Barri, a member of Heathcote's Italian community, introduced Serge to Jock when Serge was a young man who had ambitions to join the police force. Jock spent time with Serge and provided Serge with a reference, which I know my husband still treasures. Jock's generosity touched many lives in many ways; that is just one example.

Jock started his career as a bank officer in 1938 and continued in that role until 1954. He also served in the Australian Imperial Force from 1941 to 1946. He was a

member of the Heathcote hospital board and of the Victorian Farmers Union. He was a merino sheep breeder, a local football and Collingwood Football Club supporter — so he was not entirely perfect — president of the Bendigo Jockey Club, a trustee of the Victorian Amateur Turf Club and a member of the Kelvin Club. Jock was an inspiration to many of us. His desire to help people did not stop when he had ministerial responsibilities; he just worked longer hours.

Jock was a strong advocate for Bendigo and for the Central Highlands communities. Along with Alan Guy and Russell Jack, Jock was also instrumental in the establishment of the Bendigo Chinese Association. In a recent conversation Russell Jack said that the marvellous Golden Dragon Museum, which celebrates the history of the Chinese community in Bendigo, would not have been established without the drive of Jock and Alan.

Jock was the president of the Bendigo Jockey Club, and as minister for water he was influential in the establishment of the Thomson Dam and Lake Eppalock water storages. On many occasions during the recent 11-year drought I marvelled at the vision of Jock and others; I also thought of the sorts of issues we would have been faced with without their foresight.

Jock was my friend. I admired him for his career as a distinguished MLC and as a minister, but I also very much enjoyed his company and our conversations. Up until February this year he was still discussing politics with great vigour. I first met Jock at his office in Bull Street in Bendigo where my mother worked for him. She also worked for Fred Grimwade and Daryl McClure. When I spoke to her today about Jock she said, 'He was always a gentleman and a pleasure to know'.

In more recent times I worked with Jock and local Liberals on the presentation of the F. J. Granter Scholarship, established four years ago and available to students in the federal electoral division of Bendigo. Jock took a keen interest in all the entries and the recipients' interests. The motto of this award is 'Promoting liberty, freedom, enterprise and community service'. Jock promoted these values throughout his life, and the people who knew him and the electorates he served are much better places as a result of his work. I will miss our annual drive from Heathcote to Bendigo. Rest well, Jock!

Mr ELSBURY (Western Metropolitan) — It is my pleasure this afternoon to speak to the condolence motion for the Honourable Frederick James Granter, who was known to everyone as Jock. Jock was a

neighbour and close friend of my grandfather George Elsbury, and he also worked with my grandfather Gordon Flowers on the Heathcote hospital board. Stories about Jock filled my childhood, as my father relived various moments of Jock's political career and Jock's involvement in so much of the community fabric that made up Heathcote.

As I have already mentioned, Jock was a member of the Heathcote hospital board, but he was also a member of the Country Fire Authority, the RSL, the Bendigo Jockey Club, the Heathcote Freemasons Lodge, the Bendigo Easter Fair committee, the Bendigo Agricultural Show Society, the committee responsible for Bendigo's Chinese imperial dragon, Sun Loong, and the Lions Club. He was also a justice of the peace.

Jock's commitment to people was his strength. He always made time for people and was diligent in getting jobs done as quickly as possible. I have been told that in the time before mobile phones Jock's wife, Ena, would know Jock was about to come home because people would be lining up at the front door and the phone would be ringing after his car had been spotted passing through Tooborac or coming inside the town limits — such was the way Heathcote worked. However, he would make the time to listen to all of their concerns and returned each and every one of their phone calls.

Jock was a staunch Liberal, someone who stood up for the party during its highs and its lows. Members have spoken today about his parliamentary and ministerial career, and I will not be adding to that. In his later years Jock was as determined as ever to see the Liberal Party succeed, and he was pivotal in the re-establishment of the Heathcote branch of the Liberal Party in 2006. It was during my time working with Senator Ronaldson that I had the pleasure of meeting Jock personally. His can-do attitude mixed with his personable qualities made you feel special, and I then understood the admiration in the stories I had heard throughout my childhood.

Jock was honoured in 2009 to have the F. J. Granter Scholarship named after him by the Liberal Party's Bendigo Federal Electorate Conference. The scholarship is open to secondary school students who live in the federal electorate of Bendigo, and it reflects the values Jock himself held of freedom, liberty, enterprise and community service. Certainly Jock could not be caught short for his service to his community; he was a staunch supporter of the Central Highlands and an advocate for Heathcote in particular. Jock and Ena also donated land to the Heathcote Lions Club to establish a retirement village.

For many years Jock was a carer for his wife, Ena, as her health declined. The devotion Jock and Ena shared is an example to all of us. As a man who was selfless, dedicated to his wife, steadfast in his beliefs and a true servant of the community, I know that when his time came Jock would have been welcomed with open arms into the kingdom of heaven. I would not be surprised if he was chairing a committee right now! To Ena and the wider Granter family, I wish to express my deep condolences.

Mr DRUM (Northern Victoria) — I too rise on behalf of The Nationals to offer my condolences to the friends and family of Frederick James 'Jock' Granter, who passed away last week. The words most often used to describe Jock include 'gentlemanly', 'kind', 'humble' and 'honest' — words not normally associated with members of this house. However, a wide range of people connected to other aspects of his life — his career as a bank officer, as a footballer, as a keen follower of the horseracing industry and during his many years of community work — used those words time and again. There is hardly an organisation in his beloved Heathcote which did not directly benefit from Jock's hands-on guidance, whether it be the RSL, the town's hospital, the Country Fire Association, the agricultural society or the Bendigo Chinese Association. For years he was the go-to person in Heathcote whenever you wanted anything done.

Jock often stated that his political life began in the 1940s when he was a young bloke working in a bank and there was the raging debate about the nationalisation of private banks. He always believed that debate set his political compass. After five years serving in the army Jock took up sheep farming in Heathcote, and he was soon encouraged to seek political office. As a member of this house he rose to become the Minister of Water Supply, the Minister of Forests and the Minister for Police and Emergency Services. He was also the Legislative Council whip from 1970 to 1973.

Members may be surprised to hear that controversy in the water portfolio is not new. A newspaper article from February 1976 highlighted that Jock had to be surrounded by a ring of plain-clothes policemen when he opened a new pumping station at Maldon. While the story was a positive one about the end of water restrictions in Maldon, three men carrying rifles had been seen acting suspiciously in the days and hours before the announcement of the pumping station. Water continues to be a contentious issue; it was no different in 1976. It is interesting to note that when Jock was Minister for Police and Emergency Services all the

emergency services were for the first time brought under the one portfolio.

It was fitting that Jock Granter was honoured with a state funeral on Monday. Those who knew Jock, including those who worked with him, always said that his humility was such that he was not in the public limelight as often as a person of his achievements should have been. In the water industry alone he will be remembered as an important figure, and certainly the Eppalock and Thomson reservoirs are testament to his work.

The state funeral gave people from politics, along with people from the racing industry, the Returned and Services League, the health sector and the local Chinese community, a fitting chance to say goodbye to and remember a great man and to celebrate his life and his work. Along with my colleagues from The Nationals, I pass on our condolences and those of everyone in the house to Jock's wife of 63 years, Ena, to his brother Kenneth and to his wide circle of friends. I commend the motion to the house.

Motion agreed to in silence, honourable members showing unanimous agreement by standing in their places.

The PRESIDENT — Order! The proceedings of the house will now be suspended as a mark of respect for Mr Granter. I will resume the chair in 1 hour.

Sitting suspended 2.33 p.m. until 3.37 p.m.

ROYAL ASSENT

Message read advising royal assent on 8 May to:

Australian Consumer Law and Fair Trading Act 2012

Disability Amendment Act 2012

Justice Legislation Amendment Act 2012

Land (Revocation of Reservations) Act 2012

Royal Women's Hospital Land Act 2012.

DISTINGUISHED VISITORS

The PRESIDENT — Order! It is my pleasure on this occasion to advise members of the Legislative Council that we have with us today, and indeed for several weeks, a delegation from the national Parliament of Kenya. Members may well be aware that I led a delegation of some members of this house to Kenya earlier this year, because Kenya is looking at reinstating a senate and 47 regional assemblies, which

is an enormous capacity build, as you can imagine. As part of that the delegation from the Victorian Parliament met with a large number of groups associated with the Kenyan Parliament and with politics in Kenya to discuss the ways in which we operate so that they might consider some of the processes that we have in place in forming their new senate.

As part of the support that the Victorian Parliament is providing to the Kenyan national government we are delighted on this occasion to have representatives from the Kenyan Parliament with us. They will be observing some of our proceedings and will be involved in discussions and so forth with members of our staff in ensuing weeks. I am delighted to introduce Mr Stephen Ruge, the first clerk assistant, who is the leader of the delegation; Mr Peter Chemweno, a clerk assistant; Mr Sherrifsham Mwendwa, legal counsel with the Kenyan Parliament; Mr Martin Mbewa, who is a research officer; and Ms Lucy Kimathi, who is the office services manager in support services with the Parliament.

I extend a very warm welcome to you and hope that you find the time you spend with us fruitful.

QUESTIONS WITHOUT NOTICE

Qantas: maintenance jobs

Hon. M. P. PAKULA (Western Metropolitan) — My question is to the Minister responsible for the Aviation Industry. I refer to the decision by Qantas to axe 433 heavy maintenance jobs at Tullamarine and a further 112 heavy maintenance jobs at Avalon and to the Premier's assertion that the government had done everything it could to save those jobs, and I ask the minister: is it the case that the government could have done no more or is it in fact the case that the Victorian government did as much as it was prepared to do and was simply outbid by the Queensland government?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I thank Mr Pakula for his question and for his interest in this matter. It is a fact that in February of this year Qantas announced it would undertake a review of its heavy maintenance operations in Australia. It currently operates three heavy maintenance bases and it indicated it wished to consolidate those bases either to two or to one. Of course it is a matter of public record that there are currently two heavy maintenance bases in Victoria, one at Melbourne and one at Avalon Airport. The reality is that at the time Qantas made that announcement in February more than 1000 heavy

maintenance jobs in Victoria were at risk. Obviously yesterday's announcement that Qantas will continue heavy maintenance at Avalon, saving over 500 jobs here in Victoria, is regarded by the Victorian government as a very good outcome.

I can tell Mr Pakula and the house that through the course of the last approximately three months that the heavy maintenance review has been under way, the Victorian government has worked very closely with Qantas to ensure that heavy maintenance jobs can be retained here in Victoria and to ensure that we can get the best outcome for Victoria through that heavy maintenance review.

Supplementary question

Hon. M. P. PAKULA (Western Metropolitan) — Without wanting to editorialise too much, I find it staggering that this minister describes yesterday's announcement as a very good outcome. If the minister stands by his assertion that there is nothing more that the Victorian government could have done, does he mean by that that the Tullamarine heavy maintenance base was doomed from the outset of discussions and that there is nothing that he or the Premier could have said or done that would have saved it?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I thank Mr Pakula for the supplementary question. Of course the loss of jobs at Melbourne and some jobs at Avalon is disappointing, but the fact that more than 500 jobs will continue at Avalon is a very positive outcome of a situation where we could have lost more than 1000 jobs.

As to the issue of the government's actions around this matter, we need to reflect on how we came to be in the current situation of this review and how we are placed relative to Brisbane in this review, because the reality is, as the chief executive of Qantas said today, the Brisbane heavy maintenance facility is Qantas's state-of-the-art heavy maintenance hangar. The reality is that in 2002, when Qantas was seeking to build that described state-of-the-art facility, Victoria and Queensland were competing for that facility and the previous government, the Bracks government, did not secure that facility for Victoria, and it was subsequently constructed — —

The PRESIDENT — Time!

Whooping cough: immunisation

Mrs COOTE (Southern Metropolitan) — My question is to the Minister for Health and Minister for

Ageing, David Davis, and I ask: can the minister update the house on the efforts to prevent childhood illness through effective immunisation programs?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for her question and for her interest in children's health and, indeed, her interest in immunisation. I can indicate to the house very strongly that the government is committed to the immunisation of children, and getting the highest possible levels of immunisation achieved. It is clearly of great importance in the prevention of illnesses — whooping cough being one of the main childhood risks in this regard — and it is important in a decision to strongly support the ongoing maintenance of children's immunisation programs with whooping cough immunisation steps.

I indicate here that the government is not continuing the parental vaccine that was funded last year and indeed funded in a number of previous years. The reason for that is clinical information that has come to the government and advice of a clinical nature that has come to the government around further evaluations of the effectiveness of that vaccine.

I want to quote for the house the World Health Organisation's recent paper of October 2010 on pertussis vaccine, which states:

There is ... insufficient evidence to support the ... vaccination of ... close household contacts, for ... the primary goal of reducing severe pertussis in infants.

I also note, importantly, the national body, the Pharmaceutical Benefits Advisory Committee, a committee that operates at a national level to give advice to the national government on the national immunisation program, has rejected two submissions for the new parent pertussis vaccine program to be added to the national immunisation program. Let me quote the reason why: it is because of 'uncertain clinical effectiveness'. It is important to note the submissions were rejected 'on the basis of uncertain clinical effectiveness of the cocooning strategy'.

These are pre-eminent bodies at the national level which have twice considered this in recent times and made the decision that it is not justified by the clinical evidence that is there. I note that the World Health Organisation has also made similar statements. Faced with advice that the program was not effective and also, I might add, advice from the chief medical officer in Victoria that the program was not effective, the government will not be continuing it.

I also note that this is not just a Victorian set of decisions, and I want to be quite clear about what is

happening around the country. Tasmania never implemented a parental vaccine program. South Australia, which had a program that was limited to health-care card holders, ceased its program in December 2010 due to there being no evidence in support of the cocooning strategy. The Australian Capital Territory ceased its program in December 2011 due to there being no evidence in support of the cocooning strategy. We understand it is likely that Queensland will take a similar step.

I make the point that these steps are being taken around Australia. I make the point that this is not just the Victorian government making this decision. The decision has been made in a number of other states for the same reason that the decision has been made here: the clinical evidence, the facts and the scientific evidence do not establish that the cocooning strategy is effective.

Qantas: maintenance jobs

Hon. M. P. PAKULA (Western Metropolitan) — My question is to the Minister responsible for the Aviation Industry. The Premier has said the Victorian government offered Qantas a strong case to locate its heavy maintenance bases — plural — in Victoria. The minister is now trying to suggest that something that happened 10 years ago was the clincher, but he certainly was not saying that Brisbane's facility was fatal to Victoria's bid in the last sitting week when we asked him about it and he did not say that when he appeared before the Public Accounts and Estimates Committee on Friday. Of all the states in Australia with the capability for heavy airline maintenance, Victoria yesterday went from having the largest share of that work to having the smallest, so I ask: what was it about the government's strong case to Qantas that was not strong enough?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I again say to Mr Pakula and the house that yesterday's outcome, retaining more than 500 jobs at Avalon in the face of losing more than 1000 jobs when the review was announced, was a good outcome in the face of where we could have ended up. Of course we are disappointed about the loss of jobs at Melbourne Airport and the loss of some jobs at Avalon. Back on the point of the relative situation with the Brisbane facility, as Alan Joyce has pointed out in the papers today, Qantas regards that as its state-of-the-art facility. Victoria had a chance to secure that facility in 2002, and the previous government did not do so.

The reality is that the two Victorian facilities at Melbourne and Avalon were competing against what Qantas regards as its state-of-the-art facility. We regard the retention of 500 jobs at Avalon, as announced yesterday, as a good outcome for that workforce at Avalon.

Supplementary question

Hon. M. P. PAKULA (Western Metropolitan) — Despite the government's pitch for the Tullamarine work being unsuccessful, the minister has claimed credit in the media, and he is doing so again today, for having secured the jobs at Avalon, and he has described that as a very good outcome. Can the minister outline whether the government provided a financial support package to Qantas in order to preserve the jobs at Avalon or whether the jobs remain because of the minister's powers of persuasion alone?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I thank Mr Pakula for his question. As the Premier indicated yesterday, Victoria offered a very strong case to Qantas. I do not intend to go into detail, as governments do not go into details of the nature of packages put to companies.

Sunbury: tertiary education facilities

Mrs PETROVICH (Northern Victoria) — My question is to the Minister for Higher Education and Skills, Mr Hall. Can the minister inform the house of the outcomes of his visit to Sunbury last Friday, where I understand the post-secondary education needs of the region were discussed?

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Mrs Petrovich for her question and interest in this very important topic for the Sunbury area of her electorate. I think the house will well understand and know that there has been an ongoing issue in the Sunbury area regarding the delivery of higher education, and that started way back in 2009 when the then federal Minister for Education, Julia Gillard, now the Prime Minister, gave permission for Victoria University to withdraw from higher education delivery at its site in Jacksons Hill. Consequently that site has largely been idle since then. It was occupied for a period of time by a private secondary college, but currently there are a small number of community groups that use just a small part of quite a large area at Jacksons Hill in Sunbury.

It is no secret that Victoria University seeks to dispose of that parcel of land — that asset — and it is also no

secret that I have said I will not agree to such a sale until at least such time as there is a plan that will see an improved delivery of post-secondary education services for Sunbury and regional areas. Consequently, with that aim I have been actively involved, with the encouragement of Mrs Petrovich, in seeking a resolution to this particular problem for Sunbury. And so it was on Friday of last week that I assembled a range of interested players to further progress my intention to improve the delivery of post-secondary education to the Sunbury area. Key to that were Hume city officers, who were at various discussions and site inspections that took place, Victoria University, Deakin University — —

Honourable members interjecting.

The PRESIDENT — Order! The first time I chose to ignore it, but I heard it again the second time. I will not have references to members in another place. I have been consistent on this when it has been members of the opposition party who have been mentioned by way of interjection; it is not on. In my belief it is unruly and unparliamentary. If there are issues that members of the opposition would like to prosecute with regard to matters concerning members in the other place, they should do so by substantive motion, not by interjection.

Hon. P. R. HALL — Assembled on Friday were representatives from Hume City Council, Victoria University, Deakin University, Kangan Institute of TAFE and the Department of Education and Early Childhood Development, including staff from the schools area and the higher education and skills group. Each of those parties had an interest in seeing progress on this particular matter. Hume City Council, for example, is very keen to establish a community learning hub of a similar nature to that which it currently has in Broadmeadows and Craigieburn, where community facilities like libraries and research centres are co-located with areas where higher education can also be delivered.

What we looked at was co-location with education providers, and there are significant benefits to that. We looked at, for example, a co-location of a potential redevelopment of Sunbury College with a community learning hub, with a technical training centre and with a point of delivery for higher education. Indeed, despite Mr Viney's constant interjections, people are genuinely excited in Sunbury about the potential of co-locating and establishing an education precinct that would give people in Sunbury unprecedented access to opportunities which they have never had before. There is certainly goodwill and willingness to progress these ideas, and I see it as part of my role and responsibility

to promote those discussions to see something bigger, better and more fulsome for the people of that particular region.

I can inform the house that there is ongoing work between Victoria University and Hume City Council. Issues need to be resolved regarding community facilities currently at Jacksons Hill, but I am confident that on Friday there was a major step towards fulfilling the ambitions of many in that community, and that is to see a return of higher education delivery in Sunbury.

Aviation industry: maintenance jobs

Hon. M. P. PAKULA (Western Metropolitan) — My question is to the Minister responsible for the Aviation Industry. The minister has confirmed before the Public Accounts and Estimates Committee, both this year and last year, that as Minister responsible for the Aviation Industry he does not have responsibility for direct flight attraction; that sits with the Minister for Tourism and Major Events. There are no performance measures in the budget directly relevant to his portfolio, and in those circumstances it seems that the attraction and preservation of an aviation maintenance sector is the key matrix by which his performance can be measured. Having now claimed credit for securing the jobs at Avalon — presumably with some government support, although he is not saying — can the minister outline whether he has secured in return from Qantas a commitment to preserve a heavy maintenance base at Avalon beyond the life of the 747s?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I thank Mr Pakula for his question and his interpretation of Public Accounts and Estimates Committee hearings, which do not necessarily accord with my recollection of those discussions at PAEC. On the substantive issue of the jobs at Avalon and the heavy maintenance work at Avalon, Qantas has indicated to the government that those jobs and that work is there for the foreseeable future. Importantly it has also indicated that there are opportunities for other work to be undertaken at Avalon around reconfiguration work and one-off maintenance work over the coming period.

Supplementary question

Hon. M. P. PAKULA (Western Metropolitan) — I thank the minister. It sounds a bit less than a commitment, but with the maintenance work at Avalon on a watching brief, to be optimistic, we now have the problem of skilled labour potentially leaving the jurisdiction to go where the work is. The minister has conceded before PAEC that a pipeline of skilled people

is important in attracting investment in the aviation sector, so with those things in mind will the minister now reconsider his decision to not proceed with an aviation training academy?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I thank Mr Pakula for the supplementary question. Mr Pakula refers to his former government's proposal for an aviation academy, which was the \$150 million capital spend to build a building to put Kangan TAFE's aircraft in. The government is not going to reconsider that. The government is very aware of the challenges and needs for a pipeline of skills development for the maintenance, repair and overhaul sector of the aviation industry, and it will have more to say about that shortly.

South Korea and Japan: trade mission

Mr KOCH (Western Victoria) — My question is for the Minister for Manufacturing, Exports and Trade, my colleague the Honourable Richard Dalla-Riva. I ask: can the minister update the house on any new and exciting investments in Victoria from the automotive sector?

An honourable member interjected.

Hon. R. A. DALLA-RIVA (Minister for Manufacturing, Exports and Trade) — Thanks for sharing that with me; I did pick it up. I thank the member for his question, and I thank the member for the interjection, because I think it is important to recognise the importance of the automotive sector, which I have continually said in this chamber. I put on the record that I have just returned from a trade mission to South Korea and Japan. The trade mission included meetings with key investors and government officials in Japan following the successful major trade show at the Yeosu world expo, which featured more than 50 Victorian companies.

I have always said that it is very important for us to recognise Japan as one of Victoria's strongest and most enduring trade and investment partners. The bilateral trade, just to put it in some perspective, is valued at more than A\$6.5 billion a year. More importantly still, Victoria is the home of over 140 Japanese companies. We know some of these great global trading companies. Toyota established its first manufacturing plant outside of Japan here in Melbourne almost 50 years ago, and I met the president of Toyota. Others include Sumitomo Corporation; Mitsui and Co., which is an important company; NEC; Nippon Paper Group, which owns Australian Paper; Yakult; and Kagome, to name a few.

In Tokyo and subsequently Nagoya I met with presidents and senior executives of nine of the largest investors in industry in this state, as well as senior trade and foreign ministry officials. Universally they confirmed my view that the Japanese companies highly value their presence in Victoria, and they are keen to grow their businesses here. While our international engagement strategy will focus on emerging growth markets, I might say that Japan will remain pivotal.

It is vital that we encourage further investment with our Japanese friends and continue to build on these longstanding trade relationships, which are of immense strategic benefit both to Victoria and to Japan. I must say for those opposite that many of these businesses are looking for growth opportunities in Victoria. For example, the potential opening up of our brown coal reserves for export is generating strong interest in Japan, and leading companies in the food processing sector see the Victorian operations as a potential base to pursue market opportunities in the emerging markets of Asia.

In Nagoya I had the honour of meeting the governor and vice-governor of Aichi prefecture, our sister state, and we look forward to the impending visit by Governor Ōmura. Also in Nagoya I had the privilege to announce that Japanese automotive technology and components supply giant DENSO will invest in three additional new engineering projects right here in Victoria.

DENSO's headquarters in Nagoya represent a world-leading model for advanced manufacturing. We know the DENSO group in Australia is located here, in Croydon. It currently employs 400 staff, and the workforce in manufacturing will be expanding as a result of these new projects. DENSO's projects include the development and manufacture of caravan rooftop air conditioning units and the localisation of thermal-related manufacturing processes from DENSO in Japan. I must say that the coalition government is very pleased to help secure DENSO's future in Australia and to help it maintain its core competencies in automotive industries. As I said, we see the attraction in Victoria as an investment destination, and it is great to see that the world leader in automotive supply is bolstering its presence here in this state.

Latrobe Regional Airport: upgrade

Mr VINEY (Eastern Victoria) — My question is to the Minister responsible for the Aviation Industry, Gordon Rich-Phillips. Gippsland Aeronautics is seeking to expand its aircraft production and has warned that without upgrades to Latrobe Regional

Airport it may have to move to Queensland or even offshore. This project would provide an additional 250 jobs. Earlier this year Latrobe City Council applied for funds under the Regional Aviation Fund to upgrade its airport. However, no money has been provided in the budget for the airport at Traralgon. Can the minister advise what the government is doing to support Gippsland Aeronautics so it does not leave Victoria and go to Queensland, which according to his earlier answers today he seems to think is a good outcome for Victoria?

Hon. G. K. RICH-PHILLIPS (Minister responsible for the Aviation Industry) — I thank Mr Viney for his question and for his interest in Gippsland Aeronautics, which is a great success story for Victoria and a great aerospace manufacturer in Victoria. In fact Gippsland Aeronautics is the only completely certified aircraft manufacturer in Australia. It has been very successful in the Latrobe Valley with the manufacture of the GA8 Airvan, and it has been very successful in expanding its production line into other aircraft types. With respect to its operations at Latrobe Valley regional airport, that is something that the Victorian government is very supportive of. I am happy to say to Mr Viney, who may not have been at the Public Accounts and Estimates Committee hearings last Friday, that I was very pleased to confirm at PAEC last Friday that the grant being sought with respect to Latrobe Regional Airport has been funded under the Regional Aviation Fund.

Planning: metropolitan policy

Ms CROZIER (Southern Metropolitan) — My question is to the Minister for Planning, Mr Guy, and I ask: can the minister inform the house about the Baillieu government's latest actions to bring forward a new metropolitan planning vision for Melbourne?

Hon. M. J. GUY (Minister for Planning) — I thank Ms Crozier for her question about metropolitan planning policy, which is an exceedingly central part of the government's planning reform agenda, as you would be aware, President. Recently I had the pleasure of announcing the launch of the government's ministerial advisory committee, which will oversee the metropolitan planning policy and the rewrite of that policy. It is a very eminent committee, if you like, and the people who are on it have many, many years of experience in the planning industry here in Victoria. It will be chaired by Professor Roz Hansen and will have members such as Brian Haratsis, Chris Gallagher, Professor John Stanley, Tony Nicholson and Bernard McNamara. As I said, all those people are very well known in the planning industry in Victoria and come to

the advisory committee with many decades of experience. This government is proud to have those people overseeing the direction of the new metropolitan planning vision and where that will go for Victoria.

It is important to note that this metropolitan planning policy rewrite is one that will take a very different turn to those policies that it is going to replace. In fact metropolitan visions in the past have been planning documents unto themselves, but they have not been planning and transport documents. This is one that will be developed on a whole-of-government approach, principally with transport and planning working together. This government, the Baillieu government, knows that planning and transport cannot be conducted in a prism unto themselves; they need to have good integration. That is why this government is committed to reforming works in kind. That is why this government is doing what it can to reform developer contributions. That is why this government is committed to the east-west road extension for the north of Melbourne. We want to get on with the east-west link as part of the metropolitan planning vision — —

Mr Leane interjected.

Hon. M. J. GUY — I take up Mr Leane's interjection, because it speaks very clearly of the difference between those who have a long-term agenda and vision for Melbourne, the growth of Melbourne, both in planning and in logistic movements, and someone opposite who might oppose the construction of the east-west freeway. But I can tell you, President, that people sitting at the end of the Eastern Freeway who have come from my electorate, from the eastern suburbs of Melbourne and from Gippsland, and people coming from the west, indeed from the western suburbs, from western Victoria and of course from the north, know how imperative it is. They know how integral this is to the future and to the planning vision of Melbourne. That is why this government has a vision for Melbourne, a complete vision; one that involves land use planning and the reform of our planning systems and one that will be oversighted by the committee which I have recently announced.

As I said, not only is the metropolitan planning policy one that will stand alone but it will have a relationship back to regional growth plans. For the first time we will have a metropolitan planning policy that actually relates back to our regions, that actually accepts that Victoria is not just going to be a city state, as our predecessors wanted it to be, and that actually accepts that Gippsland, Geelong and the Barwon region, the north of this state, the Wimmera and the Mallee and the

north-east of this state all have key roles to play in this state's growth. That is why our metropolitan planning policy and our regional growth plans will all come together in a state planning vision that will take in planning and transport and oversight the way this state grows, not just for the next 5 years but for the next 50 years.

Higher education: Auslan programs

Ms HARTLAND (Western Metropolitan) — My question today is for Mr Hall, the Minister for Higher Education and Skills. Auslan is the official Victorian community language used by deaf Auslan speakers and by people with hearing who want to communicate with deaf Auslan speakers. There is only one diploma of Auslan TAFE course in Victoria at Kangan Institute of TAFE, and this course is going to close at the end of the year due to the current funding cuts. My question to Mr Hall is: how will Victorians study Auslan, especially considering the RMIT Auslan interpreter course takes all its students from Kangan TAFE graduates, so the interpreter course will also disappear? When that happens there will never be another qualified Auslan interpreter trained in Victoria.

Hon. P. R. HALL (Minister for Higher Education and Skills) — I thank Ms Hartland for her sincerity in the way she has asked this question, because it is a very important issue. Given that the delivery of Auslan programs has been under some difficulties with GippsTAFE first of all withdrawing and now Kangan indicating it may withdraw, the department has been actively working with the deaf community in Victoria to seek an alternative provider of those services. I can advise that in fact the Deaf Society of New South Wales in conjunction with Vicdeaf, the peak body organisation representing those bodies, has agreed to deliver programs of Auslan in Victoria. We expect it will be the Deaf Society of New South Wales that will come in and deliver Auslan programs within Victoria for Victorian people.

Supplementary question

Ms HARTLAND (Western Metropolitan) — That is very interesting, because just this morning I was contacted by the Australian Deaf Foundation, which obviously knows nothing about that. I have also been contacted by a number of people within the Victorian deaf community who know nothing about that. I have also spoken to the TAFE college this morning, which is not aware that there is another course. Why is it that what is basically a human rights issue to allow the deaf community to be able to communicate has not been communicated to those people?

Hon. P. R. HALL (Minister for Higher Education and Skills) — On the advice I have in front of me the Victorian government has approved a contract with the Deaf Society of New South Wales to deliver Auslan programs in Victoria. To what extent that has been communicated to other sections of the community, I am not sure. But I would think that the outcome — that is, the securing of a continuation of those programs — is an important milestone for Victoria, and I am pleased that we have been part of it. If that decision has not been communicated to those who have an interest in this, I will ensure that it is.

Housing: Norlane

Mr RAMSAY (Western Victoria) — My question is to the Minister for Housing, the Honourable Wendy Lovell, and I ask: can the minister provide details of any recent social housing in Geelong?

Hon. W. A. LOVELL (Minister for Housing) — Last week I had the pleasure of opening some new social housing in Norlane, and I was joined by my colleagues, David Koch and Andrew Katos, the member for South Barwon in the Assembly, at the opening of this new building. I am sorry that Mr Ramsay was not available on the day to join us, but I am delighted to fill him in on this in the house. This is a \$4.8 million development on Cox Road in Norlane. It is owned by the director of housing and managed by Yarra Community Housing. It contains 20 new one-bedroom units, and they are on land that was once occupied by four weatherboard homes. In fact one of the tenants living in one of those weatherboard homes has returned to a brand-new unit on that site.

The double-storey building is light, bright and roomy, and much loved by the new tenants. Security features in the new building include keypad entry and closed-circuit television, and that gives tenants a feeling of security. There is a communal vegetable garden that takes up one corner of the very spacious backyard that the tenants absolutely love. One of the tenants, Nicki, told me she had never dreamed of having such a wonderful home. Those are the things that make this job really special, when you see people settled into a new home and so happy and grateful to have that new home.

There was a special significance to this event because the building is in an area where the coalition is focusing on improving outcomes — and that is in the suburb of Norlane. We are committed to revitalising Norlane, a suburb that was named after World War II veteran Norman Lane. The \$4.8 million was in addition to the \$80 million new Norlane project. Our \$80 million new

Norlane project will deliver 160 new public housing homes and 160 new affordable private homes. It was described by the *Geelong Advertiser* as the most significant announcement for Geelong in the past decade.

The wonderful new homes we delivered in Cox Road complement our plans for a new Norlane, which is to once again make the suburb a place that Norman Lane would be proud to call home.

QUESTIONS ON NOTICE

Answers

Hon. D. M. DAVIS (Minister for Health) — I have answers to the following questions on notice: 139, 167, 173, 175, 692, 848–51, 3566, 4455, 8249, 8262.

QUESTIONS WITHOUT NOTICE

Answers

Mr TEE (Eastern Metropolitan) — A question without notice that I asked on 28 February of the Minister for Planning in relation to the Ventnor matter and whether or not he had spoken to the Premier about that matter was taken on notice by the minister. On 1 March he told me he would answer the question as soon as possible. On 28 March he said he would get an answer to me straightaway. On 18 April he said he would get an answer to me directly. To my knowledge I have not received an answer, and I seek from the minister and the Chair some assistance in trying to get an answer to a reasonably straightforward question, asked on 28 February.

Hon. M. J. GUY (Minister for Planning) — I will check that. My understanding was that it had been mailed to Mr Tee, I think to the office it came from, which is the one over the road at 157. But I will check on that and make sure that Mr Tee has it in his hands as soon as possible.

The PRESIDENT — Order! I thank the minister for his assurance that the answer has been compiled and is on its way to the member. I must say that I thought the question was a relatively easy one to answer, once the minister had checked his records, so I would hope that in fact that matter will be resolved. The minister gives me that assurance, which encourages me.

PETITIONS

Following petitions presented to house:

Dingley bypass: construction

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the Dingley bypass and the need to fit in with the needs of local residents as well as people travelling through the community.

The petitioners therefore request that the government ensure that sound barriers are built, that there are no unnecessary road closures or land acquisitions, and that residents are fairly compensated for any land acquisitions.

By Mr TARLAMIS (South Eastern Metropolitan) (24 signatures).

Laid on table.

Rail: Highett station

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the concern that Highett station will close or have reduced services after the introduction of a train station at Southland. Highett station is an important community asset, and we believe that the services should be improved.

The petitioners therefore request that the government confirms their commitment to improve services at Highett station, that the station will not close and that services will not be reduced.

By Mr TARLAMIS (South Eastern Metropolitan) (204 signatures).

Laid on table.

ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE

Greenfields mineral exploration and project development in Victoria

Mrs PEULICH (South Eastern Metropolitan) presented report, including appendices, together with transcripts of evidence.

Laid on table.

Ordered that report be printed.

Mrs PEULICH (South Eastern Metropolitan) — I move:

That the Council take note of the report.

In doing so, I would like to, first and foremost, thank all those who have worked on producing what is a bipartisan report on some very difficult and contentious issues which need to be addressed if we are going to provide some solutions and a blueprint for resolving issues that are pertinent to the future economic development of our state. I thank all the submitters and witnesses as well as the staff: Sean Coley, who has taken over from Yuki Simmonds who went on maternity leave, Scott Martin and Matt Newington.

The chair of the committee, the member for Hastings in the Assembly, Neale Burgess, did an excellent job in bringing together a consensus from often fairly divergent positions. I also pay tribute and thank the constructive contribution — it was certainly not an insubstantial contribution — from the Labor members of the committee: the members for Williamstown and Albert Park in the Assembly, Wade Noonan and Martin Foley. Although the committee started with some tension, it continued after establishing a good working dynamic, and that was useful. We look forward to the government responding to the report.

The inquiry examined why Victoria has fallen behind other Australian and overseas jurisdictions in attracting investment to explore and develop its mineral resources. The industry perceptions of Victoria's mineral licensing and regulatory environment are negative and, as such, act as a disincentive to invest in mineral exploration. The negative perceptions of the regulatory environment are enough to outweigh generally positive perceptions of Victoria's prospectivity for a range of minerals, including gold, copper and mineral sands along with geothermal energy. Victoria's share of national mining exploration spending has declined during one of Australia's greatest resources booms: from 6.8 per cent in 2003–04 to 1.9 per cent in 2010–11. Further details can be found on page 19 of the report. Worldwide, total expenditure on mineral exploration is on average approximately two and a half times the rate of expenditure on greenfields exploration.

One of the important recommendations that has come out of this report is one that is glaringly obvious — that is, for the Victorian government to adopt a one-stop shop for exploration, mining and extractive industries in Victoria and in doing so to negotiate what may be competing interests between departments and the mayhem and the maze of regulations that the industry needs to contend with in a very difficult environment. It is difficult and costly, and some of the delays are unacceptable and a huge disincentive. Explorers looking for minerals or wanting to convert their discoveries into production need to be supported, and it

is an interesting fact that only about 3 out of every 1000 exploration licences actually converts into a mining operation — a very low percentage. That is why it needs to be supported.

The resources sector accounts for 7 per cent of Australia's gross domestic product in Victoria and the resources sector accounted for approximately 2 per cent of gross state product in 2009–10, so we are clearly lagging. In 2009–10 the Victorian earth resources sector contributed \$5.9 billion to gross state product, of which \$502.5 million related to minerals. Small companies with low levels of market capitalisation — less than \$50 million — have taken on a greater share of the mineral exploration, up from 36 per cent in 2001 to 53 per cent in 2011. Larger explorers tend to focus on proven brownfield sites.

Another key recommendation is for the state to consider developing a statewide strategic land use policy framework in order to manage conflicting land uses that affect the availability of land for mineral exploration and other uses in Victoria. This is particularly important given some of the legacy issues of previous mining operations, even if they are small, such as in Kingston, where there has been extensive sand mining. Often little thought is given to the post-mining use of such land, and as a result many of those are used for tips and landfill. In instances where there is urbanisation and close residential developments, this ends up being a problem. We would like to see more thought being given to post-mining uses of land to ensure that we strike a fine balance between economic activity and protecting our environment and amenity for Victorians.

There is a range of very complex issues that are considered in this report, including the industry's legislative and regulatory framework, finance and taxation, geoscientific research, education, land management and environmental protection. I commend the report to all members.

Motion agreed to.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 8

Mr O'DONOHUE (Eastern Victoria) presented *Alert Digest No. 8 of 2012, including appendices.*

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Members of Parliament (Register of Interests) Act 1978 — Summary of Primary Return, April 2012 and Summary of Variations notified between 8 December 2011 and 21 May 2012.

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

- Ballarat Planning Scheme — Amendment C155.
- Bass Coast Planning Scheme — Amendment C127.
- Baw Baw Planning Scheme — Amendment C81.
- Boroondara Planning Scheme — Amendment C143.
- Campaspe Planning Scheme — Amendment C73.
- Glen Eira Planning Scheme — Amendment C91.
- Glenelg Planning Scheme — Amendment C63.
- Greater Dandenong Planning Scheme — Amendment C165.
- Macedon Ranges Planning Scheme — Amendment C86.
- Manningham Planning Scheme — Amendment C83.
- Melbourne Planning Scheme — Amendment C124.
- Mitchell Planning Scheme — Amendment C54.
- Moira Planning Scheme — Amendment C50.
- Murrindindi Planning Scheme — Amendment C39.
- Nillumbik Planning Scheme — Amendment C58 (Part 3).
- Port Phillip Planning Scheme — Amendments C80 and C91.
- South Gippsland Planning Scheme — Amendment C62.
- Stonnington Planning Scheme — Amendment C156.
- Warrnambool Planning Scheme — Amendment C72.
- Whittlesea Planning Scheme — Amendment C118.
- Wodonga Planning Scheme — Amendment C100.
- Yarra Ranges Planning Scheme — Amendment C121.

State Services Authority — The State of the Public Sector in Victoria, 2010–11.

Statutory Rules under the following Acts of Parliament:

- Accident Towing Services Act 2007 — No. 29.
- Criminal Procedure Act 2009 — County Court Act 1958 — No. 31.

Local Government Act 1989 — City of Melbourne Act 2001 — No. 30.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rule Nos. 29 and 31.

Legislative Instruments and related documents under section 16B in respect of — Exemption from section 65A(1) of the Road Safety Act 1986 for persons participating in the Australian National Circle Work Championships at the Pakenham Racecourse.

Water Act 1989 — Abolition of Apsley, Neuarpur and Telopea Downs Groundwater Supply Protection Areas and Kaniva Water Supply Protection Area Order 2012.

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

Business Names (Commonwealth Powers) Act 2011 — Parts 1 and 4 — 8 May 2012; Remaining provisions — 28 May 2012 (*Gazette No. S151, 8 May 2012*).

Control of Weapons and Firearms Acts Amendment Act 2012 — 16 May 2012 (*Gazette No. S157, 15 May 2012*).

Emergency Management Legislation Amendment Act 2012 — Section 3 — 1 May 2012 (*Gazette No. S140, 1 May 2012*).

Emergency Services Legislation Amendment Act 2012 — 1 May 2012 (*Gazette No. S140, 1 May 2012*).

Legal Profession and Public Notaries Amendment Act 2012 — 2 May 2012 (*Gazette No. S140, 1 May 2012*).

PRODUCTION OF DOCUMENTS

The Clerk — I have received a letter dated 20 May 2012 from the Minister for Public Transport headed ‘Order for documents — New Street, Brighton, railway crossing’ and related documents.

Letter at page 2584.

Ordered to be considered next day on motion of Ms PENNICUIK (Southern Metropolitan).

The Clerk — I have also received a letter dated 22 May 2012 from the Minister for Planning, together with Ports and Environs Advisory Committee report.

Letter at page 2585.

BUSINESS OF THE HOUSE**General business**

Mr LENDERS (Southern Metropolitan) — By leave, I move:

That precedence be given to the following general business on Wednesday, 23 May 2012:

- (1) the notice of motion given this day by Mr Lenders relating to TAFE funding;
- (2) order of the day 2, resumption of debate on the second reading of the Members of Parliament (Serious Misconduct) Amendment Bill 2011;
- (3) notice of motion 324 standing in the name of Ms Mikakos relating to the Baillieu government's lack of a jobs and infrastructure plan; and
- (4) the notice of motion given this day by Ms Hartland relating to the production of documents in relation to the ministerial task force report on options for future provision of dental facilities at the western region community health centre.

Motion agreed to.

**STATUTE LAW REVISION BILL 2012 and
STATUTE LAW REPEALS BILL 2012**

Concurrent debate

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

That the second-reading debate on the Statute Law Revision Bill 2012 be taken concurrently with the second-reading debate on the Statute Law Repeals Bill 2012.

Motion agreed to.

MEMBERS STATEMENTS

**La Trobe University Hockey Club:
45th anniversary**

Ms MIKAKOS (Northern Metropolitan) — On 5 May I had the pleasure of attending La Trobe University Hockey Club's 45th anniversary along with the club's patron, the member for Bundoora in the other place. Also present was Mr Ben Hartung, CEO of Hockey Victoria. The La Trobe University Gunners is one of the largest clubs at La Trobe University, with over 15 registered competitive teams participating in active competitions with Hockey Victoria. It currently has over 300 active players and over 500 supporters and family.

The highlight of the evening was the presentation of two awards: one to Mr Greg van Meeuwen, who received a life membership, and one to Mr Ross Erickson, the 'father of the club', who was made the first-ever recipient of the president's plate in recognition of his 40 years of continued service. I also congratulate Mr Zac Martin, president of the club, Mr Travis Dowling, the communications coordinator, and all the committee members on their hard work. I wish the club every success in the future.

**Olivia Newton-John Cancer and Wellness
Centre: charity ball**

Ms MIKAKOS — On 4 May I attended a charity ball, along with the member for Ivanhoe in the other place, to raise funds for the establishment of a resource library at the Olivia Newton-John Cancer and Wellness Centre and to establish a fund to allow cancer patients to access the wellness programs. The wellness centre is located on the Austin Hospital site and will provide a comprehensive range of services for cancer patients all under the one roof. I am very proud of the previous Labor government's support for this important project, and I congratulate the wellness ball committee on its dedication in organising fundraising for this worthy cause.

**Spectrum Migrant Resource Centre:
immigration services**

Ms MIKAKOS — I had the pleasure on 10 May of attending Spectrum Immigration Services' celebration of five years of achievements and success. Spectrum Immigration Services was established by the Spectrum Migrant Resource Centre to assist migrants and refugees with immigration matters, and it also offers assistance to international students and employers looking for skilled workers. I congratulate CEO Ms Rosemary Kelada and her staff on the achievements of the migrant resource centre.

The ACTING PRESIDENT (Ms Crozier) — Order! The member's time has expired.

**Shire of Moyne: community leadership
program**

Mr RAMSAY (Western Victoria) — It was with great pleasure that I represented the Minister for Regional and Rural Development, Peter Ryan, to launch the 2012 Leadership Great South Coast program last Thursday night in Warrnambool. The Victorian government is providing \$520 000 over four years to the Moyne shire as part of the regional community leadership program, and it was fantastic to see the

16 participants. Congratulations go to David Madden, CEO of Moyne Shire Council, Jill Parker, chair of the leadership steering committee, Amanda Hennessey, executive officer of Leadership Great South Coast, all members of the steering committee and the sponsors for providing this opportunity for future leaders of the south coast region.

Wind farms: Mortlake

Mr RAMSAY — I also thank Shelly McDonald, Peter Allen and the 20 other concerned residents of the Mortlake area who raised with me their concerns about a proposed wind farm industrial park within their rich food-producing region. With not only the Mortlake South wind farm proposal but also The Sisters wind farm proposal, we have a ludicrous situation whereby the Moyne Shire Council rejected a wind farm application. The generator then took it to the Victorian Civil and Administrative Tribunal, where it was again rejected. It went to the Supreme Court, where it was upheld, and then it went back to VCAT, where again it was rejected.

Persistence and precedence is at work here, which is ignoring public opinion. I say to you, Shelly, that you do have a voice in western Victoria, and as the 660 turbines are being applied for to be built around the Peshurst area, I will do everything I can to protect western Victorian communities, both in relation to public safety and the generator's compliance, to make sure that we do not create a monster in western Victoria that we will live to regret.

Dietrich Fischer-Dieskau

Mr SCHEFFER (Eastern Victoria) — Music lovers were saddened to hear of the passing last Friday of one of the greatest musicians of our time, the great German baritone Dietrich Fischer-Dieskau. Fischer-Dieskau was one of the greatest exponents of German lieder, most notably Schubert, Schumann, Brahms and Mahler, but he also excelled in opera, from Mozart and Verdi to Wagner and Richard Strauss. His voice evinced unmatched beauty in tone and power, and his interpretative discernment was present in everything he sang.

Fischer-Dieskau's unparalleled rendering of Schubert's *Der Doppelgänger*, for example, portrayed, as no-one else has, the chilling, inconsolable loneliness of the outcast. And who can forget the sublime moment when, as Count Almaviva in *The Marriage of Figaro*, he knelt before the countess to ask forgiveness for his obtuse infidelities? There was a purity and dramatic honesty in

his singing that never failed to open a listener's ears and heart to the essence of music drama.

Fischer-Dieskau was part of the golden age of song that followed World War II and reshaped our understanding of the European classical tradition. His career paralleled the development of the long-playing stereo vinyl recording, and this brought his voice to a global audience in all its brilliance and power.

Fischer-Dieskau always held to the primacy of the word, the text, to make it live and to make it understood and experienced by his listeners. In this he was matchless.

Health: volunteer awards

Mr KOCH (Western Victoria) — I would like to acknowledge the outstanding contribution of the volunteers working in hospitals, community health centres and aged-care and primary care organisations who were recently recognised at the presentation of the 2012 Minister for Health Volunteer Awards.

Of the 16 outstanding achievement awards presented at the ceremony, 6 were awarded to individual volunteers and teams from Western Victoria Region. The individual volunteer award recipients included Claire Gibbons, Ian McLean and Claire Stuchbery. Claire Gibbons has been with South West Healthcare's palliative care volunteer program for 19 years, where she generously gives her time to support patients as a one-to-one volunteer. Ian McLean's caring nature supports staff and residents in the Western District Health Service's men's out and about program, which helps men in residential care to be involved in community activities. Claire Stuchbery's warmth and her caring manner has made her very welcome as she visits and delivers meals for Portland District Health's meals on wheels program, something she has undertaken for three decades.

Volunteer team awards were presented to the palliative care massage team at South West Healthcare, The Grange Residential Care Service volunteers of Western District Health Service and the volunteer gardening group at Otway Health and Community Services.

The dedication of volunteers working in hospitals, community health centres and aged-care and primary care organisations across Victoria is of tremendous value. My congratulations go to all award winners on their remarkable achievements as health volunteers.

Higher education: TAFE funding

Ms TIERNEY (Western Victoria) — Without question, the issue that has occupied my electorate

office since the handing down of the state budget earlier this month is the savage cuts to the TAFE sector. The telephone calls and emails from constituents about the impact of the cuts on the Gordon, the South West Institute of TAFE and the Otway Community College have been overwhelming. Even elderly members of the community have gone out of their way to come into the office to complain about what this government is doing to education and training.

At the very time that we should be ensuring that young people are provided with the skills to enter the workforce, that older workers are able to be retrained, that retrenched workers have new avenues for education and skills enhancement and that our communities are armed with the capacity to transition through an ever-growing and unpredictable set of economic circumstances, this government has chosen not to invest in skills and training. It has decided not to invest in our future.

Slashing \$300 million from TAFE on top of the \$480 million cuts to education prior to the budget beggars belief. To allow this destructive agenda to take hold, destroying the future of thousands of individuals and stunting the growth of this state and its ability to tackle the myriad industrial and wider economic challenges smacks of negligence. I implore the minister, Peter Hall, and the Premier to re-examine this issue. We must stop this act of vandalism now.

Minister for Planning: performance

Mr TEE (Eastern Metropolitan) — Today I wish to do something unusual — I want to congratulate the Minister for Planning, who has had a reasonably tough year. In January he was sued in relation to his decision to rezone land at Ventnor at Phillip Island, but he had a change of heart after the intervention of Miley Cyrus. In February he was sued following his decision in relation to the development of land opposite the Serendip Sanctuary in Lara, and in March he was sued over the Port Bellarine tourist resort legislation, which is his planning legislation.

He is the first planning minister in Victoria to be sued three times in as many months, so we all waited with a degree of concern and trepidation for April to pass, yet April was the first month this year that the minister was not sued. On that basis I think the minister deserves our congratulations. For the sake of the taxpayer, for the sake of the Victorian budget and for the sake of the integrity of the planning system, I hope we have many more months without the planning minister being sued, and I hope we continue to see progress on this front.

Country Fire Authority: memorial service

Ms PULFORD (Western Victoria) — On Sunday, 6 May, it was my great privilege to visit the Country Fire Authority Fiskville training facility for the 2012 CFA memorial service. It was very humbling to stand with so many Victorian heroes — men and women who serve our community, often putting their own lives in danger. Of course many of these exemplary Victorians do this as volunteers, and I thank every member of the CFA for the work they do in keeping our community safe. I pay my respects to the 66 men and women who were honoured on 6 May — those who gave the ultimate sacrifice defending their communities.

I congratulate the CFA on a really beautiful and moving service. I note the speakers and readers, including Hans van Hamond, president, Bruce Vine, vice-president, and Bill Maltby, vice-president urban, from Volunteer Fire Brigades Victoria; Kerry Murphy, the chairman of the CFA; Helen Kenney, the former captain of St Andrews Rural Fire Brigade; Euan Ferguson, the CFA chief officer; and Chris Eagle, the Fiskville operations officer. I make a special mention of the junior members of the Bacchus Marsh brigade, who did a wonderful job as ushers. It was a moving and fitting tribute to a remarkable group of Victorian men and women.

Public transport: western suburbs

Ms HARTLAND (Western Metropolitan) — On the same day that the Baillieu government released its public transport void budget the International Monetary Fund (IMF) published research which forecast a doubling of the real price of oil over the coming decade. Melbourne's west is the most oil-dependent, least serviced by public transport and most socially and economically disadvantaged region in the whole of Melbourne. Public transport is so poor that families have no choice but to run two, three and even four cars per household. By not investing in public transport the government is chaining people to the petrol bowser in the face of petrol prices doubling.

Cost of living pressures mean that many are already struggling, yet the IMF has warned of crashing through a pain barrier as the price of oil doubles. I worry that this will be too much for many families to bear. We need a cheaper mode of transport that is a real alternative to the car: fast and efficient public transport. Mr Baillieu's east-west tollway proposal is a perfect example of what we do not want to do. I suggest that Mr Baillieu read the IMF report and unchain Melbourne from the expensive petrol bowser.

**INDEPENDENT BROAD-BASED
ANTI-CORRUPTION COMMISSION
AMENDMENT (EXAMINATIONS)
BILL 2012**

Second reading

**Debate resumed from 3 May; motion of
Hon. G. K. RICH-PHILLIPS (Assistant Treasurer).**

Hon. M. P. PAKULA (Western Metropolitan) — It gives me great pleasure to rise to speak on the Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012 — IBAC bill mark 6 — and to indicate that opposition members do not oppose the bill. We do have ongoing concerns with regard to the bill, but for those in the chamber who actually listen to my contribution it will be a bit like *deja vu*, because the concerns have not changed even though the legislation has changed and continues to change. We will not be opposing the bill. We are aware that Ms Pennicuk plans to move some amendments on behalf of the Greens party, and we will make comments about that when those amendments are moved during the committee stage.

As I have indicated, this is the sixth government bill that attempts to establish the promised IBAC. What is most extraordinary about that is not merely the fact that this is the sixth piece of legislation but that it is the sixth piece of legislation and we still do not have an IBAC. It is understandable that multiple pieces of legislation might emerge from issues discovered once an IBAC is under way, but to have six pieces of legislation and the metaphorical sod still unturned is quite extraordinary.

This bill provides for the appointment of a new acting commissioner and deputy commissioner. It also empowers the commission to summons individuals, documents and evidence, and to issue confidentiality notices *et cetera*, and it clarifies some of the retrospectivity arrangements providing powers for the examination of witnesses. It also establishes some more context around questions of the rights, privileges and immunities of witnesses and documents and provides powers for IBAC to make a referral to other approved persons or bodies to conduct investigations, as well as providing some prosecutorial powers for breaches of the act and some IBAC officer immunity.

I am interested, as I am sure are other members, to know whether this is the last of the IBAC bills or if there will be a seventh — or potentially an eighth or a ninth — bill. If history is any guide, when we get to the committee stage and we ask the minister whether this is

it, I suspect we will not be told — unless the answer is yes, and then maybe the minister will tell us.

Even though this bill does those few things, it does not fix the fundamental flaws that the opposition, the Greens and other commentators, including the Law Institute of Victoria and many media commentators and experts in the field, have identified in the period since the government first brought forward its IBAC regime. This bill once again reinforces the fact that this IBAC is going to be a very different beast to the one the government promised.

I know when government speakers get to their feet we will hear from them the same proclamations we have heard in the past — ‘We’re doing what you didn’t do’. What they will not tell you is that whilst they are creating a body which has around it the shell or veneer of an independent broadbased anticorruption commission, when you look inside that shell you see it is nothing of the sort.

A very strong case can be mounted that the existing integrity regime — the Office of Police Integrity, the Ombudsman and the local government inspectorate — has more power and a broader remit than the IBAC will have, and the deliberations of those groups and the things they do are more open and transparent than the IBAC’s will be. Whilst government members might boast about the fact that an IBAC has been created, there is not much point in doing so if what they have actually created is a body which, far from improving the anticorruption regime in Victoria, in fact waters it down, makes it harder for the body to do its job and ultimately does so in a more private and less transparent way.

As I have said, pretty much all of the criticisms levelled at the IBAC structure before today remain despite the provisions of this bill. The very fact that this bill is of such a disjointed nature that the Parliament is being asked to approve provisions within the IBAC regime in a piecemeal, *salami-slice* way and being asked to vote for powers before we know the full architecture of IBAC shows that it is an incredibly suboptimal way for this kind of authority to be created. Members of Parliament, media commentators, the Victorian public, the Law Institute of Victoria and the legal fraternity generally are entitled to understand the consequences of the type of body being created rather than having them unveiled bit by bit, with some elements only becoming apparent to the community as the veil is lifted every few weeks. It is a wholly inappropriate way for a body of this importance to be set up.

The other criticisms of this regime are well known. The definition of corruption, which is so narrow, has been criticised by the Law Institute of Victoria. I note the correspondence from Mr Michael Holcroft, the president of the Law Institute of Victoria, to the Minister responsible for the establishment of an anticorruption commission, cc'd to the opposition, the Greens and other members of Parliament. It makes clear the law institute's view that:

The IBAC's mandate to investigate serious corrupt conduct of public officials is too narrow and unclear. IBAC's time will be taken up trying to determine whether it has jurisdiction, and referring matters to other bodies when it finds it does not, rather than getting on with the job of investigating corruption. The limited mandate will render the IBAC inefficient and undermine the public's confidence in the handling of corruption of public officials.

The law institute's view could not be more succinctly put. It is incredibly unfortunate that the government's response to what I think most members would consider to be moderate and considered comments by the president of the law institute, an office which deserves respect, is for the minister through his spokesperson to attack the law institute. I refer to an interview on ABC radio's *PM* on 10 May 2012 between Samantha Donovan and Michael Holcroft, where Ms Donovan said:

The Victorian Minister responsible for the setting up of the anticorruption body, Andrew McIntosh, declined *PM*'s request for an interview. His spokesman says the law institute is taking ill-informed cheap shots and has got the facts wrong.

The spokesman also said the institute was engaging in 'ham-fisted politicking'.

It reminds me of the Kennett era when critics of the government, rather than having their concerns taken seriously, were simply attacked by members of the government. Anyone who knows Mr Holcroft, the president of the law institute, would know he is not simply a staging post for criticism of the government. He is a considered and moderate person, as is the institute as a body, and his concerns and those he expresses on behalf of the institute ought to be treated more seriously and with more respect than simply having a spokesperson for the minister accuse the institute of engaging in 'ham-fisted politicking', 'taking ill-informed cheap shots' and having its 'facts wrong'.

The law institute does not have its facts wrong at all. The fact is we have debated this matter in this house on a number of occasions. There is no doubt that not only is the definition of 'serious corrupt conduct' extraordinarily narrow and far narrower than the definition that the opposition, as it then was, promised we would have, but it is one that will be extraordinarily

confusing and will lead to contests over and over again about what IBAC can and cannot deal with.

I do not want to reflect on another member, and speaking with all restraint, there is a member in the other place about whom some serious allegations were raised over the weekend. It is not at all clear whether the matters raised in the *Sunday Herald Sun* would be able to be dealt with by IBAC. Members ought to stop and reflect on this matter when they consider what kind of institution we are creating. We have a member who is accused of having engaged in — —

Mrs Peulich — On a point of order, Acting President, Mr Pakula is being very clever by not specifically mentioning the name of the member; however, there is absolutely no doubt as to which member he is referring to and reflecting on in his comments. He is also anticipating what might result in the outcome of an investigation. I ask you, Acting President, to draw him back to the provisions of the bill, and that he abide by the standing orders.

Hon. M. P. PAKULA — On the point of order, Acting President, let me deal with them one by one. First of all, Mrs Peulich cleverly used the term 'anticipation'. She and all of us know that I am in no way in contravention of the anticipation rule. There is nothing on the notice paper — —

Mrs Peulich interjected.

Hon. M. P. PAKULA — I am dealing with them one by one. I am not in any way in contravention of the anticipation rule. In regard to the matter of reflection, as Mrs Peulich has acknowledged, I have not named a member and I have not made any assertions about the member; I have simply drawn attention to matters which are in the public domain. When she says I should be drawn back to the bill, it is very clear that I am entitled in reflecting on the bill — —

Mrs Peulich interjected.

Hon. M. P. PAKULA — Mrs Peulich, in reflecting on the bill — —

Mrs Peulich interjected.

The ACTING PRESIDENT (Ms Crozier) — Order!

Hon. M. P. PAKULA — Acting President, very briefly, I think I am entitled to talk about the kinds of matters which the Independent Broad-based Anti-corruption Commission may be able to address.

Mrs Peulich — I have a big file on Labor misuse — —

Hon. M. P. PAKULA — Bring it out, Inga; bring it out.

The ACTING PRESIDENT (Ms Crozier) — Order! We are not debating the point of order.

Mr O'Brien interjected.

The PRESIDENT — Order! Mr O'Brien, what are we doing?

Mr O'Brien — I was going to add one extra thing on the point of order, further to the answer.

The PRESIDENT — Order! I am on my feet, but I will accept the additional point at this time.

Mr O'Brien — The point is in relation to the comment that one is not going to reflect on a member. If one then proceeds in the next series of utterances in effect to do that, what should be looked at is the substance of what one is saying and not the prefacing words, 'I am not reflecting on the member', because in effect that is what is done. If that is to be done, it should be done by substantive motion. It is not relevant to the bill.

I also pick up on Mrs Peulich's point that any comments in relation to a matter should not prejudice or reflect upon any potential matters involving serious issues, such as would apply to the subject matter of this bill. They should be confined to the matters in the bill and not involve speculation as to other matters.

The PRESIDENT — Order! Members can be assured that I was listening to the debate in my chambers. I listened to the points of order, and I thank the Acting President for her carriage of the matter. I listened carefully to the debate, and it is my view that Mr Pakula's remarks did not reflect on a member of another place; I thought he spoke with a great deal of caution in terms of a matter he was addressing. Certainly I found his remarks and the way he proceeded with them to be apposite to the bill before the house.

I think Mr Pakula is well aware of the matters that have been raised by way of points of order both by Mrs Peulich and Mr O'Brien, and I am sure he will be mindful of those comments — as indeed I am and no doubt the Acting President was — as this debate proceeds. Clearly if there were accusations against a member in another place, they would need to be made by substantive motion, but at this point in the context of the debate before the house the matters and the manner in which Mr Pakula has addressed those matters have

not trespassed on the rules or the standing order requirements of this house.

Hon. M. P. PAKULA — Thank you for the ruling, President. I can assure you that I intend to move on rapidly from this point. I simply make what I would maintain is an apposite point, and the point is this: the matters that have been raised in the public domain over the last weekend are matters which it is by no means clear the IBAC would be able to deal with. I think members should reflect on the fact that we are potentially creating an independent, broadbased anticorruption commission which the Liberal Party and The Nationals in the lead-up to the last election said was about raising standards of public office.

Where accusations of this type — and I speak not of the member — are made, I think everyone would believe that such matters would be clearly within the purview of the IBAC. That is absolutely and totally on point. But because of the way the government has drafted this legislation, the narrowness with which it has created the references to serious corruption and the narrowness with which it has created the indictable offence rule in the bill, it is by no means clear that that would be the case.

If there needed to be a single example of why the regime the government is creating is deficient, then that is the one, and I say that without casting any aspersions, making any assumptions or wanting to deal with this matter any further. I simply say to members: look at the matters that have been raised in the public domain and ask yourselves whether when you were making your promises about the IBAC you would have imagined that a matter such as that would have been within the remit of the IBAC. I think every member of the government would say, if they were being honest with themselves, that it would be the type of matter IBAC should be able to look at, and it is not clear that it can.

I also want to talk about the matter of resources, which again is confronted by the Law Institute of Victoria in some of its commentary when it talks about the fact that \$170 million has been budgeted over the period of four years but it is likely that something like \$100 million of that \$170 million will need to be used to deal with the old jurisdiction of the Office of Police Integrity — the police jurisdiction. I am making the point that that leaves something like \$70 million to deal with everything else.

Going back to the interview Samantha Donovan from the *PM* program had with Mr Holcroft, the president of the law institute, she says:

Michael Holcroft is also concerned that IBAC is underfunded.

Mr Holcroft states:

There's \$170 million over four years, but going on what the Office of Police Integrity does now, that will chew up about \$100 million of that over the four years. So there's only \$70 million to establish the IBAC, to run it for those four years to do those extra functions which it's going to be asked to do; so that is a real concern.

I think yet again that is a genuine concern, because this is exactly the type of matter that Elizabeth Proust, former Secretary of the Department of Premier and Cabinet, identified when she handed down the review that she was commissioned by the previous government to carry out. It is the very reason Ms Proust recommended an ongoing separation between police oversight and oversight of other public officials.

The fact of the matter is the evidence would suggest that when you have an anticorruption commission that deals with police at the same time as it deals with local councillors, members of Parliament and other public officials, the majority of resources ultimately get diverted to dealing with matters relating to the police. That is the concern she identified. It was a concern that the previous government acknowledged, and it is one that this government has chosen, for its own reasons, to dismiss.

Now the law institute points out, quite correctly, that in an environment where the government has chosen to lump everything in together, there is a real concern about whether the resources will be sufficient for IBAC to operate in the robust manner that people will expect. There is also the matter of the tender, which has been well ventilated. There has been some contamination of the process. To have the process of the creation of an anticorruption commission itself contaminated by the improper conduct of public officials in the tendering of some of that work should be of great concern to us all.

I also refer to the ongoing absence in any of the six bills that have come before the Parliament of any mention of journalist privilege, otherwise known as shield laws. Those members who interact with the fourth estate — and I am sure most of us do from time to time — would be aware that this is a matter of grave concern for the media, particularly the major dailies. IBAC has very broad powers, and still there is no clarification of how those broad powers will interact with the concept of journalist privilege. This was a matter that the previous government indicated it was going to resolve.

There was a period of time when there was an attempt to have a nationally consistent position. Those efforts were in vain. At the time the Victorian Labor government indicated that it would be the first cab off the rank to introduce shield laws, and other jurisdictions

could follow if they chose to. What has happened since is that this government, in its 18 months in power, has still not dealt with the matter. The Attorney-General indicated 13 months ago, in April 2011, that shield laws would be introduced into the Victorian Parliament within the next six months. If he had been as good as his word, we would have been debating shield laws back in October 2011. It is almost June. We are now on the sixth piece of IBAC legislation, and journalists quite rightly are now concerned that they do not know how their privilege will interplay with the powers of the Independent Broad-based Anti-corruption Commission.

It is extremely important that this matter not be left any longer now that an organisation with these types of coercive powers has been brought into existence. Members of the media and journalists are entitled to be clear on the status of their privilege, and those shield laws ought to be brought in without delay. They ought to have been part of any of the six IBAC bills. They have not been part of any of the last five, and they are not here today. I do not know if it is the government's intention to incorporate these shield laws into future IBAC legislation or whether it intends to deal with them as a separate matter. I say to the government: if it is going to deal with them as a separate matter, it needs to be very clear how shield laws will interplay with the IBAC legislation. If one piece of legislation deals with shield laws and another deals with the power of IBAC, and if there is no clarity as to how those two pieces of legislation relate to one another, we might end up with nothing other than more confusion.

An ongoing concern, and one that is probably exacerbated by this bill, is the secretive nature of the hearings that will be held by IBAC when it is finally up and running. This bill seems to confirm that the default position for examinations will be that they are held in secret. That is the presumption. It is a presumption that can be overcome, but the presumption will be that hearings should be held in secret. That is at odds with the pre-election position of the Premier, who said that the body would hold public hearings because experts agreed that they were essential for public confidence. This bill also provides that when IBAC receives a complaint, it needs to investigate, refer or dismiss the matter but is not obliged to tell anyone, including the complainant, what action it has taken. We have a bill which, far from improving some of the transparency aspects that have been raised as concerns in the past, actually makes those concerns sharper and the situation even more secretive.

Then you have the matter of whether or not the government can find an IBAC Commissioner. Those of us who are not within the four walls of the

government's deliberations cannot say for sure whether or not the fact that IBAC is not up and running yet is because the government cannot find an IBAC Commissioner or whether it is because the government simply cannot get its act together more generally. What we do know is that in this bill the government is apparently making its job a bit easier. The government has diminished the eligibility requirements for an acting commissioner supposedly so that it can broaden the pool of people who can take up the role. Unlike the Commissioner, an acting commissioner does not have to be a former judge. The acting commissioner can be a person the minister believes is suitable and has some senior experience in an investigative-type body.

It is hardly surprising to the opposition that the government is finding it difficult to attract the calibre of person it would like to run this IBAC. The calibre of person who is prepared for and capable of doing these kinds of jobs is generally a distinguished person with a proud history and, beyond that, a sense of pride in the work they do. Given that candidates are confronted with this watered-down role, an ability to only deal with public officials who have engaged in conduct which is already a crime — an indictable offence — and with a role in which they have no capacity to deal with corruption unless it is serious corruption, I can well understand why the government might be finding it difficult to find someone to fill that role and why it is making its job easier by watering down the requirements for an acting commissioner.

The last thing I want to deal with is a curious matter in regard to privilege. This bill now makes it clear that certain legal privileges, except Crown privilege, are abrogated for witnesses who are police personnel. Crown privilege remains for all other persons and documents. It will be for the IBAC to disprove a claim of privilege in the Supreme Court, but what is important is that cabinet in confidence is a recognised privilege, pursuant to public interest immunity. It appears, given the narrowness of the changes in regard to privilege, that in response to a request from the IBAC for material the government will be able to claim cabinet-in-confidence protection.

It is one thing for the government to deny the freedom of information commissioner the ability to even test the government's claims of cabinet in confidence, as we have debated in this Parliament on another occasion, but it seems to me — and I hope Mr O'Brien or another government speaker will tell me that I am wrong — that the upshot of this legislation is that if the IBAC believes conduct worthy of its investigation has occurred within the confines of the cabinet, the government will be able to claim cabinet in confidence

and oust the jurisdiction of the IBAC commissioner using that device. That is probably the ultimate insult in regard to what this government promised compared to what it has delivered.

A government which in opposition promised a New South Wales-style Independent Commission Against Corruption, with all the powers and the breadth that that ICAC has, has instead delivered this pale imitation of an ICAC, with a provision that ensures that the IBAC can never look to matters which occur within the cabinet because of a cabinet-in-confidence exemption. If the government has done that, the only hope that I can express is that it has done it unwittingly. If it has done it unwittingly, it needs to rectify it posthaste, maybe in the seventh IBAC bill. With those words, I commend the bill to the house.

Ms PENNICUIK (Southern Metropolitan) — I would like to start by pointing out that the documents the Council requested be tabled today — which were the consultation documents for the Independent Broad-based Anti-corruption Commission (IBAC), including any submissions made to the panel, any final briefings and the final report produced by the panel, and any other documents of an information or research nature produced or relied upon by the consultation panel — have not been tabled today. The government has not even tabled a letter explaining whether it is looking for some of those documents, whether it will table them or anything. So much for openness and transparency.

It has certainly been raised in debate on this anticorruption regime, which is being set up by this series of bills going back to October of last year, that it is a great shame that the Charles report that the government has relied upon, we assume, in setting up this regime is not being made public. I still do not understand the reason for that. It is highly ironic that the setting up of an anticorruption commission — that has as one of its main purposes exposing corruption — is itself secret. It seems that only cabinet members have seen this document. The government seems to take the view that only it knows the right way to set up an independent anticorruption commission and that nobody else has a point of view that could be valuable or a suggestion to offer that it could take up. I have certainly offered suggestions throughout the debates on these bills. Openness and transparency are not evident in the process of setting up this regime, and that continues with the bill we have before us today.

As members would know from listening to what I have said in the other debates, I have spent a lot of time looking at the commissions that have been set up in the

other states of Australia. In the last two weeks my electorate officer took some time to look overseas to the Swedish National Anti-Corruption Unit, which operates out of the office of the prosecutor-general. A paper on the unit describes its threefold mission as:

- to identify crimes of corruption;
- to take legal proceedings in serious cases that threaten the system;
- to counteract the emergence of corruption culture, that is, the growing acceptance of petty corruption in society.

It goes on to say:

The problems involved in detecting corruption are well known. There is no natural reporter of crimes of corruption — often no obvious victim. Fortunately, many corruption cases come to light through the work of investigative journalists in TV and newspapers. In Sweden, the public, and therefore the media, has the right to access all official documents. This makes corruption in government agencies more difficult to hide.

I wanted to start with those points because the regime we have in Victoria has existed for many decades and is becoming worse. Official documents are not there for the public and the media to see, as they would be in other countries. In other countries a lot of the documents that we as MPs or journalists, for example, are forced to go through the FOI process to obtain — or not obtain — are actually provided to the public and the media, and in other countries a great many of those documents are up on the websites of government departments. They are making a point there in Sweden, and it is a very important point to make. We are again proceeding without the benefit of having the Charles report to refer to and again without an understanding of why the government is going the particular way it is.

This is, we believe, the final substantive bill on IBAC. However, as Mr Pakula has said and as I have said in other debates, we have identified problems, particularly with the original two substantive IBAC bills, with regard to the definition of corruption and the lack of a definition of ‘serious corrupt conduct’. I remind the house that the investigations bill, the second bill, limits the IBAC to investigating only serious corrupt conduct, which is not defined anywhere. It is not defined in this bill or any previous bill. That provision establishes the limits of the investigative powers of the IBAC — yet it is not defined.

The Law Institute of Victoria (LIV) wrote a 13-page letter to which Mr Pakula referred and which he correctly said was addressed to the Minister responsible for the establishment of an anti-corruption commission and also copied to the Premier, to the opposition and to

me outlining its problems with the bill, many of which I agree with. ‘Serious corrupt conduct’, which the IBAC must consider — and it is not able to consider any other type of conduct — is not defined in the bill. The law institute says on page 4 of that letter:

Legislative guidance should be given as to what will constitute ‘serious’ corrupt conduct ... as opposed to non-serious corruption, and in what manner and by which body or bodies non-serious corruption should be investigated.

The IBAC act should be clear as to whether investigations of prior conduct are also limited to ‘serious’ corrupt conduct ...

There is also, as LIV points out in its letter and as I have pointed out before, a bit of going around in circles in the way this is all laid out in the provisions of the bill in that the IBAC must not investigate a matter if it is not serious corrupt conduct, but how is it going to know whether or not something is serious corrupt conduct if it does not conduct some sort of investigation in order to find out if that is the case? The definition of ‘corrupt conduct’ is outlined in section 3A of the act as amended by the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012. Paragraphs (a) to (e) — I will not read them all out — list certain behaviours that warrant the label ‘corrupt conduct’, but only if that conduct leads to a ‘relevant offence’, which is defined in the definitions section of that act as:

- (a) an indictable offence against an Act; or
- (b) any of the following common law offences committed in Victoria —
 - (i) attempt to pervert the course of justice;
 - (ii) bribery of a public official;
 - (iii) perverting the course of justice ...

That is the definition of a ‘relevant offence’ in relation to corrupt conduct under the act as it stands today, and even though this has been seriously criticised by many commentators — by me trying to work out how the IBAC is going to know what its jurisdiction is, by the Law Institute of Victoria and by other commentators in the media — nothing has been done to fix this particular problem, which is a basic problem on which the whole regime rests. We are told that this bill follows the New South Wales Independent Commission Against Corruption model. It does not. It does not follow it even in this basic way.

Now that we have this bill before us that amends the existing acts, we have a pretty good view of the regime. Once the whole thing is put together we will be able to have another look at it. I believe that this particular consolidated act basically needs to be treated as an

exposure draft of the whole regime, and the government should take on board suggestions and criticisms. There are some aspects of it which people support, but there are certain aspects of the provisions of this bill and previous bills which still elicit quite a lot of concern from bodies such as the law institute, which obviously understands the law and which says — and I agree with it — that the act as it stands will be confusing.

It is interesting that the law institute has written this 13-page letter of 9 May to government members, to the opposition and to me. Given that I have asked for the documents and submissions regarding the Charles report to be presented to the Council, I know that the law institute has not made its submission public — others submitters have — yet it is now writing a 13-page letter about problems with the bill, which I think is quite interesting. That signals to me that despite whatever was in its submission and the points of view that it put to the government during the stakeholder consultation phase — the Charles review — what has come out of that process and what has come out of the government has left the law institute with a lot of concerns.

One of those concerns is that the way the whole thing has been put together makes the bill very confusing to read. A lot of the terminology is confusing. I have referred before to the use of ‘police personnel conduct’ and ‘police personnel misconduct’ et cetera. There is very strange wording, and there are confusing provisions in that particular bill. We now have the situation where we have double numbering and double lettering on clauses in this bill, which, as the law institute points out, you see when you are amending legislation that is decades old. It is very strange to see it in a new bill that has come out of nowhere and has not amended anything that exists. The whole thing is quite confusing, and it is a concern that we have legislation that is establishing this commission but is difficult to follow.

The law institute also makes the point that the word ‘broad’ in ‘broadbased anticorruption commission’ does not apply to this commission because the definition of what it can investigate and deal with is so narrow. For example, as I mentioned, there is the definition of ‘corrupt conduct’ under section 3A of the Independent Broad-based Anti-corruption Commission Act 2011 as it is now in comparison with the definition in the New South Wales act, which we are told it was to be based on. The New South Wales act says in section 8:

- (1) Corrupt conduct is:
 - (a) any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority, or
 - (b) any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions, or
 - (c) any conduct of a public official or former public official that constitutes or involves a breach of public trust, or
 - (d) any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.

That is subsection (1). Subsection (2) says:

Corrupt conduct is also any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials ... and which could involve any of the following matters:

- (a) official misconduct ...

Then in paragraphs (b) through to (y) a series of offences is listed. It does not say it is — and it is very important to point this out — but this is a broadbased definition that has been limited somewhat by an amendment that the New South Wales commission must turn its mind to systemic and serious corruption. However, it does not say that it is limited to only that. It also says those types of behaviours plus behaviours that lead to indictable offences are corrupt conduct, whereas our act says those types of behaviours are corrupt conduct only if they lead to an indictable offence.

Mr Pakula has talked about the narrowness of it too, and the law institute has as well. My concern is if IBAC determines that a particular conduct is likely to lead to an indictable offence — and I am not sure how it is going to find that out if it is not allowed to embark on any sort of investigation — I cannot understand why that would not be referred to the police, because I would have thought it is the police who deal with indictable offences. That is their job: charging people with indictable offences when they have gathered the evidence. This is a serious problem with the regime that is being established under this tranche of legislation, and it has not been taken seriously by the government.

There are many other flaws. I have moved amendments to previous bills regarding these flaws, which I will not

go through now, but now that we can see the whole thing those concerns remain and more have arrived with this bill. That is why at the conclusion of the second-reading debate I will move to refer this bill to the Legal and Social Issues Legislation Committee for its inquiry and report by 19 June. I have tried to do that with all these bills. If the government had agreed to that, we probably would have a better set of bills. We certainly would have had a chance to have the law institute and other people who have written to us with concerns about the way the legislation is being drafted and the regime is being set up appear before the committee. I suggest that the government may have made some amendments to and improved upon its own bills.

The legislation that we have before us now sets up the examinations functions of the bill — ‘further tools’, as the minister calls them. I would just like to talk little bit about the second-reading speech, which tells us what is in the bill in a very basic way. It explains the provisions of the bill, but it does not go any further than that to explain to the people of Victoria via the Parliament why the government has chosen to take a particular path in setting up the examinations provisions, the investigatory provisions and the definition of conduct while not including a definition of serious corrupt conduct, for example. It does not explain why it has departed quite substantially from the provisions for the New South Wales ICAC (Independent Commission Against Corruption), upon which it is purported to be based.

In his contribution Mr Pakula mentioned that the law institute has pointed out that IBAC, as it is being constructed, is merely taking over the functions of the Office of Police Integrity. Given the budget, it will not have enough wherewithal to do too much else. It would need around \$100 million over four years to take over the functions of the Office of Police Integrity. Mr Pakula mentioned that the Proust review had recommended that the police integrity functions and IBAC functions be separate. It is the first time I have heard him mention that in the six or seven times we have stood up to talk about these particular pieces of legislation. We have said from the start that the best thing would have been to have left the Office of Police Integrity where it is and commence IBAC in a similar way to the way ICAC exists in New South Wales; it works alongside the Police Integrity Commission in New South Wales. I am glad to hear Mr Pakula has come to that view or is ready to make that view well known. I think it is a shame that has happened this way, because it has made the whole thing difficult to set up and difficult to get clarity on.

Mr Pakula also mentioned the problem of shield laws for journalists, and I agree that that is a problem. I would go further and say that what I would have been looking for in this bill was some sort of reference to the Whistleblowers Protection Act 2001, because people who are going to make a complaint to IBAC will often be whistleblowers. There is no reference to the Whistleblowers Protection Act 2001 in this bill or any other of these bills. There are no amendments to the Whistleblowers Protection Act 2001 made by this bill or any other of these bills.

The question is: what connection is there between IBAC and whistleblowers protection? What protection is there for whistleblowers? For example, under the Whistleblowers Protection Act 2001 at section 13 it stipulates that a person can make a disclosure to the President of the Legislative Council, the Speaker of the Legislative Assembly, the Ombudsman, the director — meaning the director, police integrity — the Chief Commissioner of Police or a public body. It does not mention IBAC, of course, because there was no IBAC, but there is no amending provision in this bill putting IBAC into the Whistleblowers Protection Act 2001 so that whistleblowers would have protection under it.

It is also interesting that the Whistleblowers Protection Act 2001 refers to notifications about ‘improper conduct’ and ‘detrimental action’, which are different terms from those used in the IBAC legislation. Also under section 14 it says:

A person who makes a protected disclosure is not subject to any civil or criminal liability or any liability arising by way of administrative process (including disciplinary action) for making the protected disclosure.

There is nothing like that in this bill. It is very important to ensure that whistleblowers, the people who are making the notifications or complaints to the IBAC, are protected. We looked at some of the famous cases of whistleblowers just recently. For example, in 2008 there was the case of the Queensland nurse, Toni Hoffman, who blew the whistle on the Bundaberg Hospital surgeon, Jayant Patel. She told the agent that when she began to make complaints in 2004 she was told by the hospital management that she was the one with the problem. I think we all know the story there: she went on to be harassed, but she was certainly found to be correct in blowing the whistle.

There was Allan Kessing, who wrote damning reports on Sydney airport security in 2003 while working for the Australian Customs Service. Another whistleblower, Gillian Sneddon, who helped to expose her boss, the former New South Wales MP, Milton Orkopoulos, says that most people would not take the

risk of being a whistleblower. They certainly will not take the risk if they are not protected by the Whistleblowers Protection Act 2001, and they are certainly not protected by it in this regime so far, unless the government wants to tell me otherwise. I can see no link between the two.

Then there is the issue of the shield laws for journalists, and Mr Pakula mentioned that. That is certainly of great concern. We need shield laws when whistleblowers who serve the public interest by speaking out about official misconduct and corruption are often put in a position where they need to inform journalists to ensure that the matter will be looked into. They often do so seeking to remain anonymous. As we all know, too often whistleblowers are retaliated against for speaking out, and consequently it is crucial that journalists are able to protect their sources when alerting the public and authorities about corruption. They must also not face prison when upholding their code of ethics.

The federal Parliament has already paved the way for this to happen in Victoria with the Evidence Amendment (Journalists' Privilege) Act 2010. The act includes amendments moved by Greens senator Scott Ludlam that afford the protection of the shield laws to citizens, journalists, bloggers and independent media organisations as well as news professionals from the mainstream media.

The Victorian Attorney-General, Robert Clark, stated in 2011 in a report in the *Herald Sun* that shield laws would be introduced into the Victorian Parliament in the next six months. He even said the legislation would closely model the federal government legislation except for the Greens amendments to extend the protection to amateur bloggers. We need these shield laws for journalists not only to make IBAC effective in the fight against corruption but to enable all bodies and authorities with a mandate to deal with corruption and official misconduct to be effective on all levels.

There are no shield laws, as Mr Pakula said, and it is 13 months since the Attorney-General mentioned that they would come into being. The bill we have before us now will commence operation on a day to be proclaimed, and I would suggest that it should not be proclaimed before those shield laws are in place or before the connection with the whistleblowers act is made clear and the protection of whistleblowers is made clear to the public. Unless that is done there will be no confidence in the mind of the public that people can go to the IBAC without probably having their lives destroyed, as we know has happened to other whistleblowers without whistleblower protection. That is why we brought in the Whistleblowers Protection

Act, and there is a big concern that there is no connection between the two in the regime in the bill before us. If the government were to set it up, I do not think anyone would go near it without those protections.

Some of the other issues of concern are the referrals. There are provisions for the IBAC to make referrals to other bodies such as the Ombudsman, the Chief Commissioner of Police, government departments, the Environment Protection Authority, WorkCover et cetera, which are all listed in the bill — and there is quite a long list of them — but the way this will work and who gets to look at what particular issue is very unclear. For example, the law institute says:

The legislation should be amended to better define what matters will be referred to and from the Ombudsman and other integrity bodies.

If we cannot see that it is defined well, and I certainly cannot, then we have a problem, because there is confusion about who has jurisdiction and for what issues. As I mentioned, we need to clarify the relationship between the IBAC act and the whistleblower protection act. As I have pointed out in what I have just said about the issue of whistleblowers, there are some protections for witnesses but not for complainants who may not actually become witnesses.

There are concerns about confidentiality and there are concerns about whether the examinations are conducted in private or in public. The default position, as Mr Pakula said, is that examinations would be held in private unless there was an exceptional circumstance or it was in the public interest and it would not affect the safety or reputation of a person to hold the examination in public. We believe that provision should be amended to reflect the situation in the New South Wales ICAC, where the exceptional circumstances bar is not there. That makes the bar very high, and it works in a similar way to the narrow definition of corrupt conduct and the undefined term of serious corrupt conduct to make what the commission will be able to do very limited.

We feel that under this bill, if the commission has hurdles to overcome in the public interest and believes holding an examination in public would not affect the safety of a person or persons or their reputations, then that is enough. It is also the case under this bill that for any examination the IBAC wishes to hold it has to give the Victorian Inspectorate seven days notice so that the inspectorate can oversee the conduct of the examination and the reasons for it.

There is a provision in the bill whereby the IBAC can issue a confidentiality notice preventing, for example,

witnesses from disclosing the fact that they have been summonsed to appear at IBAC, and the law institute says that the IBAC should be required to justify the issuance of a confidentiality notice to the Victorian Inspectorate when providing copies of the notices to the Victorian Inspectorate under new section 33D to be inserted in the principal act. If a confidentiality notice is issued, the IBAC is required under that section to provide a report to the Victorian Inspectorate within three days. But there is no requirement in the bill as it stands for the reasons for IBAC issuing the confidentiality notice in the first place to be provided to the Victorian Inspectorate, and I will move an amendment to make it clear that the IBAC should do that.

The law institute also raised the issue of the IBAC legislation providing for acting appointments, including the initial appointment of the IBAC Commissioner, and we agree with the law institute that the IBAC should not come into force until the first IBAC Commissioner can be appointed. It would be very unfortunate to set up the IBAC with an acting appointee who may not be of the stature of a former judge. I think we should start off with the best person as Commissioner.

In terms of the coercive powers, this is an example of the strange numbering in the bill. As the law institute pointed out on page 5 of its letter:

The relationship between section 82ZC (describing derivative use immunity), section 82ZG (concerning protections and immunities of witnesses) and section 82G(4)(i) (requiring that a witness summons state that use of incriminating evidence 'may' be subject to an immunity) is unclear. The expression of derivative use immunity must be clearly stated to provide proper protection for witnesses in the event of criminal prosecution.

That is an issue of concern, particularly because under the bill — and under the Victorian Inspectorate Act 2011 as well — the right for persons to not self-incriminate has been abrogated, and I will point out again that that is also abrogated for people aged between 16 and 18 years, which is very unfortunate. Persons aged between 16 and 18 should not have that right abrogated. I agree with the law institute and the Federation of Community Legal Centres that it probably should not be abrogated at all, but certainly not for minors. If the law institute is saying what I am saying — that that is very unclear — then it needs to be clarified, because it is an important issue. If you are going to summons witnesses and subject them to coercive questioning, what immunities they have need to be clear to them, and if the law institute is saying the bill is unclear in that regard, then that is a very concerning issue.

In addition to moving, at the end of the second-reading stage, for this bill to be referred to the Legal and Social Issues Legislation Committee for review and report by 19 June, I also have a series of amendments that I will move to the bill. I have circulated them already to the lead speakers of the government and opposition, but I am happy to have them circulated now as well.

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

Ms PENNICUIK — The first of the amendments makes it clear that the IBAC must present the reasons for issuing a confidentiality notice in a report to the Victorian Inspectorate. Secondly, when the IBAC refers a complaint or notification to a body specified in subsection (2) — which is somebody such as the Ombudsman, the Chief Commissioner of Police, the heads of government departments, the WorkCover authority or the Environment Protection Authority, for example — the IBAC may recommend what action should be taken by the person or body and the time within which the action should be taken. This is modelled on section 53 of the New South Wales ICAC act. The existing provision is not clear enough in that regard and does not give the IBAC enough guidance as to what it should be doing when it is referring matters to other bodies.

Also in respect of that provision, which is referral of matters to different bodies, another amendment states that the IBAC must not make a referral to a person or body unless the IBAC has carried out appropriate consultation with the body or person before making the referral. Again this is modelled on the New South Wales ICAC. The provision in our act is that the IBAC may consult with them, but it seems very inadequate to have a provision in this legislation saying that the IBAC should or must refer things but may consult with the body to whom it is referring the matter. That seems quite inadequate.

Another amendment states that if a witness summons does not state the nature of the matters about which a person to whom it is directed is to be questioned on the grounds specified in the provision, the reasons for withholding information about the nature of those matters must be included. Another amendment concerns legal practitioners. Under section 34 of the New South Wales ICAC act there is a provision that:

- (1) An Australian legal practitioner appointed by the Commission to assist it, or a person or a person's Australian legal practitioner authorised to appear at a compulsory examination or public inquiry, may, with the leave of the Commission, examine or cross-examine

any witness on any matter that the Commission considers relevant.

Under this bill there is a provision that a person who is summonsed to be a witness and to be examined by the IBAC may have legal representation and that that legal representation can be queried and questioned — that is the person — by the IBAC, but there is no provision stating that the legal representative can cross-examine witnesses as can be done with the New South Wales ICAC. That is a very important provision. It exists in the New South Wales ICAC, and it has been tried and tested there.

Also in my amendments I will be proposing a new provision, which is a review clause requiring that the act be reviewed after three years and that the minister must cause a copy of the report of that review to be laid before each house of Parliament within four years after the commencement of the act. That comes from a review that has been done of the Western Australian Corruption and Crime Commission, and it has been recommended that that be put into the Western Australian legislation. Given that we are establishing this for the first time, it would be a good idea to include that review provision, especially given the problems that have been identified by various parties with regard to the legislation establishing the IBAC in Victoria.

Without reading the whole amendment, the other amendment that I propose is by way of a suggestion to the Assembly that the Attorney-General be able to approve the provision of legal or financial assistance to an applicant — that is, someone who is summonsed to appear at an examination. The second amendment proposes that the following criteria be taken into account:

- (a) the prospect of hardship to the witness if assistance is declined;
- (b) the significance of the evidence that the witness is giving or appears likely to give;
- (c) any other matter relating to the public interest.

In the current bill there is a provision that legal assistance may be given to a witness, but there are no criteria by which that can be judged. This provision is based on a similar provision in the New South Wales ICAC act.

There are ongoing problems with the regime being set up by the government. We are supportive of the establishment of the anticorruption commission. We wish it had been done in a less secret way and in a more open, transparent and publicly inclusive way than it has been. We wish that some of the sensible suggestions

put forward publicly had been taken up — for instance, suggestions from bodies such as the law institute and the Federation of Community Legal Centres and from people who know about these issues who have made their concerns known in the press. It is going to be unfortunate if IBAC starts operating with these flaws still in place and if the government does not move to do something about them.

I finish my contribution to the debate by saying that the government should not proclaim this legislation until it has fixed up protection for whistleblowers and shield laws for journalists. No-one will come forward to the commission at all because they will not feel they can do that in any sense where they would be personally or professionally protected. Those are the concerns that still remain. It has taken all the limited time I have to make a contribution to the debate to point out what I think are the problems with the bill. Of course that does not mean there are no good aspects to the bill — there are. There are certain protections there, and there are provisions that I support, but I have taken the time to point out my concerns.

They are real concerns, and the government should take them seriously. When the act is consolidated the government should take some time to reflect, to perhaps ask for more public input and to perhaps conduct a forum or set up some way of receiving that input in good faith to make sure that when it is set up the commission is as good as it can be.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to speak on the Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012. It has as its purposes to amend the Independent Broad-based Anti-corruption Commission Act 2011 to provide the Independent Broad-based Anti-corruption Commission (IBAC) with examination powers and referral powers and for other matters relating to its operation, and to further amend the Victorian Inspectorate Act 2011, make consequential amendments to other acts and for other purposes.

This is another important bill and another significant step the coalition government is taking towards the establishment in this state, for the first time in its 160-year history, of a truly independent, broadbased anticorruption commission. It was not established under the previous government and was not even mooted until what is being termed the death throes of the Brumby and Bracks governments. Throughout Labor's 11 years it failed, refused and neglected to make any of these reforms, notwithstanding persistent calls from coalition members to establish an independent,

broadbased anticorruption commission. The only thing that was broadbased around the previous administration was its broadbased economic mismanagement and inability to deliver major projects on time and on budget, or its pursuit of projects such as the desalination plant and the north–south pipeline on flimsy or no assumptions. These matters are being canvassed in other bills and in other speeches on these bills, so I will not dwell on them.

When it comes to integrity, which is the subject of this bill, it is important when a government talks about integrity that it reflects on the promises the former government, now in opposition, broke — specific promises that it took to the people of Victoria. These were promises not to do something, but which it then proceeded to do — for example, the desalination plant and the north–south pipeline. In contrast the coalition government has taken a very comprehensive integrity regime to the electorate, and with this bill it is delivering on it. In relation to IBAC bills, it is also important that the exaggeration and overestimation of the previous government in its time in government does not transcend into its time in opposition.

I note the previous speaker for the opposition said this is IBAC bill mark 6; that is in fact double what it is. If you are talking about IBAC, it is in fact IBAC bill mark 3, or the third installation of the IBAC bills — that is, with the first piece of IBAC legislation being the Independent Broad-based Anti-corruption Commission Act 2011, which established the framework of the commission, and the second being the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012, which importantly set up the investigative function powers of the IBAC, including its definitions of corrupt conduct and public officer. Those who can recall the contributions to that debate may recall me going through the breadth of that bill and the breadth of its operation.

Mr Ramsay — Don't do that again.

Mr O'BRIEN — I will not do that again, but it is important to remember when one talks about what a broadbased anticorruption commission is. It is one that is broadbased in its breadth of operation, so that wherever corruption may occur in this state — and with this bill it will include activities beyond this state — it can be investigated by IBAC, which is at the centre of the integrity bodies in the state. There are not six IBAC bills; indeed there are three IBAC bills. As was promised by the coalition in its detailed policy, other important integrity bodies have been established in a very carefully considered manner — namely, the Victorian Inspectorate, which was established by the

Victorian Inspectorate Act 2011, amendments to which were made by the Victorian Inspectorate Amendment Act 2012. An important innovation in relation to protection of the public interest by this coalition government but from a separate genus was the establishment last year of the Public Interest Monitor by the Public Interest Monitor Act 2011.

In her contribution Ms Pennicuik referred to the delivery of another important coalition promise in relation to the integrity reforms — that is, the establishment of the independent freedom of information commissioner, which was something else the previous government refused to do. Of course there will be further consideration of legislation as a result of bills presently before the commonwealth Parliament, being the commonwealth Telecommunications Interception and Other Legislation Amendment (State Bodies) Bill 2012, which was introduced and second read in the House of Representatives on 22 March and which, subject to other activities proceeding in Canberra this week, may well also be progressing through that place.

The coalition is very proud to have delivered those pieces of legislation related to its integrity regime, but in terms of accuracy and not to inflate the true count, the true count is three pieces of legislation, as was envisaged in the debate on the IBAC, the apex of the integrity bodies. The three pieces of legislation, including this piece of legislation, will permit the IBAC to conduct its important examination powers.

Regrettably an error or an exaggeration has also occurred in the true position within the public press release put out by the Law Institute of Victoria (LIV) and referred to by other speakers. The press release of 10 May refers to a letter dated 9 May and on its front page states:

Despite having introduced five separate pieces of legislation, we don't think the government has achieved this goal ...

The letter of 9 May from the law institute details various parts of the integrity regime, but it is important when a body such as the law institute seeks to enter the public domain and to enter political discourse — as opposed to perhaps representing the interests of its members in a less political manner than by issuing press releases with headlines et cetera — that, like lawyers, it is fully accurate in its summation documents as well as in the detail so that those people who rely on such documents can be fully aware of it.

Other issues raised by the law institute have been commented on by the minister, including the opportunity for the law institute to have engaged in the

consultation process, particularly the very important consultation process referred to by Ms Pennicuik, being the Charles report, for which the government did engage in extensive consultation, including the consultation panel chaired by the Honourable Stephen Charles, QC. As has been said — I think only last week in response to a Greens motion — this was a very important and sensitive process during which confidential submissions were received.

As the government has outlined on numerous occasions, in circumstances dealing with these very serious and important matters of how integrity bodies should operate and what matters they should look at, drawing on submissions that themselves may or may not — but one could infer in good reasoning may well — draw on experience and sensitive concerns of very senior persons, it is important that that confidentiality be maintained. I do not wish to again transgress matters covered in previous debates on previous bills for the sake of time.

However, I would say that much of Mr Pakula's and Ms Pennicuik's contributions related to aspects of the IBAC legislation that have already been put into law and been established, particularly definitions of corrupt conduct and the concept of serious corrupt conduct and the jurisdiction of the IBAC. Those matters have been canvassed in previous debates. I wish to focus on this bill and deal with, as Ms Pennicuik touched on at the very end of her contribution, the very important positive aspects of this bill that ought to be borne in mind when one considers the debates on this important piece of legislation.

In dealing with the examinations power and the breadth of the legislation it is important to remember the notion that this is a broadbased anticorruption commission, as I have outlined, and that this body relates to all other bodies that comprise aspects of the public service, including: the Parliament, including members of Parliament and the executive, local councillors and staff, the judiciary, the prosecutorial service, vice-regal representatives including the Governor, and other integrity bodies as listed in the bill.

The breadth of the legislation is also capable of being realised in relation to this bill when one looks at the key provisions being introduced — namely, the examinations power. New part 5A inserted into the act by clause 21 includes section 82A, which states under the heading 'Power to hold examinations':

For the purposes of an investigation —

which is defined in the act in existing provisions around section 41 —

the IBAC may hold an examination.

Clause 21 of the bill also inserts new section 82B, 'Conduct of examinations', which states:

In holding an examination, the IBAC —

- (a) is not bound by the rules of evidence; and
- (b) may regulate the procedure of the examination as the IBAC considers appropriate.

I remind the house that part 3 of the bill introduces the IBAC's investigative function powers and details procedures about those investigations which sit under the examinations power.

Another important aspect of this bill is that clause 5 inserts a new section 5B into the principal act relating to the commencement and application of the act. Section 5A of the act confirms that the act does not apply to the Victorian Inspectorate or the Victorian Inspectorate officer within the meaning of the Victorian Inspectorate Act 2011. That is because that body is effectively covered as the oversight body of the IBAC. New section 5B states under the heading 'Investigation of conduct occurring before the commencement of this section':

This Act applies to and in respect of conduct all or part of which occurred before the commencement of this section if the conduct —

- (a) is the conduct of, or in relation to, a person or body (whether or not still in existence) who or which would have been a public officer or public body within the meaning of this Act had this section been in force at the time the conduct occurred; and
- (b) would have been corrupt conduct or police personnel conduct within the meaning of this Act had this section been in force at the time the conduct occurred.

Again dealing with the IBAC examinations bill, it is clear that it is broad not only in terms of its breadth, which includes the public service, but in its breadth of time. The bill permits in appropriate and defined circumstances conduct being examined prior to the commencement of the bill. It also applies to conduct that occurs outside Victoria, which is set out in the bill and referred to in the second-reading speech.

One issue that has been raised in some of the debates and in some of the commentary by the law institute and others is this question of examination in private, which is dealt with in section 82C of new part 5A of the act. It is important to remember when considering this commentary that there is no compulsion for the IBAC to conduct examinations in private. Rather it is a firm presumption, if one likes, when one reads the powers

that are conferred under new section 82C, which states that an examination is not to be open to the public unless IBAC considers on reasonable grounds that there are exceptional circumstances, that it is in the public interest to hold a public examination and that a public examination can be held without causing unreasonable damage to a person's reputation, safety or wellbeing. Factors are then to be taken into account under new section 82C(2); the procedures are detailed in section 82C(3).

These are important considerations, and the debates in relation to whether the hearings should be private or public have been well canvassed in the excellent current issues brief prepared by the parliamentary library. In relation to the issue of public hearings, the brief states on page 9 that there has been a debate about whether to hold public hearings. The difficulty in relation to IBAC and other investigatory bodies that deal with matters of a corrupt nature in essence is twofold.

Firstly, they are dealing with very serious matters that often involve people in high office: the judiciary, the legislature and the executive across all tiers of government, vice-regal positions and other respective offices, including the Victoria Police.

Secondly, the issue of reputation and the relationship between appropriate and sensible referrals is a matter of high importance. This is dealt with in the bill by the definition of corrupt conduct.

I will not go into the debates we had last time, but I remind the house of the importance of these referrals and investigation powers. They are not intended to be related to matters of salacious office gossip or of a trivial nature but are for matters of serious corrupt conduct, for which this is the appropriate body, working in conjunction with our very important other established integrity bodies such as Victoria Police, the Ombudsman and the Auditor-General.

In relation to the question of reputational hearings, in addition to the issue of public damage that can be caused, it is important that the coercive powers capable of being utilised by IBAC to obtain evidence in relation to any investigation or examination are also considered.

The balance in the bill is carefully and appropriately drawn as proposed by new section 82C inserted in the principal act by clause 21 of the bill — that examinations generally be held in private with consideration of various exceptions, provisions and factors. That is because one would generally consider coercive powers as something that abrogates privileges,

and maybe something that overrides fundamental human rights and common-law rights. In certain instances long-established principles and very important protections are being abrogated by this proposed legislation. The reason they are being abrogated is that there are very clear controls over the exercise of those powers to protect the public interest, as defined in the purposes of the legislation.

The reason those important protections are being abrogated relates to the fundamental subject matter of this legislation, which is corruption in a broadbased matter, or in a specific aspect of that matter, and integrity in relation to the highest offices of this land. One does not wish to conduct such serious abrogations of privilege for matters on a mere whim, or, as it has been described, for matters of salacious office gossip, unless they are inherently related to the various threshold tests in relation to serious corruption and indictable offences being investigated by an IBAC. When one considers the difficult questions an IBAC will need to ask in a specific instance of this examination in a private hearing, one sees it is a balancing of public interest, immunity and other privileges and common-law protections with the public interest in getting to the bottom of a serious matter of corruption in an appropriate manner. President, I will pause for just a moment.

Debate interrupted.

DISTINGUISHED VISITORS

The PRESIDENT — Order! My apologies, Mr O'Brien, but I wish to intervene at this stage to extend a welcome to justices from the Supreme Court of Victoria, led by Chief Justice Marilyn Warren. We welcome you to the Legislative Council. The public benches have become judicial benches this evening, but the judgement to be passed in this place will probably take place at an alarming hour this evening. You will probably find this particular session most interesting, because again you have a barrister arguing before you. Mr O'Brien was a barrister before entering this place at the last election. We are dealing with the Independent Broad-based Anti-corruption Commission — —

Mrs Peulich — He is blushing!

The PRESIDENT — Order! He is? We are dealing with one of the pieces of legislation associated with the IBAC that the government promised at the last election, and which it is progressively implementing by way of various pieces of legislation. Welcome: it is a great

pleasure to see you all here, even though you are all unwigged.

**INDEPENDENT BROAD-BASED
ANTI-CORRUPTION COMMISSION
AMENDMENT (EXAMINATIONS)
BILL 2012**

Second reading

Debate resumed.

Mr O'BRIEN (Western Victoria) — Thank you, President. I understood the interruption. I previously obeyed standing orders to ignore the gallery, and I will not seek to address the gallery, although I could not help notice the individuals who had entered. I take a moment to pay my respects. Before I return to the subject matter of the bill, I need to correct the President on one matter: I am no longer practising as a barrister; I was formerly a barrister and am now happily a member of Parliament.

Hon. P. R. Hall — And a very good one, too.

Mr O'BRIEN — Thank you, Mr Hall.

Ms Mikakos — Why don't you repeat what you said earlier about the Law Institute of Victoria?

Mr O'BRIEN — No, that will be in *Hansard*, and I am sure Ms Mikakos will be able to respond in due course. I stand by everything I said. I also stand by what I was about to go to in relation to the question of public hearings, which was in the very helpful brief on the bill put together by the library researchers. It states on page 9 that:

Conversely, it is also argued that public hearings can cause irreparable damage to the reputation of those investigated, that they pose a risk of prejudicing a fair trial in the event of a criminal prosecution arising from the investigation, and that they can endanger a witness's personal safety. It is usual for the commissions to take these factors into account when determining whether it is in the public interest to hold a hearing in public or private.

Those are the sorts of considerations that have gone into the drafting of these important provisions and will, as I confirm, under new section 82C hold a presumption, if you like, that examinations will generally be held in private except in exceptional circumstances.

The next provision I would like to talk to relates to witness summonses, which is another important aspect of the bill that has been commented on in other places. New section 82F will provide that:

- (1) For the purposes of an investigation, the IBAC may issue the following witness summonses to a person —
 - (a) a summons to attend the IBAC to give evidence at an examination at a specified time and place on a specified date;
 - (b) a summons to attend at a specified time and place on a specified date to produce documents or other things to the IBAC;
 - (c) a summons to attend an examination at a specified time and place on a specified date before the IBAC to give evidence and produce documents or other things.

Those and the following provisions are also very important for the IBAC to be able to undertake the investigations and examinations it needs to undertake. New section 82T contains provisions relating to the failure to answer questions or refusals to comply with a summons, and offences will be created in relation to those matters. In effect it creates a position of compulsion. As a protection, new section 82H also requires a report to the Victorian Inspectorate three days after the issue of a witness summons, and under new section 82I a witness summons is also not capable of being an issue to a person under 16 years of age.

At this stage I would like to return to the Law Institute of Victoria letter, and again I say this carefully and with all respect to the law institute: it is important when an institute or a representative body seeks to represent the interests of its members that it represents the interests of all those members as best it can. However, it is also important that the body gets its representations accurate, because if one takes a particularly strong stance against the government, as may be inferred by its press release headed 'IBAC legislation too narrow and flawed', one would expect it to be entirely accurate in its submission. Unfortunately, in relation to this provision, on page 10 of the letter the learned authors have not understood that there are protections already in the bill in relation to persons who have a mental impediment or persons who speak a language other than English.

I will take you briefly to the LIV letter, which says on page 10:

The LIV notes that a witness summons directed to a person under the age of 16 has no effect (section 82I).

That is correct. The LIV then states:

In the absence of rules of evidence, we consider that other matters concerning capacity to give evidence (including a mental and intellectual or physical disability) should be addressed in the IBAC act.

This is the difficulty in that these matters are addressed in the IBAC bill. In fact I refer the learned authors and the house to new section 82O(2) of the bill, which states — and I will read it for the purposes of correcting that misconception:

If a witness does not have knowledge of the English language that is sufficient to enable the witness to understand questions asked of him or her or to answer those questions, before the examination commences the IBAC must provide for a competent interpreter to be present for the examination.

That relates to the provision of an interpreter, which was not specifically mentioned in the law institute letter but which is an important provision. The other important provision is under new section 82O(4), which states:

The IBAC must direct that an independent person be present during the examination of a witness if —

- (a) the IBAC believes the witness has a mental impairment; or
- (b) the witness provides the IBAC with reasonably satisfactory medical evidence that the witness has a mental impairment.

The protection is there.

Ms Pennicuik interjected.

Mr O'BRIEN — I hear the interjections from the Greens in relation to intellectual disability, and I will allow others interpreting the legislation in relation to this very important area of mental impairment and intellectual disability to consider whether there would be any valid distinction between those two terms. The point is that the letter from the law institute does not refer to that provision, and I bring that to the attention of the house.

In relation to the examination provisions, which comprise the most important or significant aspect of the bill, there are also the requirements in new section 82M to provide an opportunity for legal representation, which I am sure the members in the public gallery are also pleased to see in the bill. The requirements for legal representation are set out in this new section, which states:

- (1) Subject to this section, a witness may be represented at an examination by an Australian legal practitioner.
- (2) The IBAC may direct a witness not to seek legal advice or representation in relation to a witness summons from a specified Australian legal practitioner if the IBAC considers on reasonable grounds that the examination would be prejudiced because the Australian legal practitioner is —

- (a) a witness in the examination or another examination; or
- (b) the representative of another witness in the examination or another examination; or
- (c) a person involved, or suspected of being involved, in a matter being investigated by the IBAC or the Victorian Inspectorate; or
- (d) the representative of a person involved, or suspected of being involved, in a matter being investigated by the IBAC or the Victorian Inspectorate.

Sitting suspended 6.30 p.m. until 8.02 p.m.

Mr O'BRIEN — I was referring to the importance of the protections that are in this bill, the careful balancing of the considerations involving the integrity measures that are fundamental to the bill but also the rights of individuals. After new section 82M inserted by clause 21 I take the chamber to new section 82P, which sets out the actions to be taken before the questioning of a witness or the required production of a document, including informing them of their rights et cetera. A corresponding limit on those protections is under new section 82P(2) relates to the circumstances where IBAC may form grounds that it would prejudice an investigation or be contrary to the public interest to engage in such conduct. These checks and balances and very clear statements of the limits of the legislation are contained all through the bill, and without wishing to go to them individually, I suggest they refute any suggestion that the bill is not carefully considered or well drafted. In another example new section 82P(3) states:

For the avoidance of doubt, the IBAC is not required to give reasons for forming the opinion referred to in subsection (2).

It is a very important provision to put in to confirm the position that IBAC is not required to give reasons for forming the opinion referred to in new section 82P(2).

Other important issues that have been considered in the debate have been the questions of the privileges, particularly the privilege against self-incrimination, that are abrogated under new section 82ZC. The reasons for this have been well stated. I think the best summation of the position of the government is in the minister's response to the report by the Scrutiny of Acts and Regulations Committee, of which I am a member. In *Alert Digest* No. 8 on page 14 the minister says:

Clause 21 of the bill provides for the abrogation of the privilege against self-incrimination. Provisions such as clause 21 are standard in legislation relating to investigatory bodies in Australia and are important to ensure that IBAC has the tools it needs to undertake full and proper investigations.

Consistent with the approach taken with interstate legislation applying to integrity bodies, the use of derivative information is to be determined by the court.

This ensures there is appropriate flexibility for the court to determine the matter on the individual facts and circumstances. This clause ensures that the IBAC can undertake its functions and objectives effectively and in accordance with the intention of the legislation.

That is very important. It confirms the separateness and independence of the court and the separate role of the Parliament. It is important that those roles be conducted appropriately and carefully considered in balance within the legislation.

In response to Mr Pakula's comments in relation to cabinet in confidence, the treatment of privileges in the bill is an appropriate balance of individual rights and protection of the public interest and the IBAC's need to obtain information relevant to its investigations. There is no abrogation of the cabinet-in-confidence privilege, but this is nothing unusual. In other jurisdictions the importance of protecting sensitive information in the public interest is acknowledged. For example, the Ombudsman is prohibited from assessing cabinet-in-confidence material. There is a very important role in cabinet-in-confidence protections that has a public use importance as well.

In relation to the question about journalist shield laws, the government is committed to introducing journalist shield laws in Victoria. In response to the question from the Greens about the operation of the IBAC within the whistleblowers regime, the government is committed to introducing reforms to the Whistleblowers Protection Act 2001, which I can advise the house will be intended to clarify the role of the Victorian integrity bodies, including IBAC and the Victorian Inspectorate, in relation to whistleblower claims.

I turn now to the other matters in the bill that have been briefly touched on and that are important. The referrals process is set out in the new sections inserted by clause 20, which has a provision for when the IBAC 'must' refer a complaint or notification in new section 49C. It is a mandatory referral if it fits those criteria. There is a provision in new section 49D stating that the IBAC 'may' refer a complaint or notification. It is important for IBAC to operate in a cooperative manner. This is a process in which the IBAC will sit at the apex of the investigative, examining and integrity bodies in the state. There will of course be the inspectorate and the parliamentary committees over the top of IBAC. In this role there may be tension from time to time between these various bodies, just as in this place there is tension between the various perspectives on matters before Parliament and in any

court there is of course tension between the rights and interests of various parties.

The importance of this legislation is that it clearly sets out the limits of IBAC and the various other integrity bodies, the relationship of those bodies to the very broad sections of the judiciary, the executive and the legislature and the other arms of government that are covered. The government should not be criticised for taking its time to get it right but should in fact be complimented and commended for the very careful way in which with this bill it is delivering upon its commitment to introduce the IBAC into Victoria. With those words — there are other matters but no doubt they will be dealt with in the committee stage — I commend the bill to the house.

Ms MIKAKOS (Northern Metropolitan) — I rise to speak again on an IBAC (Independent Broad-based Anti-corruption Commission) bill. We have certainly had no shortage of them in recent months. It was very interesting to hear Mr O'Brien speaking about this bill this evening, because he claimed that this is the third IBAC bill. He has forgotten that this is in fact the sixth IBAC bill. I will take him through them, just to make sure that he can get the count right.

The first was the Independent Broad-based Anti-corruption Commission Bill 2011, which was passed in November 2011. Then we had the Victorian Inspectorate Bill 2011 — —

Mr O'Brien interjected.

Ms MIKAKOS — It does in fact relate to the IBAC changes, Mr O'Brien. The third bill was the Public Interest Monitor Bill 2011, the fourth was the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2012, then we had the Victorian Inspectorate Amendment Bill 2012 and now we have the sixth bill, the Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012.

Mr O'Brien — On a point of order, Acting President, the member is misleading the house in that she has totally misrepresented the — —

The ACTING PRESIDENT (Mr Elasmr) — Order! That is not a point of order. Mr O'Brien had his turn.

Mr O'Brien — She cannot distinguish between an IBAC and an inspectorate.

The ACTING PRESIDENT (Mr Elasmr) — Order! It is not point of order.

Ms MIKAKOS — Mr O'Brien clearly does not know the standing orders of this house, because if he did, he would not raise silly points of order such as that and embarrass himself. He needs to go back and look at all those previous bills because they did relate to the establishment of IBAC and we are in fact on bill 6. He needs to go back and check his facts.

Mr O'Brien interjected.

Ms MIKAKOS — We on this side can count; we can count very well.

Mr Leane interjected.

Ms MIKAKOS — We are on bill 6. Mr Leane and I are big fans of the *Star Wars* movies, which had six episodes. But they were released over 28 years, between 1977 and 2005, whereas we have now had six IBAC bills come into this Parliament over seven months — that is, almost one per month. We are waiting with bated breath to see whether we will have another bill.

Mr Leane interjected.

Ms MIKAKOS — Mr McIntosh, the Minister responsible for the establishment of an anti-corruption commission, certainly is no George Lucas, Mr Leane, but I am beginning to think there might be a Jar Jar Binks on the other side.

We have had come before the house a list of legislation that has constituted a litany of broken election promises in the self-serving development and delivery of this legislative model. We had from the government a promise that IBAC would be ready for business on 1 July last, but after six bills we see this IBAC is still not ready to begin its work. The government has been scrambling around for some time now trying to find a commissioner to get IBAC up and running.

The government promised an IBAC that would be closely modelled on the New South Wales Independent Commission Against Corruption (ICAC), and it has broken this promise. It promised that IBAC would have a wide range of powers to investigate corruption, and it has failed on this score. The New South Wales ICAC has a wide range of coercive powers to investigate alleged corruption. By contrast, the Baillieu government has chosen to fetter the jurisdiction of IBAC, significantly raising the threshold test of corruption and thereby restricting the scope of inquiries IBAC can make. IBAC will be able to undertake investigations into serious corruption only where those allegations may be serious enough to constitute an indictable offence if proven.

One of the options open to IBAC after investigating a matter is to make a private recommendation on any matter arising out of the investigation. Surprise, surprise! Such recommendations are made directly to the minister or the Premier and cannot form part of the public report made to the Parliament. It comes as no surprise that matters will be kept private because even the advisory committee report that formed the basis of this legislative model has been kept confidential by the government. It has not released the advice that has influenced its decisions on IBAC.

As a result we have seen commentator after commentator criticising this legislation as being the toothless tiger that it actually is. The Law Institute of Victoria wrote a letter dated 9 May to Minister McIntosh. It said:

The IBAC's mandate to investigate serious corrupt conduct of public officials is too narrow and unclear. IBAC's time will be taken up trying to determine whether it has jurisdiction, and referring matters to other bodies when it finds it does not, rather than getting on with the job of investigating corruption. The limited mandate will render the IBAC inefficient and undermine the public's confidence in the handling of corruption of public officials.

The Law Institute of Victoria has produced a very detailed paper in which it has set out the various deficiencies of IBAC and the legislation that has established it. I noted that Mr O'Brien touched upon one of the issues, but it is a 12-page document and it will be very interesting to see if the government is prepared to respond to all the other issues set out by the law institute.

Mr O'Brien interjected.

Ms MIKAKOS — The law institute has every right to identify flaws in this legislation. Mr O'Brien accused the law institute of being political because it put out a media release in which it called this body for what it is: a toothless tiger.

Mr O'Brien interjected.

Ms MIKAKOS — As a former lawyer, he is having a go at the body that should stand up for the human rights of all Victorians, including all those public servants and others who will be subject to this legislation. This body has every right to identify the flaws that it has.

Many others also have identified problems with this legislation. In the *Age* of 20 April Peter Clark, SC, a former member of the National Crime Authority, was quoted as saying he was 'bitterly disappointed' by the

coalition's failure to fix its anticorruption model and that it had let Victorians down. He went on to say:

When you have a commission so inhibited by definition, I don't know how it can function. It will prove to be a totally ineffectual.

Mr Ramsay interjected.

Ms MIKAKOS — The same article states that the president of Liberty Victoria, Spencer Zifcak, said that the failure of the legislation to widen the commission's remit was a major drawback. I quote from that *Age* article:

Despite the significant criticism by leading legal figures, the government has decided to proceed with the model tabled at Christmas ... that ought to be of concern to all people wanting to clear up corruption in Victoria ...

Also quoted in that article was Mr Howard Whitton, an independent ethics consultant and fellow at the National Institute of Governance, University of Canberra. He was concerned about the lack of public hearings provided for in this legislation. He said that public hearings should be the default position. He went on to say:

If the commission had a low-level threshold test, private hearings might be justifiable initially to protect the reputations of people who may be found to have no case to answer.

However, this bill does not set a low-level threshold. In fact it sets a very high threshold test, and therefore Mr Whitton did not think that the private hearings component of this legislation was justified.

Mr Ramsay interjected.

Ms MIKAKOS — Members of the government are being critical of me for reading quotes from leading authorities on this bill, because they do not want to hear what the experts have to say about their own legislation, but it is very important that these points of view be aired. An opinion piece in the *Age* of 23 April said:

The agency that will be created by legislation before state Parliament, however, bears little resemblance to those that operate in other states, and which the coalition had pledged to introduce. There is increasing doubt about whether it will be able to perform the task assigned to it, and even about how much Victorians will be able to discover about its activities.

There are a lot of concerns being expressed about this legislative model. A lot of the concerns are from people who have a great deal of expertise in this area, yet the government is seeking to confuse us as legislators by having six bills come to the Parliament. The government is not even prepared to provide a consolidation of all the acts so that the proposed legislation can be easily understood by all those who

will need to comply with it. I believe that is a deliberate strategy to ensure that the legislation is beyond comprehension and avoids public scrutiny, and that is a damning indictment of the government.

It is for this reason that the Labor opposition will be supporting Ms Pennicuik's referral motion to the upper house legal and social issues committee, of which I am a member. The motion would enable that parliamentary committee to conduct public hearings and investigate how this legislation will operate in practice. A lot of confusion exists around how the provisions of the various six bills will work together, and all of that needs to be aired and looked at in considerable detail.

The government promised that the IBAC would hold public hearings, and the Premier said that was essential for public confidence. I have already commented on how that promise has been broken. It is just another broken promise from this government. We have many other qualifications in relation to this legislation, such as hearings being open to the public only in exceptional circumstances, such as whether there is a public interest in making the proceedings public where a person's reputation will not be unreasonably damaged.

In relation to the issue of privilege, which is a very important issue, under this bill if a witness is summoned by IBAC, then IBAC has the power to compel a person to answer any question or produce any document, and this is in addition to the search and seizure powers that were provided in previous legislation. Government ministers are afforded a public interest immunity. They are afforded cabinet-in-confidence privilege; however, any member of the public, a bureaucrat or a journalist who fails or refuses to give evidence can be held in contempt and face jail time.

It is particularly concerning to the opposition that there is no room for the checks and balances associated with a free and independent press in this legislation. Journalists will have no shield, no privilege and no immunity under this legislation against the threat of criminal prosecution and jail if they fail to reveal a source who gave them information. The government needs to quickly address this issue. It is just one of many issues that could be examined by the upper house committee if the government was prepared to enable that to happen.

There is very limited time available for me to talk about such an important piece of legislation. The government's election policy promised a one-stop shop fighting corruption across the entire public sector; however, this legislation is very piecemeal. It enables

other bodies to conduct investigations simultaneously with the IBAC, but how that will actually occur is a cause for concern and confusion.

In addition, the qualifications for the acting commissioner have been downgraded because the government cannot find anyone to act as commissioner who is a judge, a former judge or a person qualified to be appointed as a judge of the Supreme Court. Under the terms of this bill, the acting commissioner will be able to be a person with senior investigative experience and not a former judge. This person will be able to be appointed for up to one year.

This is a very important piece of legislation that raises a lot of questions. I am concerned about the cabinet-in-confidence privilege that will in effect mean that many activities of the executive will be outside of the scope of the IBAC. This government has seen very serious allegations raised in relation to some of its parliamentarians and ministers, and all those individuals will be outside of the investigatory scope of the IBAC. This government is a master of mendacity. It has produced a model designed by the government, for the government, that enables it to keep its own behaviour secret. I remind members opposite of Abraham Lincoln's famous quote in which he said:

Nearly all men can stand adversity, but if you want to test a man's character, give him power.

I believe the government has failed that test.

Mr RAMSAY (Western Victoria) — I rise to speak about the Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012, as I have for the previous tranches of legislation, including the Victorian Inspectorate Bill 2011, the Public Interest Monitor Bill 2011 and the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011.

Ms Mikakos said she was confused. I can understand that. For the first 7 minutes of her contribution she was reciting commentary from other organisations in relation to not only this bill but other bills. She also inaccurately described there being six tranches of Independent Broad-based Anti-corruption Commission (IBAC) legislation. It is just not true. In fact there have been three that I am aware of and have spoken about, in addition to the Victorian Inspectorate and the Public Interest Monitor bills, which are quite separate from the IBAC legislation. I understand Ms Mikakos is confused, but hopefully my short contribution will, if she is willing to listen, at least enlighten her as to what this bill hopes to achieve. Given past experience, I would suggest she probably is not.

A lot of work and planning has gone into the introduction of the IBAC legislation. Yes, it is taking time. Yes, it is methodical. It is measured, and it is a proper, staged approach. It has to be right, and it has to work. The Victorian community demanded an integrity system that would give just that — integrity.

For 11 years Labor tried to deliver to the Victorian people an anticorruption commission but could not do so and failed. Even Andre Haermeyer, the then minister and the architect of Labor's Clayton's anticorruption body, the Office of Police Integrity, now says that the OPI lost its way. He also said that the OPI abused its powers and bungled its operations. This is from the very architect of the OPI, who was the Minister for Police and Emergency Services at the time of its creation. Even the Labor members of Parliament from that time had no faith in the OPI. I am at a loss about how they can stand here and criticise this government providing to the Victorian people an anticorruption commission in just one and a half years. Time is on our side; we do not have to respond to a crisis and rush to create an anticorruption commission.

This bill completes the creation of the statutory framework for the creation of IBAC, and it is now ready for development — for people, for resources and for the \$200 million committed to it over four years. IBAC will sit at the top of the state's integrity system, and it will have the ability to refer complaints or notifications to other bodies where appropriate. It will have powers to investigate its own motions and to determine when corrupt conduct is serious corrupt conduct and when it will conduct an investigation in accordance with the act.

The bill provides that a judicial officer is not required to attend a public examination but may consent to do so. The provisions relating to judges recognise the need to preserve the independence of the judiciary under our constitution. The treatment of privilege in the bill is an appropriate balance of individual rights, the protection of public interest and the IBAC's need to obtain material relevant to its investigation — and it is a juggling act. The bill clarifies IBAC's obligation to investigate, refer or dismiss every complaint or notification, which ensures that no-one falls through the cracks.

Under the bill IBAC will be able to issue a confidentiality notice to a person which will prohibit that person from disclosing a restricted matter. 'Restricted matter' is defined in the bill, and such matters are limited to an investigation but not restrictive in allowing the person who is being investigated to

assist police in an inquiry that does not prejudice the IBAC investigation.

IBAC will be able to make public or private recommendations which provide for minor disciplinary breaches to be dealt with internally rather than with full public reporting. This is consistent with other oversight and integrity bodies that have discretion outside parliamentary reporting processes. IBAC will not be able to report a conclusion that a certain person is guilty of, has committed or will commit an offence. IBAC will have a number of reporting options, including the tabling at any time of a special report in Parliament.

The bill also makes small changes to the provisions for the appointment of deputy commissioners and acting commissioners, providing flexibility in terms of who is able to be appointed to these positions while ensuring that the leadership has appropriate experience and qualifications.

In this brief contribution I also refer to hearings and examinations. I draw no difference. In relation to Mr Pakula's reference to the Law Institute of Victoria's response, particularly in relation to definitions, we must remember that the definition of corrupt conduct and the investigative jurisdiction of IBAC means that its priorities are the most serious instances of corruption and not the investigation of every minor breach or misconduct offence. Given that, IBAC is provided with all appropriate discretion to determine when corrupt conduct is serious or not.

IBAC also has discretion in relation to whether there is a public benefit in making hearings public or whether a person participating in an examination or hearing needs protection due to sensitive information. Most importantly it has the flexibility to determine whether hearings are held in private or whether there are exceptional circumstances such that the investigation is of a nature that there is a public benefit in exposing that conduct to a broader audience. This leads on to the fact that the bill has checks and balances — my colleague Mr O'Brien referred to this — in place to protect witnesses whereby privileges are maintained, fairness protections are applied and witnesses are informed about the nature of the matters about which a person is to be examined. The Victorian Inspectorate oversees the conduct of IBAC in examinations and is an avenue for complaint, so there is some oversight and there is an opportunity to access the inspectorate.

In summary this legislation gives the commission the power to hold examinations or hearings and allows questions to be asked of witnesses to further its investigations into serious corruption in the public

sector. As I said, it provides protections and privileges to persons who give evidence or produce documents in the course of an IBAC investigation.

Referral powers are also set out. Complaints will be investigated, referred or dismissed. They can also be referred to a more appropriate body. The Victorian Inspectorate oversees and monitors IBAC's conduct, and Mr McIntosh, the minister responsible for the establishment of an anti-corruption commission, has gone to great lengths to balance the commission's powers with the rights of an individual, which is in strong contrast to the previous Labor government's anticorruption model — we can loosely call it the OPI — even the architect of which, former minister Andrew Haermeyer, as I said previously, has said had lost its way and abused its powers.

IBAC is a fundamental shift in the integrity regime in Victoria. It has an important role in providing the Victorian community with confidence that it has the capability to investigate serious corruption, and this bill is an important step towards that end.

Mr ELASMAR (Northern Metropolitan) — I rise to speak on the Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012. Before I make my contribution to this amendment bill I want to say that the establishment of the IBAC (Independent Broad-based Anti-corruption Commission) has been a protracted and prolonged process. Sitting after sitting, we have all spoken to multiple amendments that have seemingly made the operation of IBAC more convoluted and complicated. What began as a commitment to the Victorian electorate by former Labor Premier John Brumby to establish a legally constituted body empowered to root out corruption where it is found to exist in the public sector has been turned into a complex and meandering piece of legislation that only lawyers will be able to appreciate and fully interpret.

The charter of IBAC is to be vigilant and proactive in its pursuit of corruption within the public sector and government. However, one of the essential components of the effectiveness of the operation of IBAC is the notion that justice has to be seen to be done. Public hearings are what the community expects, but the bill carries no imprimatur or authority for IBAC to conduct public hearings. My colleague Ms Mikakos already spoke about this. The words 'public hearing' do not exist in this bill. There will be no public corruption hearings or inquiries in Victoria despite the fact that the government told Victorians there would be. Premier Baillieu promised that IBAC would hold public hearings because experts agreed that they were essential

for public confidence, but the Premier has delivered a model in which the concept of a public hearing does not exist.

The Premier promised Victorians that IBAC would be operational by 1 July 2011. This has not occurred. The Premier promised to deliver an IBAC that was modelled on the New South Wales Independent Commission Against Corruption. This has not occurred. It is true that it is easy to stain the reputation of an innocent person and that if you throw enough mud, some of it will stick, so it is essential that the powers of IBAC are not misused or abused. The incumbent mechanisms now inherent in the legislation make IBAC unworkable. Hopefully this amendment to IBAC is the final piece of the puzzle the government needs to establish the Victorian IBAC and get it up and running.

Motion agreed to.

Read second time.

Referral to committee

Ms PENNICUIK (Southern Metropolitan) — I move:

That the Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 19 June 2012.

This is the third tranche of bills to set up the Independent Broad-based Anti-corruption Commission (IBAC), including the Victorian Inspectorate bills, that I have moved to be referred to the Legal and Social Issues Legislation Committee for inquiry. I am moving this motion because it is very important legislation. As the opposition speakers and I have pointed out, while there are some good aspects of the bill, we have raised some concerns with regard to the definition of corruption, the conduct of examinations, protection of witnesses, immunity, privilege, the confidentiality notices, the openness or not of examinations and the criteria for deciding that — just some of the issues that have been raised in the debate today. That is not a limited number of issues.

As Ms Mikakos said, we do not even have a consolidated act; the numbering et cetera of the act is confusing; those are the types of issues that need to be examined by the committee, and then its recommendations should be brought back to the house. In their contributions Mr O'Brien and Mr Ramsay talked about provisions that were in the bill that some people thought were not in the bill. Part of the reason for that is some provisions in this bill are found in

unexpected places — for example, some definitions are found in subclauses et cetera when they should actually be in the definitions section of the bill. Things like that are concerning. There are major concerns with this bill, and in concert with the other bills it makes for a regime that has some flaws. We will end up with not the best arrangement that we could have.

I urge the government to agree to this referral. It is only until 19 June. It gives the committee time to call for submissions and hold public hearings. I am sure the groups that have been quoted in the debate today would be pleased to appear to give their views and be questioned by committee members. A report could then come back to the Parliament on how to fix the problems that people have identified with the bill. With those few words I urge the house to support my motion.

Hon. M. P. PAKULA (Western Metropolitan) —

The opposition will support Ms Pennicuik's motion. As I have indicated on many, many previous occasions, our inclination is to utilise the committee structure that the Legislative Council has created, particularly in circumstances where the referral motion has a report back date which is reasonable and does not cause any unnecessary delay. In this circumstance Ms Pennicuik has moved a motion with a referral date of 19 June. There is no possibility of the Independent Broad-based Anti-corruption Commission (IBAC) being up and running before 19 June 2012. It is not at all clear that it will be up and running before 19 June 2013 on its current trajectory.

The second-reading debate has uncovered numerous ongoing concerns, not just from the opposition but from a number of other parties, including the Law Institute of Victoria — concerns about the disjointed nature of the legislation, about the definition of corruption, about the resources of IBAC, about the tender process that led to the creation of IBAC, about shield laws and about various other matters, including, as Mr Elasmarr eloquently outlined, the secret nature of hearings, the fact that a commissioner has still not been appointed and of course the issue that was raised during the debate about the potential for IBAC to be unable to investigate matters that occur within the cabinet because of the cabinet-in-confidence immunity.

All those matters bear further examination. As Ms Pennicuik has indicated in her address on this motion, that can be done by way of appropriate public hearings and the matter can still be reported back to the Parliament in plenty of time for IBAC to be set up. Once again I make the point that these committees have been created for a reason and it is not appropriate or acceptable for the government to simply vote against

each and every motion of this nature, unless the motion is moved by a member of the government. The opposition will be supporting Ms Pennicuik's motion.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The coalition government has been rolling out the most far-reaching reforms in this state's history to Victoria's anticorruption and public sector integrity system. It is important to understand that the Independent Broad-based Anti-corruption Commission (IBAC) will sit at the apex of this system with a broadbased jurisdiction over serious corrupt conduct. These historic integrity reforms also include the establishment of Victoria's first independent inspectorate, Victoria's first independent public interest monitor and an independent freedom of information commissioner — the most significant change to Victorian FOI law since the act was introduced 30 years ago.

The reforms also involve the creation of two new parliamentary committees: the IBAC Committee and the Accountability and Oversight Committee. At the same time the government is making the most significant financial investment in Victoria's public sector integrity system. Over the next four years approximately \$200 million will be allocated towards the government's new public sector integrity measures. This is in addition to the significant funding already provided to existing integrity bodies such as the Ombudsman and the Auditor-General.

The coalition government has also acted to strengthen accountability and standards with the release of the code of conduct for ministers and parliamentary secretaries and a fundraising code of conduct. In addition, the government has introduced fines for members who behave inappropriately in Parliament. This government has taken an informed, staged approach to the preparation and introduction of legislation for IBAC and associated integrity reforms. In other jurisdictions there has been a rush to create an anticorruption body in response to a crisis. The government has taken a considered approach to get the model right.

I must say this stands in significant contrast to the 11 long years of bungling and refusal by the previous Labor government to make any progress to implement public sector integrity measures. Indeed the body that Labor did set up, the Office of Public Integrity, continues to be in controversy with even former Labor minister Andre Haermeyer quoted in the weekend press as saying the body as set up has engaged in 'an outrageous and heavy-handed abuse of those powers'.

For all those reasons we will not be supporting the motion moved by Ms Pennicuik. As I indicated, this government has taken a long, detailed approach. Parliament has already passed historic legislation establishing IBAC with important education and corruption prevention functions, and legislation providing IBAC with important investigative functions. The Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012 is the next stage in the government's reform of Victoria's integrity system.

Ms PENNICUIK (Southern Metropolitan) — I take the opportunity to thank the opposition for supporting my referral of this bill to the Legal and Social Issues Legislation Committee and to express my disappointment again with the government because it has indicated it will not support the reference. The government will probably regret that it has not allowed all the bills to do with the Independent Broad-based Anti-corruption Commission to go to these committees because significant problems have been identified by experts in the field such as the Law Institute of Victoria, Liberty Victoria, the Federation of Community Legal Centres Victoria and other commentators who have expertise in this area throughout the process and particularly about this bill — in fact more so in relation to this bill than the other bills.

For the law institute to write a 12 page letter to us all, including the Premier, to point out the problems with the bill must give the government cause for concern, but it does not seem to. The minister simply delivers a ministerial statement about how far reaching the law is et cetera, but the problem is that serious flaws have been pointed out in relation to the bill. The committees are there to serve the function of assisting the Parliament to pass the best legislation it can.

Mr Dalla-Riva spoke about serious corrupt conduct. Serious corrupt conduct is not defined anywhere in this legislation, and yet it is the fulcrum on which the whole thing turns. The IBAC must not investigate anything unless it is serious corrupt conduct, but there is no definition of serious corrupt conduct. That has got to be a fatal flaw in the bill and has been identified as being so by others. It is not only the external experts who have raised concerns but also us, as MPs, who have studied the legislation. I have studied it very closely and compared it with the other states, and I can see the flaws when compared with the legislation of the other states, in particular with the New South Wales Independent Commission Against Corruption Act 1988 on which it is purportedly based. However, it is not, because it has quite different provisions and quite substantial departures from it.

The government would have a leg to stand on if the Law Institute of Victoria, Liberty Victoria, other commentators and everybody were pretty well cheering the bill through, but that is not the case. These experts are pointing out concerns with the legislation. The government should take the opportunity to have the bill looked into by the committee, and it should do so every single time there are concerns raised about a bill. There are many occasions when bills go through the Parliament and everybody agrees with them, so obviously we do not seek to refer those bills to the Legal and Social Issues Legislation Committee. We seek to refer only those bills about which there are serious concerns, and this is one of them.

It is disappointing that the government is again taking this attitude and is not using the committees in the manner for which they were set up. That is a huge disappointment to me, to other MPs and to the people of Victoria who may be aware of what is happening.

House divided on motion:

Ayes, 18

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

Noes, 20

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

Pairs

Darveniza, Ms	Atkinson, Mr
---------------	--------------

Motion negatived.

Committed.

Committee

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

Leave granted.

Clause 1

Hon. M. P. PAKULA (Western Metropolitan) — I have a fairly straightforward question in regard to clause 1, 'Purposes'. I would like to ask the minister whether the government will commit to a review of the Independent Broad-based Anti-corruption Commission (IBAC) after its first 12 months of operation in order to assess its capacity, its effectiveness and its fairness.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am advised that this is similar to the amendment proposed by Ms Pennicuik in relation to inserting a new clause to follow clause 31 whereby in effect there is a proposal to require a review of the Independent Broad-based Anti-corruption Commission act to be conducted three years after the date on which it comes into operation and for the report of the review to be tabled in Parliament within four years of the act commencing. Whether it is one year or three years, as proposed by Ms Pennicuik in one of her amendments to clause 31 — which is on page 3 of the running sheet — as I indicated before, the IBAC is a key reform in the vastly strengthened and improved integrity regime that the coalition promised.

We promised to establish the IBAC, we promised that it would cover the whole of the public sector and that the IBAC would be given the strongest possible powers of investigation, and we promised to introduce a hugely strengthened system of oversight of Victoria's integrity regime. We are doing all those things. In addition the coalition government has introduced a series of historic integrity reforms which I have outlined before.

We believe, in summary, that the amendments proposed by Ms Pennicuik are not necessary. As with any legislation, the government will review the IBAC legislation periodically and make any necessary amendments as required by future circumstances.

Ms PENNICUIK (Southern Metropolitan) — My question on clause 1 is a more broad-ranging question, which is: what plans does the government have with regard to the interaction between this bill and the Independent Broad-based Anti-corruption Commission (IBAC) regime and the Whistleblowers Protection Act 2001, and what plans does the government have with regard to the introduction of shield laws in concert with the establishment of this regime?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am advised that the government is committed to introducing reforms to the Whistleblowers Protection Act which

will clarify the role of Victorian integrity bodies, including IBAC and the Victorian Inspectorate, in relation to whistleblower claims.

Ms PENNICUIK (Southern Metropolitan) — That is welcome news. Can the government assure the Parliament that those reforms to the Whistleblowers Protection Act will come into effect before IBAC comes into operation? Because they will need to. I also asked the minister about the shield laws.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The government remains committed to introducing journalist shield laws in Victoria and, as I said earlier, we will be making reforms to the Whistleblowers Protection Act in relation to whistleblower claims.

Ms PENNICUIK (Southern Metropolitan) — I am sorry to ask the minister to repeat that, but I did not hear any of it due to the conversation going on behind me.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Again, just to repeat: the government remains committed to introducing journalist shield laws in Victoria. That is the first issue. In relation to the whistleblower claims, as I said, the government is committed to introducing reforms to the Whistleblowers Protection Act which will clarify the role of Victorian integrity bodies, including IBAC and the Victorian Inspectorate.

Clause agreed to; clauses 2 to 12 agreed to.

Clause 13

Ms PENNICUIK (Southern Metropolitan) — I have one question on clause 13 before I move an amendment. In new section 33F and new section 33H there is reference to ‘protected persons’. Can the minister clarify what a protected person is? It says a person is a natural person, but is this meant to protect witnesses?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I advise Ms Pennicuik that section 33F provides the meaning of protected person as a person who is or was at any time:

- (a) an IBAC Officer; or
- (b) a person other than a natural person engaged under section 30, if any officer or employee of the person has taken an oath or made an affirmation under section 31; or
- (c) the members of a body engaged under section 30, if any member, officer or employee of the body has taken an oath or made an affirmation under section 31.

The regime therefore applies to a body and to its officers, members or employees, if the body has been engaged by IBAC, and an officer or employee is a sworn IBAC officer.

Hon. M. P. PAKULA (Western Metropolitan) — On clause 13, I direct the minister to new section 33C(4), cancelling a confidentiality notice. It says that IBAC can issue a notice cancelling a previous confidentiality notice and following. Is it the case that IBAC can issue or cancel confidentiality at any stage of the investigation or examination process?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank the member for his question. In relation to confidentiality notices, and in particular the matters raised by Mr Pakula, under this bill IBAC will be able to issue a confidentiality notice to a person, which will prohibit the person from disclosing a restricted matter.

Restricted matter is defined in the bill and is limited to matters in relation to the IBAC investigation. IBAC must first consider that disclosure of this matter would prejudice the investigation, or the safety or reputation of a person, or the fair trial of a person who has been or may be charged with an offence. It is only possible that a person would be restricted from confirming or denying that they are subject to an IBAC investigation if the confidentiality notice has specified that as a restricted matter, because IBAC considers that the disclosure of that matter would be prejudicial.

Labor’s assertion that a person who is being investigated by IBAC and subject to a confidentiality notice would not be able to assist police with an inquiry in relation to the same matter is incorrect.

Confidentiality notices may prohibit a person from disclosing a restricted matter which is confined to the list of matters within the bill. It includes only matters which reveal the existence of an IBAC investigation — for example, a person may be prohibited from disclosing the evidence given by IBAC. This does not prevent the person talking about the same facts or matters to the police, as long as this does not disclose that a person has given evidence to IBAC. In addition the legislation requires IBAC to withdraw the confidentiality notice if the original grounds for the issuing of the confidentiality notice no longer applies. This means confidentiality notices do not continue in perpetuity.

Hon. M. P. PAKULA (Western Metropolitan) — I am a bit confused, simply to the extent that Mr Dalla-Riva had a prepared response to rebut an assertion I had not made. I do not know why

Mr Dalla-Riva felt the need to say ‘Labor’s assertion that’. I cannot remember what he was banging on about, but it certainly was not in relation to anything I said while I was on my feet, or to anything I said during the second-reading debate, so I am not sure what that was all about. I suppose it shows the risk of reading from a prepared statement without knowing what you are talking about.

The next matter I wish to raise relates to new clause 33D, which talks about IBAC providing the Victorian Inspectorate with copies. It says that IBAC has to provide the inspectorate with a copy of ‘each confidentiality notice issued by the IBAC’. When IBAC provides the inspectorate with copies, will it have to give the Victorian Inspectorate the reasons or the grounds for the issuing of the confidentiality notice, or simply provide it with the document?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The matter that is raised by Mr Pakula is again similar to the issues that will be raised by Ms Pennicuik in her amendment to that particular section. In the view of the government it is not necessary to require the IBAC to provide the Victorian Inspectorate with the reasons for issuing each confidentiality notice, as proposed by Ms Pennicuik, when it provides the information required by new section 33D. The Victorian Inspectorate already has full and free access to all records of the IBAC and is able to require IBAC officers to give information and documents to it.

The IBAC is under an obligation to cooperate with the Victorian Inspectorate. The Victorian Inspectorate is therefore already empowered to ask the IBAC for its reasons for issuing a confidentiality notice if it wishes, as well as requiring any other questions to be answered that it sees fit. The clause as drafted provides the Victorian Inspectorate with the requisite flexibility to obtain whatever additional information it requires once it has notice of each confidentiality notice or notice cancelling a confidentiality notice and so on.

Hon. M. P. PAKULA (Western Metropolitan) — Given that this matter is subject to Ms Pennicuik’s amendment, I will not go on with it. The last part of clause 13 I wish to ask the minister about is new section 33E, which relates to disclosure subject to confidentiality notice. If a minister were being examined by the IBAC and the minister was issued with a confidentiality notice, would the minister be able to confirm, if asked, that they were participating in an IBAC examination, or would such confirmation be a breach of the confidentiality notice?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that it would depend on the notice, and ultimately it would be a matter for the IBAC to determine.

Hon. M. P. PAKULA (Western Metropolitan) — Also on new section 33E, subsection 3 says:

- (3) Despite subsection (1), a restricted matter specified in a confidentiality notice may be disclosed if the disclosure is made for the purposes of making a complaint to the Victorian Inspectorate about the conduct of the IBAC or of an IBAC Officer.

Assuming that were to occur, if a complaint were to be made to the inspectorate about the conduct of the IBAC or an IBAC officer midway through an examination, would the inspectorate have the power to halt proceedings as they are in progress in response to a complaint of that nature?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that the IBAC confidentiality regime is less prohibitive and onerous than the existing regime under the Police Integrity Act 2008 and the Ombudsman Act 1973. IBAC will be able to issue a confidentiality notice that will prohibit the disclosure of restricted matters — as I said, the restricted matters are defined in the bill — and it will be limited to matters in relation to the IBAC investigation. IBAC must first consider whether disclosure would prejudice an investigation, the safety or reputation of a person or the fair trial of a person who has been or may be charged with an offence. To say that the person who is being investigated by an IBAC and is subject to a confidentiality notice would not be able to assist police with an inquiry in relation to the same matter is not correct, as has been asserted by Ms Hennessy in the other place.

Confidentiality notices may prohibit a person from disclosing a restricted matter, which is defined in the list of matters within the bill. It includes only matters which reveal the existence of an IBAC investigation. A person may be prohibited from disclosing the evidence given to IBAC, but this does not prevent the person talking about the same facts or matters to the police, as long as it does not disclose that the person has given evidence to IBAC. In addition the legislation requires the IBAC to withdraw the confidentiality notice if the original grounds for issuing it no longer apply. This means that confidentiality notices do not continue in perpetuity, providing for greater certainty and fairness for those who are subject to such a notice.

Hon. M. P. PAKULA (Western Metropolitan) — I have to say that is fantastic, but it was pretty much the same answer the minister gave me earlier, and it had nothing to do with the question that I asked. The question I asked was about the Victorian Inspectorate, and as I had already indicated — and the minister is aware — new section 33E creates an exemption regarding the confidentiality notice by saying that someone can make a complaint to the inspectorate about the conduct of the IBAC or of an officer, and that is despite subsection (1). My question was: if a complaint of that nature is made to the inspectorate mid proceeding — mid examination — can the inspectorate step in and stop those proceedings while they are in progress?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The Victorian Inspectorate has the power to investigate complaints about the IBAC. The Victorian Inspectorate is not given the power to intervene to halt an IBAC investigation. The Victorian Inspectorate may report to Parliament on any matter in relation to its jurisdiction, such as the investigation into a complaint about the IBAC.

Ms PENNICUIK (Southern Metropolitan) — I move:

1. Clause 13, page 19, line 15, after “Inspectorate” insert “with the reasons for issuing each confidentiality notice and”.

This is an amendment to new section 33D inserted in the principal act by clause 13 of the bill, so that the introduction to that section would now read:

The IBAC, as soon as reasonably practicable, must provide the Victorian Inspectorate with the reasons for issuing each confidentiality notice and with a copy of —

et cetera.

I heard the minister say that was not necessary, but it is because if the Victorian Inspectorate wants to know the reasons why a confidentiality notice has been issued — and bearing in mind that the confidentiality notice can exist for a period of five years and be extended by the Supreme Court — it would be best if it was provided with the report that comes from IBAC with the copy of the notice. The inspectorate might want to know two and a half years later what the reason was, and it is easy to find it if it is actually provided with the report at the time. It would also impose some rigour on IBAC in terms of spelling out the reasons for the issuing of confidentiality notices in the first place. For those reasons this amendment should be supported.

Hon. M. P. PAKULA (Western Metropolitan) — I indicate that the opposition will support the amendment.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank members for their contributions. The proposed amendment has the effect of requiring IBAC to provide the Victorian Inspectorate with the reasons for issuing each confidentiality notice in addition to the other matters included under that provision. The proposed amendment would require IBAC, when providing the information required by new section 33D to the Victorian Inspectorate, to also provide the Victorian Inspectorate with the reasons for issuing each confidentiality notice.

The government is of the view that it is not necessary to require IBAC to provide the Victorian Inspectorate with, as the amendment suggests, the reasons for issuing each confidentiality notice when it provides the information required by new section 33D. The Victorian Inspectorate already has full and free access to all records of the IBAC and is able to require IBAC officers to give information and documents to it. IBAC is under an obligation to cooperate with the Victorian Inspectorate. The Victorian Inspectorate is therefore already empowered to ask IBAC for its reasons for issuing a confidentiality notice if it wishes as well as requiring any other questions to be answered that it sees fit. The clause as drafted provides the Victorian Inspectorate with the requisite flexibility to obtain whatever additional information is required once it has notice of each confidentiality notice or notice cancelling a confidentiality notice and so on. For those reasons we will not be supporting the amendment.

Amendment negated.

Ms PENNICUIK (Southern Metropolitan) — I have one more question on clause 13. New section 33J on page 30 of the bill refers to the court appointing special counsel to represent a party when there is an objection referred to in new section 33I. New subsection 33J(4)(a), says the special counsel:

... must not take instructions from the party whose interests he or she is representing, or from any representative of that party ...

My question is: what is the reason for that restriction on taking instructions?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that the reason is that the special counsel is appearing for the person in relation to information that

the person is rightly unable to access without court permission. The government is of the view that that is entirely appropriate.

Clause agreed to.

Clause 14

Ms PENNICUIK (Southern Metropolitan) — Clause 14 inserts new section 40A into the Independent Broad-based Anti-corruption Commission Act 2011, and it is an important section. It suggests that the IBAC must dismiss, investigate or make a referral. It states:

In relation to any complaint or notification to the IBAC, the IBAC must, in accordance with this Act —

- (a) dismiss the complaint or notification if there are grounds to do so; or
- (b) investigate the complaint or notification; or
- (c) make a referral of the complaint or notification.

My question may seem like a rhetorical one, but it is not. It is: how in practice is the IBAC going to be able to determine which of these actions it takes if it is not able to investigate a matter unless the matter is serious corrupt conduct, for which there is no definition? How does the IBAC come to the determination of whether it should be (a), (b) or (c) under this provision?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — We have sought to focus the IBAC on serious corrupt conduct. Something that has become very clear to the government in establishing IBAC and something we have been told time and again is that the more serious a particular case of corruption is, the more sophisticated it is likely to be and the more effort that is made to suppress what is occurring, meaning that serious corrupt conduct is often much harder to detect. We think that a body such as the IBAC should be applying its skilled investigators, its significant resources and its powers to rooting out this type of worrying corruption.

Ms PENNICUIK (Southern Metropolitan) — I think it is a concern if the government cannot explain this issue. The previous bill says that the IBAC must not investigate something that is not serious corrupt conduct, which is not defined. This bill says that the IBAC must determine and then take action that is either (a), (b) or (c) under new section 40A. I am at a loss to know how it will do that if it must not investigate something before it knows what that something is. I think the government needs to be able to explain how it is going to occur practically.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I think this was raised during debate on the previous IBAC bill. We said then and I will say now that determining whether something is serious corrupt conduct is a matter for the IBAC commissioner, and obviously it will be determined on the facts of each case.

Clause agreed to.

Clause 15

Hon. M. P. PAKULA (Western Metropolitan) — Clause 15 is headed ‘Conducting investigations about corrupt conduct’. I am interested in new subsection (4), which will be added to section 41 of the Independent Broad-based Anti-corruption Commission Act 2011. It states:

The IBAC must not conduct an investigation under subsection (1) in relation to conduct which occurred entirely before the commencement of section 5B ...

et cetera, and it goes through the circumstances in which it is possible for the IBAC to investigate such prior conduct. My question is simply: are investigations of prior conduct limited to serious corrupt conduct in the same way that investigations of conduct that happens after the commencement of the IBAC are?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Mr Pakula will be happy to know that the answer is yes.

Hon. M. P. PAKULA (Western Metropolitan) — Thank you — and that is not about the answer; it is about the fact of getting one.

Can I ask one other question? It also says at new subsection (4)(c)(ii) of section 41 that:

there is reliable, substantial and highly probative evidence that the investigation or decision not to investigate was materially affected by error.

I am just wondering if the minister can explain what ‘materially affected by error’ will mean in those circumstances.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am advised that this is a matter for the IBAC to determine, but an example would be a mistake of fact, a mistake of law or a jurisdictional error, and Mr Pakula, who is a lawyer, would be familiar with those statements.

Clause agreed to; clauses 16 to 19 agreed to.

Clause 20

Hon. M. P. PAKULA (Western Metropolitan) — Clause 20 inserts new division 4 of part 3, and it deals with referrals. In that new division 4 there are enabling powers to refer a complaint or notification for investigation by another person or body. But as I understand it there is not an obligation to refer, so I just want to know how IBAC is to deal with evidence that exposes criminality that in the normal course of events ought to be referred to Victoria Police but would, in doing so, potentially compromise the IBAC investigation. How will that tension be dealt with if there are criminal matters that ought to be referred in the normal course of events to the police. but the referral of those matters would have the effect of compromising the IBAC investigation?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I think in his statement Mr Pakula referred to the section where IBAC may refer, and I must point out that new section 49C(1) says IBAC must refer. I just wanted to clarify that because IBAC is not bound to investigate. All complaints and notifications that relate to serious corrupt conduct must be referred by IBAC to another body if the functions of that body are relevant to the matter and it would be more appropriate for that body to investigate the matter. For example, it may be appropriate for IBAC to refer a complaint about corrupt conduct involving financial mismanagement to the Auditor-General, who has greater expertise than IBAC in financial matters.

Hon. M. P. PAKULA (Western Metropolitan) — Can the minister repeat the clause he was referring to?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — My understanding is that 49C(1) states that IBAC must refer. Subsection (3) states:

... the IBAC must not refer to the Chief Commissioner of Police any complaint or notification to the IBAC to the extent that the complaint or notification relates to conduct of —

- (a) the Chief Commissioner of Police; or
- (b) a Deputy Commissioner of Police; or
- (c) an Assistant Commissioner of Police.

In terms of section 49C, subsection (1) contains the statement that IBAC must refer.

Ms PENNICUIK (Southern Metropolitan) — As the minister was saying, the new division here talks about the referrals, and it definitely does say in

section 49C that IBAC must refer matters to a person or body if, in the view of IBAC, those matters are best dealt with there. However, it does not go to any further detail with regard to that, unlike the New South Wales Independent Commission Against Corruption legislation. Further, at page 40 of the bill, section 49F, headed ‘Consultation prior to referral’, states:

For the purposes of deciding whether to make a referral under this Division to a person or body, the IBAC may consult with the relevant person or body.

In a nutshell this division says that IBAC must refer matters to persons or bodies including the Chief Commissioner of Police, the Ombudsman, the Auditor-General, the Victorian WorkCover Authority, the Environment Protection Authority, the relevant principal officer or department or another prescribed person, but in doing so it may consult with that person or body. It seems very strange to me that in referring an item it would not consult, and it is quite different from the provisions in the New South Wales act. Section 53 of that act states:

The Commission may, before or after investigating a matter (whether or not ... the Commission has made any findings) refer the matter ... to any person or body ...

So it may refer it.

The Commission may, when referring a matter, recommend what action should be taken by the relevant authority and the time within which it should be taken.

The Commission may communicate ... any information which the Commission has obtained during the investigation of conduct ...

And importantly —

The Commission shall not refer a matter to a person or body except after appropriate consultation with the person or body and after taking into consideration the views of the person or body.

So it is a very different provision.

I move:

2. Clause 20, page 38, after line 23 insert —

“() When referring a complaint or notification to a person or body specified in subsection (2), the IBAC may recommend —

- (a) what action should be taken by the person or body; and
- (b) the time within which the action should be taken.”.

This is based on a provision in the New South Wales Independent Commission Against Corruption (ICAC) legislation.

Hon. M. P. PAKULA (Western Metropolitan) — The Labor Party will support Ms Pennicuk's amendment.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank the members for their detailed reasons why, and perhaps they might be why, but the effect of the proposed amendment is that, when referring a complaint or notification to a person or body in accordance with this new section, IBAC may make a recommendation about what action should be taken by the person or body and the time within which the action should be taken. The government's view is that the proposed amendment is not necessary. Nothing prevents IBAC from making a recommendation when it refers a matter. The proposed amendment does not provide IBAC with any additional power to what it already has, and on that basis we will not be supporting the amendment.

Ms PENNICUIK (Southern Metropolitan) — Briefly, I am moving the amendment firstly because I think the whole regime is lacking but also because I have been able to draw upon the ICAC act. Without the amendment the bill does not give much guidance to the IBAC as to what it should do when it is referring a matter. I think the amendment would provide more guidance in that regard.

Amendment negated.

Ms PENNICUIK (Southern Metropolitan) — I move:

3. Clause 20, page 40, lines 2 to 5, omit all the words and expressions on these lines and insert "The IBAC must not make a referral under this Division to a person or body unless the IBAC has carried out appropriate consultation with the relevant person or body and taken into consideration the views of the person or body before making the referral."

This is a further amendment to this particular clause. It follows on from the previous amendment and, as I mentioned, it is based on the provisions in the New South Wales ICAC legislation, which requires rather than 'the ICAC must refer a matter' that 'the ICAC may refer a matter'. Whereas we say the IBAC may consult with the body to which it is referring a matter, the ICAC legislation says there must be consultation. We are in fact the complete opposite way around from the ICAC, and it is not clear to me why that is the case. That is why I am moving the amendment.

Hon. M. P. PAKULA (Western Metropolitan) — The opposition will support Ms Pennicuk's amendment because we agree with it and because it is appropriate that the body to which the referral is made be consulted. The views of that body — the referee, if you like — are particularly relevant because it may be that the view of the IBAC about whether or not that body is more appropriate is not held by the referee. Mr Dalla-Riva has already made mention of the Auditor-General, but it could be any other potential referee, and their views ought in all cases be taken into consideration.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I again thank members for their contributions. The government sees that the amendment removes the current wording which enables the IBAC to consult with a body prior to making a referral and instead requires it to carry out appropriate consultation and take into consideration the views of the person or body before making the referral.

The coalition government is rolling out the most far-reaching reforms to Victoria's anticorruption public sector integrity system in this state's history, and for the first time a dedicated broadbased anticorruption body will have special powers to investigate more than 250 000 public sector employees. The IBAC's referral powers are clearly set out in the bill. Every complaint the IBAC receives must be investigated, referred or dismissed, and, where appropriate, complaints may be referred to another more appropriate body such as the Ombudsman or to prosecutorial bodies.

The IBAC has been designed to be the peak integrity body in Victoria, and it should maintain appropriate discretion to deal with each referral as it sees fit. It is appropriate and efficient to empower IBAC to consult as it considers necessary in the circumstances of each case. The proposed amendment would not provide IBAC with the requisite flexibility it requires to operate as the peak integrity body in Victoria, and on that basis we will not be supporting Ms Pennicuk's amendment.

Ms PENNICUIK (Southern Metropolitan) — What if, using Mr Pakula's example, the IBAC referred a matter to the Auditor-General, without consulting the Auditor-General, and the Auditor-General referred it back, saying, 'I don't want it, and I'm not dealing with it'?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I just wish to say that the way each body — IBAC, the Victorian Inspectorate, the Auditor-General et cetera — deals with its powers and duties under its act is a matter for

each body under its governing legislation. As I have indicated before, IBAC is not bound to investigate all complaints and notifications that relate to serious corrupt conduct. IBAC must refer a matter to another body if the functions of that body are relevant to the matter and it would be more appropriate for that body to investigate the matter.

Committee divided on amendment:

Ayes, 18

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

Noes, 20

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

Pairs

Darveniza, Ms	Atkinson, Mr
---------------	--------------

Amendment negated.

Clause agreed to.

Progress reported.

Business interrupted pursuant to sessional orders.

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

That the sitting be extended.

House divided on motion:

Ayes, 20

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

Noes, 18

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

Pairs

Atkinson, Mr	Darveniza, Ms
--------------	---------------

Motion agreed to.

The DEPUTY PRESIDENT — Order! As members know, my view in relation to extended sittings is that there ought to be some appropriate breaks. I am advised that members feel relatively confident we can complete this bill by 11.00 p.m. If that is the case, we will continue on. If by, say, 10.45 p.m. I feel that we are not likely to make that deadline, then I may review that view. We will continue.

**INDEPENDENT BROAD-BASED
ANTI-CORRUPTION COMMISSION
AMENDMENT (EXAMINATIONS)
BILL 2012**

Committee

Resumed from earlier this day.

Clause 21

Hon. M. P. PAKULA (Western Metropolitan) — I have only a couple of questions in relation to clause 21. The first is in regard to new section 82B, 'Conduct of examinations', which makes it clear that IBAC is not bound by the rules of evidence and may regulate the procedure of the examination as IBAC considers appropriate. My question quite simply is: can an IBAC staff member conduct an examination if they are requested to do so or delegated the task by the Commissioner, the deputy commissioner or an acting commissioner?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Deputy President, I will take that question on notice, with the permission of the chamber. The advisers are getting the appropriate answer for Mr Pakula. Maybe we can continue on and I will endeavour to get that answer to him as soon as possible.

Hon. M. P. PAKULA (Western Metropolitan) — I thank the minister. If I could suggest then, Deputy

President, that perhaps adoption of clause 21 might have to go to the end of the process.

The other question in regard to clause 21 relates to new section 82G, which talks about witness summons. I am just wondering whether a person summonsed before IBAC would be able to adjourn an examination or seek an adjournment of an examination to obtain legal advice once the examination has commenced.

The DEPUTY PRESIDENT — Order! Mr Pakula raised a suggestion that we defer clause 21 until we get the answer.

Hon. M. P. PAKULA (Western Metropolitan) — No, sorry, just the ultimate adoption of it.

The DEPUTY PRESIDENT — Order! That is okay. But there are further amendments to clause 21 which we need to deal with. If we do not have the answer by then, I will come back to Mr Pakula and allow him to put that proposition at that point.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I apologise to Mr Pakula. The advisers are working on his previous question, and they have requested that Mr Pakula restate his second question.

Hon. M. P. PAKULA (Western Metropolitan) — My second question was in regard to a person summoned before the IBAC. The scenario is: if the initial summons is not entirely detailed, and an examination commences and then at some point during the examination the person forms the view that they require legal advice or assistance, will they be able to seek to have the examination adjourned while they get legal advice?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice on the second question is that it would be a matter for the IBAC Commissioner to determine. However, the advice is that of course they would give the opportunity for that witness to be able to seek legal representation during their examination.

Ms PENNICUIK (Southern Metropolitan) — My question goes to new section 82O at pages 55 and 56 and particularly subsection (4), which in part states:

The IBAC must direct that an independent person be present during the examination of a witness if —

... the IBAC believes the witness has a mental impairment ...

I am concerned about the issue of someone with an intellectual disability having an independent person

present not having been provided for in the legislation. Could the minister explain that aspect?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am reading it literally as the bill states:

The IBAC must direct that an independent person be present during the examination of a witness if —

... the IBAC believes the witness has a mental impairment; or

... the witness provides the IBAC with reasonably satisfactory medical evidence that the witness has a mental impairment.

I thought that would have been self-explanatory as to the processes the IBAC must undertake in relation to new section 82O.

Ms PENNICUIK (Southern Metropolitan) — I suppose my question is about the term ‘mental impairment’. Is that meant to cover a person with an intellectual disability as well as a person with a mental illness? That is certainly not usually the case.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The point of the provision — as queried by Ms Pennicuik — outlined in new section 82O is that where a person is unable to understand the questions themselves, the provisions are designed to ensure that there is appropriate support for such a person as part of the examinations.

Ms PENNICUIK (Southern Metropolitan) — In essence, anybody who is unable to understand or needs an independent person present will be able to have that; is that what the minister is saying?

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

The DEPUTY PRESIDENT — Order! Does Ms Pennicuik wish to proceed with her amendment?

Ms PENNICUIK (Southern Metropolitan) — Yes, I do, Deputy President.

The DEPUTY PRESIDENT — Order! Just before that, are we able to proceed with the amendment without the answer to the earlier question being sought by Mr Pakula?

Ms PENNICUIK (Southern Metropolitan) — Yes.

The DEPUTY PRESIDENT — Order! Before calling Ms Pennicuik to move her amendment 4, we will take an answer from the minister.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In relation to the original question about delegation, the amendments to section 26 of the IBAC act provide that the power to hold an IBAC examination cannot be delegated below the IBAC Commissioner, deputy commissioner or CEO. The conduct of that examination is a matter for the IBAC to determine. These amendments are created by clause 11 of the bill, which makes amendments to section 26 of the IBAC act, which currently reads:

- (2) The Commissioner, by instrument, may delegate to a senior IBAC Officer who is not the holder of an office specified in subsection (1) any duty, function or power of the Commissioner under this Act or any other Act other than —

- (a) a duty, function or power —

under certain sections as outlined, including section 82A, which relates to examinations.

The DEPUTY PRESIDENT — Order! If there is nothing further on the clause so far, I ask Ms Pennicuik to move her amendment 4 to clause 21, which I regard as a test for her amendments 5, 6 and 7.

Ms PENNICUIK (Southern Metropolitan) — I move:

4. Clause 21, page 43, lines 13 and 14, omit all words and expressions on these lines.

This simple amendment is to clause 21, which inserts new section 82C, on page 43 of the bill. It provides for examinations to be generally held in private but includes three grounds for public hearings: the first is exceptional circumstances; the second is when it is in the public interest to hold a public examination; and the third is when a public examination can be held without causing unreasonable damage to a person's reputation, safety or wellbeing.

Paragraphs (b) and (c), particularly (c), are the pertinent grounds to ensure that people's reputations are not unreasonably damaged, particularly because if they are not engaged in any wrongdoing, they can still suffer damage to their reputation by appearing in a public inquiry. That was put to us in the forum we had in this place that was sponsored by the Speaker regarding the IBAC. It is a concern, and people do need to be protected; however, it could also be in the public interest for many reasons to hold a public examination. There is a view, and I share this view, that by saying

that there needs to be exceptional circumstances for holding a public examination sets the bar too high, and that is certainly what the Law Institute of Victoria also says.

I agree with the Law Institute of Victoria and draw attention to the New South Wales Independent Commission Against Corruption Act 1988, section 31, which talks about the reasons for holding a public inquiry, as it is called there, and about the fact that the commission would do so if it were satisfied that it was in the public interest to do so. There are two other grounds: the benefit of exposing to the public and making it aware of corrupt conduct and the seriousness of the allegation or complaint being investigated — that is, the public interest; and the risk of undue prejudice to a person's reputation that might arise, which exists in this bill.

The reason for removing the words 'there are exceptional circumstances' in paragraph (a) is to bring it more in line with the ICAC legislation and to make it less restrictive in terms of the ability to hold a public examination. It is also to make sure that it is in the public interest to do so and that a person's safety, reputation or wellbeing will not be unduly or unreasonably damaged in so doing.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The effect of these proposed amendments is to remove the requirement that the IBAC must consider that exceptional circumstances exist in order to hold a public examination. The IBAC legislation states that examinations must be held in private unless exceptional circumstances exist. The government has determined that this is the appropriate setting. In many cases it may not be appropriate for IBAC to hold examinations in public — for example, the examination may include extremely sensitive information from covert investigative methods, such as telephone interception and surveillance devices. Sometimes the mere participation of a person at an examination that is public poses a real risk of unnecessary reputational harm, regardless of whether the person is eventually the subject of an adverse finding by IBAC.

However, where appropriate the IBAC may decide that the gravity and scale of conduct under investigation is exceptional and that there is a particular public benefit in exposing that conduct, through a public process, to a broad audience. The IBAC may also, for example, consider it in the public interest to hold an examination in public to provide a person who requests a public hearing the opportunity to be publicly heard.

There are other ways in which the IBAC may be able to inform the public. For example, it will be able to table a special report in Parliament at any time about any of its functions. Interestingly, we have seen former Labor Minister for Police and Emergency Services Andre Haermeyer say about the use of public hearings by the OPI, the body he set up, that:

So here's this brand spanking new body with all these powers and resources and it hadn't got any runs on the board ... suddenly they had to sort of show that they were capable of doing big things.

He went on to say that the OPI engaged in 'an outrageous and heavy-handed abuse of powers'.

Talking of big things, the coalition government is implementing the most far-reaching reforms to Victoria's anticorruption and public sector integrity system ever, and we see this as being in stark contrast to the previous government's 11 years of failed, bungled public sector integrity measures. Therefore we will not support the amendments.

Hon. M. P. PAKULA (Western Metropolitan) — Let me repeat what I have said before: gratuitous attacks on the opposition are always more effective when they are not read.

We will be supporting Ms Pennicuik's amendment because whilst it is possible to contemplate circumstances in which it would be appropriate for an examination not to be open to the public — we accept that — it should not be that matters are open to the public only when there are exceptional circumstances. We will support the amendment.

Amendment negated.

The DEPUTY PRESIDENT — Order! Ms Pennicuik's amendment 9 will be a test for amendment number 10, but amendment 8 seems to stand on its own.

Ms PENNICUIK (Southern Metropolitan) — After consultation with the opposition, I agree. I think that was a change to the amendment put in after I had done the amendments; therefore I will withdraw that amendment.

Amendment withdrawn by leave.

Ms PENNICUIK (Southern Metropolitan) — I move:

9. Clause 21, page 49, line 30, omit "issued." and insert "issued;".

This is a test for amendment 10, which is a substantive amendment. It inserts a new clause (c) on page 49, after line 30. This is with regard to the issue of witness summonses. It provides that within three days after the issue of a witness summons IBAC is required to give a written report to the Victorian Inspectorate on the name of the person summoned and the reasons the summons was issued. My amendment would add that if a witness summons does not state the nature of the matters about which a person to whom it is directed is to be questioned on the grounds specified in section 82G, the reasons for withholding information about the nature of those matters must be included in the report to the VI. That must be provided within three days.

This is very important because, as I was saying on a previous amendment, it is important for the inspectorate in terms of overseeing the activities of IBAC to not just know the name of the person and the reasons the summons was issued but also why any information was withheld from that witness. If the witnesses were not actually told why they were to be questioned, it would be quite serious to withhold that information from the witness. In order for the VI to do its job, it needs to be supplied with that information from IBAC.

Hon. M. P. PAKULA (Western Metropolitan) — As Ms Pennicuik states, the substantive amendment here is amendment 10. The opposition will be supporting amendment 10 and by extension amendment 9, because it is also our view that in the circumstances described, if a witness summons does not state the nature of the matters about which someone is to be questioned, then the person should at least be entitled to know why the nature of those matters is being withheld.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The effect of this proposed amendment is that if IBAC does not include in a witness summons the nature of the matters about which the witness is to be questioned — that is, on the grounds specified in section 82G(2) — IBAC must tell the Victorian Inspectorate the reasons for withholding that information from the witness. These amendments are not necessary. The government has long been on the record about the importance of ensuring that bodies that have significant powers, such as the IBAC, are subject to appropriate scrutiny.

The Victorian Inspectorate Amendment Act 2012 equips the Victorian Inspectorate with duties, functions and powers appropriate and necessary to ensure IBAC will itself be subject to robust oversight. This legislation gives the Victorian Inspectorate the broad ability to inquire into all aspects of IBAC's performance in its

functions, duties and the exercise of its powers. Such an investigation can occur regardless of whether an IBAC investigation is on foot or not. Pursuant to its powers under the Victorian Inspectorate Act 2011, if the Victorian Inspectorate wishes to do so in a particular case, it can obtain from IBAC its reasons for withholding from a summons the matters for which a person is to be questioned.

The Victorian Inspectorate is empowered to take a broad range of actions and make a broad range of findings, including relating to IBAC's process in arriving at a finding or recommendation. The Victorian Inspectorate could then recommend that IBAC reinvestigate or reconsider a matter or finding. IBAC is required to cooperate with the Victorian Inspectorate. The Victorian Inspectorate will be able to report to Parliament on the outcomes of its investigations, including on the failure of IBAC to follow a recommendation. The government will not be supporting the amendments proposed.

Ms PENNICUIK (Southern Metropolitan) — Just briefly, I think the minister was almost prosecuting my argument, which is that in order for the Victorian Inspectorate to oversee the activities of IBAC it needs to know what IBAC is doing. The best way for it to know what IBAC is doing is for IBAC to provide it with the information, and not for the VI to have to come looking for it later. This would make the job of the inspectorate easier and more straightforward. It would also impose some robustness on IBAC when it takes the view it is going to withhold the reasons from a witness as to why the witness is being summoned, and to have to provide those reasons.

The DEPUTY PRESIDENT — Order! I must say I concur with Ms Pennicuik that the insertion of the proposed paragraph (c) is the more substantive point over the removal of a full stop and the insertion of a semi-colon; but unfortunately that is the way it proceeds in the order. We may have a consideration of that, in terms of making the committee stage a little more sensible. I will seek advice from the clerks as to how we might be able to make that more logical for the purpose of discussion.

Amendment negatived.

Ms PENNICUIK (Southern Metropolitan) — I move:

11. Clause 21, page 54, after line 36 insert —

- “() Without limiting section 82B or 82Q, an Australian legal practitioner appointed by the IBAC in accordance with section 30(2) to assist it, or an

Australian legal practitioner representing a witness at an examination, with leave of the IBAC, may examine or cross-examine any witness on any matter that the IBAC considers relevant.”.

Amendment 11 will add a new subsection at the end of section 82M, which is on page 54 of the bill. This is a provision that is missing from the current bill. The bill as it currently is formed does not specify that a legal practitioner can do that.

Section 34, ‘Examination and cross-examination’, of the New South Wales Independent Commission Against Corruption Act 1988 states:

- (1) An Australian legal practitioner appointed by the Commission to assist it, or a person or a person's Australian legal practitioner authorised to appear at a compulsory examination or public inquiry, may, with the leave of the Commission, examine or cross-examine any witness on any matter that the Commission considers relevant.
- (2) Any witness so examined or cross-examined has the same protection and is subject to the same liabilities as if examined by the Commissioner or an Assistant Commissioner.

So the New South Wales ICAC act specifically states that a legal practitioner representing a witness can cross-examine any witness on any matter that the ICAC considers relevant. I think that an important provision missing from the Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012 is a provision that would enable legal representatives to do that.

Hon. M. P. PAKULA (Western Metropolitan) — The opposition will be supporting Ms Pennicuik's amendment. It is important that the Independent Broad-based Anti-corruption Commission Amendment (Examinations) Bill 2012 makes explicit these matters in regard to legal assistance, particularly when we are talking about a witness being examined. Those rights of examination and cross-examination are a fundamental part of what makes these types of hearings conform to general notions of natural justice and fairness.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank the members for their comments and for their submissions on the amendments put forward. The effect of the proposed amendment is to enable lawyers assisting IBAC or representing witnesses at an IBAC examination to examine and cross-examine any witness on any matter that the IBAC considers relevant. The government considers these amendments not necessary. The bill enables a witness at an IBAC examination to be represented by an Australian legal practitioner. The

bill further empowers the IBAC to regulate the procedure of the examination as the IBAC considers appropriate. If the IBAC deems it appropriate, an Australian legal practitioner representing a witness at an examination will therefore be able to examine or cross-examine a witness. On that basis we will not be supporting the amendment.

Ms PENNICUIK (Southern Metropolitan) — Is the minister saying, notwithstanding that the act does not specify that or enable it, that that will be the case?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — If the IBAC deems it appropriate is what I said.

Amendment negatived.

The DEPUTY PRESIDENT — Order! We are now going to move to some suggested amendments, those being amendments it is proposed the Council should suggest to the Assembly. Ms Pennicuik has three such amendments, and they are considered suggestions because they have financial implications. Ms Pennicuik's suggested amendment 1 is a test for her suggested amendments 2 and 3, which would amend clause 31.

Ms PENNICUIK (Southern Metropolitan) — I move:

That it be a suggestion to the Assembly that it make the following amendment:

1. Clause 21, page 70, lines 27 to 31 and page 71, lines 1 to 27, omit all the words and expression on these lines and insert —

- “(1) A witness appearing or about to appear at an examination before the IBAC may apply to the Attorney-General for legal or financial assistance.
- (2) The Attorney-General may approve the provision of legal or financial assistance to the applicant if of the opinion that it is appropriate having regard to any one or more of the following —
 - (a) the prospect of hardship to the witness if assistance is declined;
 - (b) the significance of the evidence that the witness is giving or appears likely to give;
 - (c) any other matter relating to the public interest.
- (3) On giving the approval, the Attorney-General may authorise provision to the witness of legal or financial assistance determined by the Attorney-General in respect of the appearance by the witness before the IBAC.

- (4) For the purposes of subsection (3), the Consolidated Fund is appropriated.
- (5) The assistance may be provided unconditionally or subject to any conditions determined by the Attorney-General.
- (6) The Attorney-General may delegate one or more of his or her functions under this section to the Secretary to the Department of Justice.”.

This amendment goes to the issue of legal assistance to witnesses appearing before the IBAC, which is covered in new section 82ZI on pages 70 and 71 of the bill. The provision of legal assistance under 82ZI is more restrictive than it is in the New South Wales Independent Commission Against Corruption Act 1988, for example. My amendment is very much based on section 52 of the New South Wales ICAC act, which states:

- (1) A witness who is appearing or about to appear before the Commission may apply to the Attorney-General for legal or financial assistance.

The amendment I have prepared is very similar to the provisions in section 52 of the New South Wales ICAC act. My amendment provides that:

- (2) The Attorney-General may approve the provision of legal or financial assistance to the applicant if of the opinion that it is appropriate having regard to any one or more of the following —
 - (a) the prospect of hardship to the witness if assistance is declined;
 - (b) the significance of the evidence that the witness is giving or appears likely to give;
 - (c) any other matter relating to the public interest.

It also goes to the point that there is a fund provided, which is separate from legal aid, that is for the purpose of providing legal assistance to witnesses who appear before the IBAC. That is why it is a suggested amendment, as it would require an appropriation. It is interesting to note that in proposed section 82ZI(5), legal assistance, as it is referred to, means payment to an Australian legal practitioner or a prescribed person or body for legal advice and representation provided to a person appearing as a witness in an examination. That does not refer to a fund being set up, though there must be some money coming from somewhere — it is not clear here from where — but it does indicate the legal practitioner would be paid by IBAC for appearing for the witness.

The other part of this provision that I am attracted to is regarding hardship to the witness, the significance of the evidence and the public interest being criteria by

which the Attorney-General would approve the provision of a legal practitioner. As it stands, I think the bill is not as strong in that regard. Given that people appearing before an examination are subject to coercive powers and subject to the abrogation of the right against self-incrimination et cetera, it is important that there is strength in the bill in terms of provision of legal advice to those people, some of whom will not understand what is happening to them or the seriousness of their appearance at such an examination. I do not think the provisions in the bill at the moment are enough in favour of the witness.

Hon. M. P. PAKULA (Western Metropolitan) — The opposition will support suggested amendment 1. We agree that the amendment drafted by Ms Pennicuik which would replace a number of lines of the existing bill makes clearer the matter of the provision of legal or financial assistance both in terms of the question of who would be the approving body for that legal assistance — in the case of this amendment the Attorney-General — and in terms of where the financial support would come from and the circumstances in which the Attorney-General may consider agreeing to provide that support.

We think it is appropriate that these sorts of provisions be as clear and as explicable as possible. As Ms Pennicuik makes clear, there are often very serious matters at stake, and if there are persons appearing before the IBAC who do not have means and are not able to properly understand their rights, then the provision of legal or financial assistance should be not only provided for in the bill but should be easily understood and provided with the greatest possible clarity. We think the suggested amendment is preferable to the current wording of the bill.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The suggested amendment 1 removes the current wording of the clause, which allows a witness in the examination to apply for a grant of legal assistance to a prescribed person, and replaces it with a new regime to seek legal assistance from the Attorney-General. The government sees these suggested amendments as not being necessary. New section 82ZI inserted in the principal act by clause 21 of the bill sets out that a person appearing as a witness may apply for legal assistance in connection with their examination. This may be approved subject to conditions on the assistance to be provided. Further provisions regarding legal assistance, including the person to whom an application may be made, will be included in regulations in due course. Accordingly we do not support the suggested amendments by Ms Pennicuik.

Ms PENNICUIK (Southern Metropolitan) — Given the minister's answer, can he elucidate on what may be provided in regulations with regard to this issue?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I indicated, further provisions regarding legal assistance will be included in regulations in due course.

Ms PENNICUIK (Southern Metropolitan) — Can the minister say whether that would go to the criteria et cetera that I spelt out, for example, in the ICAC act?

The DEPUTY PRESIDENT — Order! While the minister is getting some advice, I note that it is 10 minutes to 11.00 p.m., and it is unreasonable to expect staff to continue working without any breaks beyond 11.00 p.m., but I am happy to adjust my view on these things if we are very close.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The matters referred to by Ms Pennicuik are outlined in the 2011 IBAC act. Section 111, 'Regulations', outlines specific matters on page 170, and in particular on page 171 refers to:

- (bk) for the purposes of section 82ZI, persons who can approve legal assistance.

Ultimately this is a matter for future regulations, ones which are not before the house.

Suggested amendment negated.

Clause agreed to; clauses 22 to 31 agreed to.

New clause

Ms PENNICUIK (Southern Metropolitan) — I move:

12. Insert the following New Clause to follow clause 31 —

“A New section 112 inserted

After section 111 of the **Independent Broad-based Anti-corruption Act 2011 insert —**

‘112 Review of Act

- (1) The Minister must cause to be carried out a review of the operation and effectiveness of this Act as soon as practicable after 3 years from the date that it comes into operation.
- (2) The Minister must cause a copy of a report of the review under subsection (1) to be laid before each House of the Parliament within 4 years after the commencement of this Act.’”

This is based on a review clause similar to section 226 of the Western Australian Corruption and Crime Commission Act 2003 to the effect that there be a review after three years and a report after four years. Again, in preparing my amendments I referred to commissions existing in other states that are tried and true. Given the problems that have been identified with this bill and previous bills, it does need to have a formal review process.

Hon. M. P. PAKULA (Western Metropolitan) — The minister would recall that we started this committee stage with me asking him about a review after 12 months. I heard the minister's answer where in response to my question he gave his view about both a one-year review and a three-year review, and I am sure we are about to hear it again. In any case, the opposition has already signalled that it believes, given the fact that the government is creating something new with a lot of powers and with a number of question marks still hanging over IBAC, as it will ultimately be constituted, most of which I referred to during the second-reading debate, it is appropriate for this body to be reviewed after a reasonable period of time. Earlier this evening the opposition asked whether the government would do it after one year, but we are more than happy to support an amendment which suggests that it should be done after three years.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I acknowledge Mr Pakula's reference to this being discussed in clause 1. To cut the discussion short, given the time, these amendments are not necessary, and, as I indicated earlier, as with any legislation the government will review the IBAC legislation periodically and make any necessary amendments as required by future circumstances. Therefore we do not support the amendment moved by Ms Pennicuik or the matters raised by Mr Pakula.

Committee divided on amendment:

Ayes, 18

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

Noes, 20

Coote, Mrs	Koch, Mr
Crozier, Ms	Kronberg, Mrs
Dalla-Riva, Mr	Lovell, Ms

Davis, Mr D.	O'Brien, Mr
Davis, Mr P.	O'Donohue, Mr
Drum, Mr	Ondarchie, Mr (<i>Teller</i>)
Elsbury, Mr	Petrovich, Mrs
Finn, Mr (<i>Teller</i>)	Peulich, Mrs
Guy, Mr	Ramsay, Mr
Hall, Mr	Rich-Phillips, Mr

Pairs

Darveniza, Ms	Atkinson, Mr
---------------	--------------

Amendment negatived.

Clauses 32 to 36 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

The DEPUTY PRESIDENT — Order! The question is:

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

House divided on question:

Ayes, 35

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

Noes, 3

Barber, Mr (<i>Teller</i>)	Pennicuik, Ms (<i>Teller</i>)
Hartland, Ms	

Pairs

Atkinson, Mr	Darveniza, Ms
--------------	---------------

Question agreed to.

Read third time.

PRODUCTION OF DOCUMENTS

The Clerk — I have received a letter dated 22 May 2012 from the Minister for Planning.

Letter at page 2586.

ADJOURNMENT

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

That the house do now adjourn.

Department of Premier and Cabinet: regional offices

Mr LENDERS (Southern Metropolitan) — The matter I raise tonight is for the attention of the Premier, and it concerns his commitment prior to the 2010 election to establish regional offices of the Department of Premier and Cabinet in five separate towns around Victoria. Whether these are front-line offices or not I am not sure, but the Premier made a commitment to establish them.

In particular I refer the Premier to a media release on 1 November 2010 from then Nationals candidate and now member for Gippsland East in the Assembly, Tim Bull. Mr Bull outlined the Premier’s announcement that a Liberal-Nationals government would establish a satellite office of the Department of Premier and Cabinet in Bairnsdale. In fact Mr Baillieu committed to establish five offices — in Geelong, Ballarat, Bendigo, Seymour and Bairnsdale — incidentally all in marginal seats. To date only two offices, Bendigo and Ballarat, have been opened. The Premier’s office did not seem to know about them when a Traralgon resident rang earlier this week, but the Department of Premier and Cabinet website states that they are part of a pilot and will be subject to a review. It sounds very like this government.

The action I seek from the Premier is that he confirm whether he is still going to honour his election commitment and actually open an office of his department in Bairnsdale, and that he advise members of the East Gippsland community when they can expect that to happen. Or is this just another broken election promise?

City of Port Phillip: charity bins

Mrs COOTE (Southern Metropolitan) — My adjournment matter this evening is for the Minister for

Environment and Climate Change, the very excellent Minister Smith.

Mr Finn — He is doing a very good job.

Mrs COOTE — Indeed he is, Mr Finn; he is doing an excellent job. I was extremely pleased to see that the minister has made a \$2 million commitment to ease the illegal dumping burden on charities. It is really important to understand this. I am sure all of us have seen those very effective charity bins in all parts of our electorates. I know Mr Lenders is here in the chamber this evening, and he will understand that particularly in and around St Kilda and the city of Port Phillip there are many charity bins and the charities that operate these bins do a fantastic job. They do an extraordinarily good job; however, there is a lot of stuff that is just dumped there. We have seen the old televisions, the broken tables and chairs et cetera, and it is a major problem.

The issue is that the last government introduced legislation to schedule annual increases in the landfill levy, but it failed to provide assistance to charities to deal with the cost of the consequences of this sort of rubbish that is dumped and that the charities have to deal with. The reality is that members of this government, and Mr Smith particularly, have listened to the charities; we understand what a huge issue it is for them and we have put our money where it is needed — that is, we have allocated \$2 million to ease the illegal dumping burdens on charities. The package includes \$500 000 for efforts to help charities stem the flow of illegally dumped waste and \$1.5 million for the landfill levy relief for rubbish that they are left with no choice but to send to landfill.

This is a terrific initiative. Certainly within the city of Port Phillip I know there are a lot of charity bins and a lot of stuff gets dumped by people because it is an electorate that turns over people very quickly in the single-bedroom apartments et cetera. A lot of this stuff is just dumped on the street outside these charity bins and left for the charities to deal with. I ask the minister specifically this evening to approach the City of Port Phillip with this excellent initiative, to explain the ramifications and advise the Port Phillip City Council that it can tell all the charities within the city of Port Phillip exactly how good this process is.

Belmont Primary School: expansion

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is for the Minister for Education, and it is in relation to Belmont Primary School and the opportunity for its grounds to be

extended. Belmont primary is currently at full capacity and has a long waiting list. The school has wonderful facilities, but it lacks outdoor space for children to play in. Currently a residential block which abuts Belmont Primary School at 44 Regent Street is on the market. Adding this block to the primary school would square up the schoolground and provide a much-needed playing space for the school. As the existing small playing space is used on a limited basis during the holidays and on weekends, extending the school's outdoor grounds could also be an opportunity to potentially develop a community facility with the involvement of the City of Greater Geelong.

Belmont Primary School is an excellent school, and it is vital that the grounds be developed commensurate with this standard so that the children can run around, play ball, kick the footy and play cricket, particularly in these times of concern about childhood obesity. The overwhelming response from the local community has been strong and positive. Within hours of the 'For sale' sign going up on the property there was a petition circulated, and 150 signatures were received within the first 24 hours calling for a larger play space for the school. With 44 Regent Street being on the market, it provides a rare opportunity that must be seized immediately.

I therefore ask the minister to seriously consider the option of the Department of Education and Early Childhood Development purchasing this land to create the much-needed extra recreational area for Belmont Primary School.

Department of Human Services: performance

Mr LEANE (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Community Services, Ms Wooldridge. Recently I had some constituents approach me — —

Hon. D. M. Davis — That was novel!

Mr LEANE — It was actually not novel. I had some constituents approach me with some concerns. They have a sibling with a number of disabilities who is in public care, and they have a belief that their sibling has been interfered with by a staff member. Their issue is that they are not happy with the way the Department of Human Services has approached or dealt with their concerns, and they feel they need a higher authority to assist them and at least listen to their concerns to see if this matter can be approached in another manner.

The action I seek from the minister is that she meet with these people as soon as she possibly can so she can

hear firsthand their concerns about the way the department has dealt with this matter. Because of the nature of this matter, if the minister at the table is agreeable, I would like to pass on the contact details of the individuals directly to Minister Wooldridge tomorrow so that no-one is named and there are no links to the actual facility, out of fairness to everyone involved.

Point Cook: swimming pool

Mr FINN (Western Metropolitan) — I wish to raise a matter for the attention of the Minister for Sport and Recreation. I am aware that Minister Delahunty is certainly no stranger to the growing suburb of Point Cook, and he is aware that it is a thriving metropolis. I know that the minister is also aware that the lack of services in Point Cook is a result of the failure of the previous government to provide for the needs of the people of that suburb as it has been allowed to grow. There are a huge number of families suffering under the legacy of the Bracks and Brumby Labor governments, which took the money and ran. They took the land tax, they took the stamp duty, they took everything they could get their hands on, but they gave precious little back.

I know that the minister cannot fix the daily gridlock on Point Cook Road or on any of the other roads throughout Point Cook and that he cannot provide more public transport, but he can help with something that is very much on the list of wants in Point Cook. There is an overwhelming demand for a swimming pool in Point Cook, and that was made obvious to me, Mr Elsbury and Minister Guy when we met with Wyndham City Council last Thursday afternoon.

Furthermore, it is made overwhelmingly clear to me when I walk through the streets of Point Cook and speak to shopkeepers, shoppers and those on the streets of Point Cook. It is very clear to me that a swimming pool is something that is highly desirable for the Point Cook area. I am aware that the government has provided a little over \$3 million for a swimming pool in the city of Wyndham, but that is on the other side of Wyndham. The people at Point Cook will not really get an opportunity to avail themselves of that pool when it is opened.

It is important to keep in mind that Wyndham is now the fastest growing municipality in Australia. As a result, obviously there are a number of young families in particular who are moving there to start a life and buy their first homes, and they are in need of the sort of services and facilities that people in more established areas perhaps take for granted. I am really thinking at

this point that it is time to right the wrongs of the past, to put the years of neglect by the Bracks and the Brumby governments behind us and to give the people of Point Cook — and the children of Point Cook in particular — a wonderful leisure facility. So I ask the Minister for Sport and Recreation to give favourable consideration to providing funding for the building and the opening of a swimming pool in Point Cook as soon as is humanly possible.

Wallan-Kilmore bypass: route

Ms BROAD (Northern Victoria) — My adjournment matter is for the attention of the Minister for Roads. On 1 May Mr Mulder advised me that:

The coalition government promised that it would consider a bypass between the Hume Freeway and a connection to the Northern Highway at a point to the north of the Kilmore township in response to concerns raised by the Kilmore and Wallan communities. The government is now delivering on that promise.

Mr Mulder further advised:

A community consultation group has been formed to represent the broader community views and will work with VicRoads through the planning investigation stage.

On 4 May I attended a meeting at 1 Hunts Road, Kilmore, with residents, community representatives and members of the community consultation group (CCG), who are deeply concerned about the impact of proposed bypass routes to the east of Kilmore that would go through people's homes, through the horse precinct, through environmentally sensitive areas and along local roads. Those in attendance on 4 May expressed their outrage that information provided by the government to the CCG has not been made available to affected communities, placing members of the CCG in an invidious position. I was requested to seek from the minister authorisation for the CCG to make available to the communities of Kilmore and Wallan the information regarding proposed bypass routes provided to the CCG by the government.

Accordingly the action I seek from the Minister for Roads is that he agree, as a matter of urgency, that information regarding proposed bypass routes provided to the CCG be provided to the affected communities. I further note that Mr Mulder has advised me that:

The community will also have the opportunity to make a submission to an independent planning panel as part of the formal approval process, prior to a final decision on the bypass route.

Given that Mr Guy's office has advised the community that the bypass is not a state planning issue, that it is

unable to schedule a meeting with Mr Guy and that the community should contact the Minister for Roads to discuss it further, Mr Mulder should also explain to the community what independent panel approval process he is referring to.

The DEPUTY PRESIDENT — Order! In calling the Leader of the Government, whilst Mr Finn in his contribution did ask for specific action — I acknowledge that, and I ask the Leader of the Government to respond to that — some of his comments verged on rulings around the issues of set speeches. I would prefer that we do not get into that process in the response to the adjournment matter raised.

Responses

Hon. D. M. DAVIS (Minister for Health) — I can indicate to the chamber tonight that there are 24 written responses to adjournment debate matters raised: Mr Finn on 8 November 2011; Ms Tierney and Mrs Coote on 14 March 2012; Ms Pennicuik and Mr Eideh on 15 March; Mr Finn on 27 March; Mrs Coote on 28 March; Mrs Petrovich on 29 March; Mr Lenders, Mrs Coote, Ms Crozier, Ms Mikakos and Mr Leane on 17 April; Mr Lenders, Mrs Coote, Ms Hartland, Ms Darveniza, Ms Mikakos and Mr Elasmarr on 18 April 2012; and Mr Finn, Mr Ramsay, Mr Lenders, Mr O'Donohue and Mrs Petrovich on 19 April.

Tonight I have had a matter raised with me by Mr Lenders for the attention of the Premier concerning regional offices of the Department of Premier and Cabinet in five towns around Victoria. I have no doubt the government intends to keep its commitments, and I will pass that matter to the Premier.

Mrs Coote raised a matter for the attention of the Minister for Environment and Climate Change regarding illegal dumping and the burden on charities and she named a specific program which I am honestly not familiar with, but I will pass it to the minister for him to explain the initiative and approach to the City of Port Phillip, a city which both Mrs Coote and I are very familiar with, as is Mr Lenders.

Ms Tierney raised the matter of the Belmont Primary School and indicated that the capacity of the school had been exceeded. There are space problems, a lack of outdoor sporting facilities and related matters, and she asked that the purchase of a property neighbouring the school be considered by the Department of Education and Early Childhood Development. I note that the previous government appears not to have addressed this

issue over 11 years, but I will dutifully pass this matter to the Minister for Education.

Mr Leane raised a matter for the Minister for Community Services, Ms Wooldridge. It was a matter that he outlined in some detail without naming the persons or the family involved, and I have no doubt that Minister Wooldridge would be pleased if he made the material available to me to follow up and see what assistance can be provided for what he indicates is a serious matter.

Mr Finn raised a matter for the attention of the Minister for Sport and Recreation concerning Point Cook and the lack of services — specifically a pool. He noted that there was a pool on the other side of Wyndham provided by the local council at a cost of \$3 million as I understand it, but he indicates it is some distance away. Of course the local council will be looking at providing services in a balanced way across the municipality, but he seeks my passing of this matter to the Minister for Sport and Recreation, and I will do so. I note that the lack of services in Point Cook has been raised in the chamber a number of times.

Ms Broad raised a matter for the attention of the Minister for Roads concerning the Kilmore bypass and indicated that a community consultation group had been provided with information that she sought to be passed to a broader group. I am obviously not familiar with the details of the bypass or how the matter is being consulted on in the community. I can indicate that Minister Mulder is certainly giving it his attention, and I will pass this matter to him.

The DEPUTY PRESIDENT — Order! The house now stands adjourned.

House adjourned 11.30 p.m.



**Minister for Public Transport
Minister for Roads**

PO Box 2797
Melbourne
Victoria 3001
Telephone: (03) 9095 4330
Facsimile: (03) 9095 4483
www.vic.gov.au
DX 210410

Mr Wayne Tunnecliffe
Clerk of the Legislative Council
Parliament House
EAST MELBOURNE VIC 3002

Dear Mr Tunnecliffe

Order for documents – New Street Brighton Railway Crossing

I refer to the Legislative Council's resolution of 26 October 2011 seeking the production of:

Any safety assessments, advice received, reports or related documents held by the Department of Transport or the Transport Safety Regulator, including any received since November 2010, regarding the manual gates and railway crossing at New Street, Brighton.

I also refer to my letters to you dated 5 November 2011 and 25 March 2012 advising that the Government required additional time to respond to the resolution.

The Government has conducted a thorough and diligent search to identify the documents relevant to the Legislative Council's resolution.

I enclose with this letter all of the documents that have been identified by the Government as relevant to the terms of the Legislative Council's resolution.

Some of the enclosed documents contain personal information, such as the names and contact details of individuals. In the interest of personal privacy, and in accordance with normal practice, these details have been excluded. I respectfully request that the Council not insist on the production of this personal information.

Yours sincerely

Hon Terry Mulder MP
Minister for Public Transport

20/5/2012



Minister for Planning

1 Spring Street
Melbourne Victoria 3000
GPO Box 2392
Melbourne Victoria 3001
Telephone: (03) 9938 5990
Facsimile: (03) 9938 5949
DX210292

Our Ref: CIC000202
File: 09/002874-01

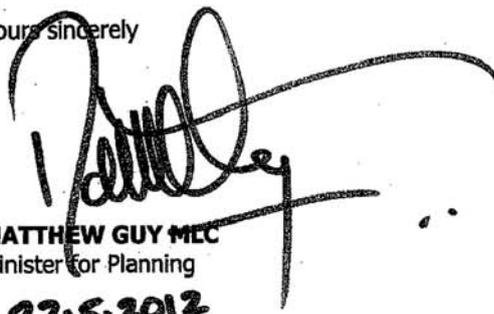
Mr Wayne Tunnecliffe
Clerk of the Legislative Council
Parliament House
EAST MELBOURNE VIC 3002

Dear Mr Tunnecliffe

I refer to the Legislative Council's resolution of 14 March 2012 and the subsequent resolution of 2 May 2012 seeking the production of a copy of the Ports and Environs Advisory Committee Report.

As required by the Council's resolution, a copy of the report is enclosed.

Yours sincerely


MATTHEW GUY MLC
Minister for Planning

22.5.2012

Enc

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Information Privacy Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Manager Privacy, Department of Planning and Community Development, GPO Box 2392, Melbourne, 3000.



**Minister for Planning**

1 Spring Street
Melbourne Victoria 3000
GPO Box 2392
Melbourne Victoria 3001
Telephone: (03) 9938 5990
Facsimile: (03) 9938 5949
DX210292

Our Ref: CIC000202
File: 09/002874-01

Mr Wayne Tunnecliffe
Clerk of the Legislative Council
Parliament House
EAST MELBOURNE VIC 3002

Dear Mr Tunnecliffe

Wayne

I refer to the Legislative Council's resolution of 14 March 2012 and the subsequent resolution of 2 May 2012 seeking the production of a copy of the Ports and Environs Advisory Committee Report.

Further to this resolution, please find enclosed additional documentation to be tabled, as required by the Council's resolution.

Yours sincerely

MATTHEW GUY MLC
Minister for Planning

22.5.2012

Enc

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the *Information Privacy Act 2000*. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Manager Privacy, Department of Planning and Community Development, GPO Box 2392, Melbourne, 3000.

