PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Wednesday, 28 July 2010

(Extract from book 11)

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The Lieutenant-Governor

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Legislative Council committees

Legislation Committee — Mr Atkinson, Ms Broad, Mrs Coote, Mr Drum, Ms Mikakos, Ms Pennicuik and Ms Pulford.

Privileges Committee — Ms Darveniza, Mr D. Davis, Mr Drum, Mr Jennings, Ms Mikakos, Ms Pennicuik and Mr Rich-Phillips.

Select Committee on Train Services — Mr Atkinson, Mr Barber, Mr Drum, Ms Huppert, Mr Leane, Mr O'Donohue and Mr Viney.

Standing Committee on Finance and Public Administration — Mr Barber, Mr Guy, Mr Hall, Mr Kavanagh, Mr Rich-Phillips, Mr Tee and Mr Viney.

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

Joint committees

Dispute Resolution Committee — (*Council*): Mr D. Davis, Mr Hall, Mr Jennings, Mr Lenders and Ms Pennicuik. (*Assembly*): Mr Batchelor, Mr Cameron, Mr Clark, Mr Holding, Mr Lupton, Mr McIntosh and Mr Walsh.

Drugs and Crime Prevention Committee — (*Council*): Mrs Coote, Mr Leane and Ms Mikakos. (*Assembly*): Ms Beattie, Mr Delahunty, Mrs Maddigan and Mr Morris.

Economic Development and Infrastructure Committee — (*Council*): Mr Atkinson, Mr D. Davis and Mr Tee. (*Assembly*): Ms Campbell, Mr Crisp, Mr Lim and Ms Thomson.

Education and Training Committee — (*Council*): Mr Elasmar and Mr Hall. (*Assembly*): Mr Dixon, Dr Harkness, Mr Herbert, Mr Howard and Mr Kotsiras.

Electoral Matters Committee — (*Council*): Ms Broad, Mr P. Davis and Mr Somyurek. (*Assembly*): Ms Campbell, Mr O'Brien, Mr Scott and Mr Thompson.

Environment and Natural Resources Committee — (*Council*): Mr Murphy and Mrs Petrovich. (*Assembly*): Ms Duncan, Mrs Fyffe, Mr Ingram, Ms Lobato, Mr Pandazopoulos and Mr Walsh.

Family and Community Development Committee — (*Council*): Mr Finn and Mr Scheffer. (*Assembly*): Ms Kairouz, Mr Noonan, Mr Perera, Mrs Powell and Mrs Shardey.

House Committee — (*Council*): The President (*ex officio*), Mr Atkinson, Ms Darveniza, Mr Drum, Mr Eideh and Ms Hartland. (*Assembly*): The Speaker (*ex officio*), Ms Beattie, Mr Delahunty, Mr Howard, Mr Kotsiras, Mr Scott and Mr K. Smith.

Law Reform Committee — (*Council*): Mrs Kronberg and Mr Scheffer. (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan, Mr Foley and Mrs Victoria.

Outer Suburban/Interface Services and Development Committee — (*Council*): Mr Elasmar, Mr Guy and Ms Hartland. (*Assembly*): Mr Hodgett, Mr Langdon, Mr Nardella, Mr Seitz and Mr K. Smith.

Public Accounts and Estimates Committee — (*Council*): Mr Dalla-Riva, Ms Huppert, Ms Pennicuik and Mr Rich-Phillips. (*Assembly*): Ms Graley, Mr Noonan, Mr Scott, Mr Stensholt, Dr Sykes and Mr Wells.

Road Safety Committee — (*Council*): Mr Koch and Mr Leane. (*Assembly*): Mr Eren, Mr Langdon, Mr Tilley, Mr Trezise and Mr Weller.

Rural and Regional Committee — (*Council*): Ms Darveniza, Mr Drum, Ms Lovell, Ms Tierney and Mr Vogels. (*Assembly*): Mr Nardella and Mr Northe.

Scrutiny of Acts and Regulations Committee — (*Council*): Mr Eideh, Mr O'Donohue, Mrs Peulich and Ms Pulford. (*Assembly*): Mr Brooks, Mr Burgess, Mr Carli, Mr Jasper and Mr Languiller.

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Mr P. Lochert

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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Leader of the Opposition:
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Deputy Leader of the Opposition:
Ms WENDY LOVELL

Leader of The Nationals:
Mr PETER HALL

Deputy Leader of The Nationals:
Mr DAMIAN DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
Barber, Mr Gregory John	Northern Metropolitan	Greens	Lovell, Ms Wendy Ann	Northern Victoria	LP
Broad, Ms Candy Celeste	Northern Victoria	ALP	Madden, Hon. Justin Mark	Western Metropolitan	ALP
Coote, Mrs Andrea	Southern Metropolitan	LP	Mikakos, Ms Jenny	Northern Metropolitan	ALP
Dalla-Riva, Mr Richard Alex Gordon	Eastern Metropolitan	LP	Murphy, Mr Nathan[2]	Northern Metropolitan	ALP
Darveniza, Ms Kaye Mary	Northern Victoria	ALP	O'Donohue, Mr Edward John	Eastern Victoria	LP
Davis, Mr David McLean	Southern Metropolitan	LP	Pakula, Hon. Martin Philip	Western Metropolitan	ALP
Davis, Mr Philip Rivers	Eastern Victoria	LP	Pennicuik, Ms Susan Margaret	Southern Metropolitan	Greens
Drum, Mr Damian Kevin	Northern Victoria	Nats	Petrovich, Mrs Donna-Lee	Northern Victoria	LP
Eideh, Mr Khalil M.	Western Metropolitan	ALP	Peulich, Mrs Inga	South Eastern Metropolitan	LP
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Pulford, Ms Jaala Lee	Western Victoria	ALP
Finn, Mr Bernard Thomas C.	Western Metropolitan	LP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Guy, Mr Matthew Jason	Northern Metropolitan	LP	Scheffer, Mr Johan Emiel	Eastern Victoria	ALP
Hall, Mr Peter Ronald	Eastern Victoria	Nats	Smith, Hon. Robert Frederick	South Eastern Metropolitan	ALP
Hartland, Ms Colleen Mildred	Western Metropolitan	Greens	Somyurek, Mr Adem	South Eastern Metropolitan	ALP
Huppert, Ms Jennifer Sue[1]	Southern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Theophanous, Hon. Theo Charles[3]	Northern Metropolitan	ALP
Kavanagh, Mr Peter Damian	Western Victoria	DLP	Thornley, Mr Evan William[4]	Southern 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
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vogels, Mr John Adrian	Western Victoria	LP

[1] Appointed 3 February 2009
[2] Appointed 9 March 2010
[3] Resigned 1 March 2010
[4] Resigned 9 January 2009

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Wednesday, 28 July 2010

The PRESIDENT (Hon. R. F. Smith) took the chair at 9.33 a.m. and read the prayer.

The PRESIDENT — Order! As is my wont, I bring to the attention of the house the birthday boys — Mr Viney and Mr Drum. Mr Drum is 50. That is a half-century — the only half-century Mr Drum ever kicked!

PETITIONS

Following petitions presented to house:

Torquay: secondary college

To the Legislative Council of Victoria:

The petition of certain residents of Torquay and other persons draws to the attention of the Legislative Council the need for full secondary education in Torquay.

We, the undersigned petitioners, bring to the attention of the Legislative Council of Victoria the following:

1. With a population exceeding 14 500 Torquay and surrounds is the only rural town in Victoria of this size without complete secondary education.

2. The current situation of exporting Torquay children to Geelong to complete their secondary education is unacceptable.

3. Any future plan to provide complete secondary education in Torquay should recognise a clear separation between primary and secondary school campuses.

4. The current Torquay college site on Grossmans Road is not preferred for a full secondary college because:

   Grossmans Road already suffers from traffic congestion.

   Grossmans Road is already overcrowded, with two schools, a kindergarten and a maternal health-care centre.

   Grossmans Road also accommodates the State Emergency Service, Country Fire Authority and Ambulance Victoria.

   The possibility of students driving to school in year 12 should be considered.

   The land available at Grossmans Road will not allow for full P–12 educational infrastructure and suitable sport and recreational facilities.

By Mr KOCH (Western Victoria) (317 signatures).

Laid on table.

Police: Neighbourhood Watch

To the members of the Legislative Council:

The petition of certain citizens of the state of Victoria brings to the attention of the Legislative Council our opposition to the misguided state government changes to the accessibility of crime statistics for Neighbourhood Watch.

The petitioners believe that availability of local crime statistics on a street-by-street basis is an essential component of the Neighbourhood Watch program.

Local crime statistics on a street-by-street basis foster ownership of the Neighbourhood Watch program by local communities and enable vigilance and support of community safety activities. We oppose the proposed change to crime statistics only being available on a postcode basis.

The petitioners therefore call on the Legislative Council to urge Premier John Brumby, the minister for police, Bob Cameron, and all local Labor MPs to reverse their decision which ends vital access of Neighbourhood Watch to street-by-street crime statistics, undermining the Neighbourhood Watch program and the ability of the community to support this important and respected program and community safety.

By Mr DRUM (Northern Victoria) (11 signatures).

Laid on table.

Rail: Talbot service

To the Honourable the Speaker and members of the Legislative Council of Victoria in Parliament assembled:

The petition of the undersigned citizens of Talbot and the state of Victoria draws to the attention of the Legislative Council the need for the town of Talbot to be included in the reinstated Maryborough to Ballarat passenger rail service.

The petitioners therefore request that the Parliament of Victoria instruct the Minister for Public Transport to ensure that the passenger rail service stops at Talbot railway station and directs the attention of honourable members to the following:

currently there are no plans for Talbot to be included in the proposed passenger rail service;

Talbot (then Back Creek) is the nearest town to the place where the first Australian gold rush began and is in a unique position to attract tourists and visitors on those grounds;

the decision to bypass Talbot is discriminatory and unfairly disadvantages its elderly and low-income residents;

the decision to bypass Talbot will affect Talbot's growth and development plans, especially in the areas of tourism and local businesses;

Talbot is currently poorly serviced by public transport and any special or chartered trains will not be permitted to stop at Talbot until the station is upgraded;

a passenger train service that stops at Talbot will significantly reduce the cost of transport, fuel

consumption, greenhouse gas emissions and air pollution caused by private motor vehicles;

Talbot railway station only requires minor modifications to become a fully operational railway station again and the current tenant agrees to those modifications.

Your petitioners therefore in duty bound will ever pray.

By Ms HARTLAND (Western Metropolitan) (408 signatures).

Laid on table.

Computer games: classification

To the Legislative Council of Victoria:

The petition of citizens of the state of Victoria draws to the Legislative Council's attention community concern about the inadequacy of the current classification system used for computer games.

As games are frequently purchased and/or played by teenagers under 18 years of age and at varied levels of maturity, the petitioners urge the adoption of a more rigorous classification to regulate games that include violence, explicit sexual material, depict the use of drugs, criminal activities or cruelty.

Your petitioners request that the Legislative Council urge the Victorian Attorney-General to support the introduction of a classification system that would prevent minors from seeing or playing games that are offensive or that include content that is dangerous or objectionable.

By Mr ATKINSON (Eastern Metropolitan) (104 signatures).

Laid on table.

Environment: Blackburn site

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the Legislative Council's attention community concern about the contaminated Caltex site at 22–24 Blackburn Road, Blackburn, which has been vacant and derelict for 12 years.

The petitioners note that the Brumby state government and the Environment Protection Authority have failed to resolve issues related to the contamination of oil and groundwater over that 12-year period and have not finalised and implemented a remediation works program.

In consideration of the environmental contamination and the negative impact on customer perception and loss of amenity for businesses, staff, customers, visitors and commuters using the Blackburn shopping centre, your petitioners therefore request that the state government and the Environment Protection Authority take immediate action to have the site cleaned up and remediated.

By Mr ATKINSON (Eastern Metropolitan) (132 signatures).

Laid on table.

Planning: height controls

To the Legislative Council of Victoria:

The petition of citizens of the state of Victoria draws to the Legislative Council's attention community concern about the failure of the Minister for Planning and the Brumby government to provide planning certainty to residents, businesses and property owners in regard to limits on the height of new developments and redevelopments following the expiration of interim height controls.

The petitioners note that the Minister for Planning has established a pattern of calling in and determining significant development proposals, including high-rise projects, overriding local municipal planning assessments, limiting consultation and ignoring community objections on projects that are out of character with local neighbourhoods and business centres.

Your petitioners request that the Legislative Council call on the Minister for Planning and the state government immediately to provide planning certainty to the community by re-establishing height controls.

By Mr ATKINSON (Eastern Metropolitan) (19 signatures).

Laid on table.

ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE

Manufacturing in Victoria

Mr D. DAVIS (Southern Metropolitan) presented report, including appendices, together with transcripts of evidence.

Laid on table.

Ordered that report be printed.

Mr D. DAVIS (Southern Metropolitan) — I move:

That the Council take note of the report.

In doing so I note that this is an important inquiry into manufacturing in Victoria. It is an important part of the Victorian economy, an important sector that needs to be fostered, developed, strengthened and supported.

This report of the Economic Development and Infrastructure Committee has been a long while in genesis, but it is a report that has a measure of bipartisanship about it. In particular I pay tribute to the chair, Christine Campbell, the member for Pascoe Vale in the other place, and Mr Bruce Atkinson, both of whom have done a great amount of work on this inquiry. Mr Atkinson's longstanding knowledge of small business has proved invaluable to the inquiry, and

I want to place on record an acknowledgement of the work he has undertaken.

I also want to note the work of the committee staff, Dr Vaughn Koops, Ms Yuki Simmonds and Ms Shanthi Wikramasurya, who have worked hard on this inquiry. We certainly owe them a significant debt.

It is important to place on record, as we table this report and note the spirit in which it has been arrived at and the bipartisan set of recommendations it makes that seek to strengthen the position of manufacturing in Victoria, that there is a significant crisis in this sector. Victoria's manufacturing sector has declined. A report commissioned by the government itself, which I obtained under freedom of information and provided to the committee during the process, points out that Victoria is no longer the largest manufacturing state in the country and that over the last decade there has been a significant decline in Victoria's position in manufacturing.

There is no getting around the facts of that and the challenges that are faced, but this report is a valuable step in providing guidance to governments of whatever stripe that may be in power into the future to strengthen, foster and support manufacturing because of its importance and the central position it holds in the Victorian economy.

Mr ATKINSON (Eastern Metropolitan) — It is probably fitting that only the Liberals are contributing to this commendation of the report, because unfortunately most Labor members of the committee were AWOL throughout the proceedings of the inquiry. No doubt they were busy with other undertakings. Nevertheless, as David Davis has said, we regarded this as a particularly important inquiry, because Victoria is the manufacturing hub of the nation and has a rich and proud heritage in manufacturing, and the ambition of the government is, we were led to believe, and certainly the ambition of the opposition is, to continue to develop opportunities for the manufacturing sector.

In making those remarks I pay tribute to the member for Pascoe Vale in the other place, Christine Campbell, for her work as chair of the committee. She did an outstanding job. Her efforts in seeking further submissions from people who are active in the manufacturing sector and would have had specific experiences to contribute to the report were outstanding. Members might be a bit surprised at my opening remarks, but on many occasions when this committee met for public hearings the only two members present were Christine Campbell and me. That was a bit embarrassing in terms of the Parliament's presentation to witnesses who made themselves available to come to the committee hearings. On other occasions the member for Clayton in the other place, Hong Lim, and David Davis also attended, but it was not the best representation of the Parliament at some of the inquiry hearings.

Nonetheless, the contribution that was made by many witnesses has resulted in a very good report. Clearly it is not the only report on the manufacturing industry. When we sat down to start this inquiry one of the things that concerned us was that there have been many inquiries into and reviews of the manufacturing sector. The challenge for us was to establish some area where we could contribute to the debate in a new and effective way. The areas we pursued and the recommendations we made were very much about trying to establish a way forward for manufacturing. As Mr Davis said, the report was certainly adopted as a bipartisan report with the support of all members. That was an important achievement of the inquiry.

There is no doubt that Victorian manufacturing is a lot healthier than many people would tend to believe. I think the common perspective in the community is that the manufacturing sector is dead. The old Mark Twain expression, 'The reports of my death have been greatly exaggerated', occurs to me because the manufacturing sector has some great success stories which are contemporary success stories and, more importantly, success stories that are likely to take this state forward and create many significant opportunities for Victoria and Victorians.

The manufacturing sector has certainly moved away from the dirty end of town, and the impressions that many people had of grimy shop floors are long gone. As people like Ms Tierney, who has come from a background in the automotive industry, would know, today many manufacturing premises are clean, computerised environments that require skilled workforces. Some of our recommendations go to those skills issues.

Some of our concerns in terms of the evidence received by the committee was in relation to the ability of the manufacturing sector to attract more young people with skills because of the perception that their career teachers, parents and even the broader community might have that manufacturing has a limited future. Obviously young people were not necessarily lining up manufacturing as the area where they could do their thing and make a real contribution. We think the manufacturing sector very much needs to present this new image of what it is today, particularly advanced manufacturing in areas like materials, aeronautics,

pharmaceuticals and so forth, and get across its message that it does have a very bright future and that some people out there are doing some extraordinary things in terms of their development and innovation.

We looked at a number of government programs to advance the manufacturing sector, and the committee was certainly concerned about the complexity of some of the grants programs, particularly as they relate to smaller enterprises. In other words, whilst there are a number of programs out there, we did not believe there was a clear understanding by the sector of exactly what was available and where they would fit in if they were looking for funding support. We have certainly been keen to achieve some streamlining of some of those programs and a greater degree of collaboration between the federal and state governments.

We also had particular concern about the finance available to small business. We note in newspaper reports of late the squeeze that banks have put on credit lending to companies, particularly in the manufacturing sector, which often has to bear significant inventory costs as well as wages costs. Some manufacturing businesses have a cyclical program for their production over a year. Obviously the cash flow in those businesses and their ability to fund inventories et cetera is very important. We have reflected on the financing of small businesses, and we hope there might be a greater appreciation by the financial sector of the contribution the manufacturing sector can continue to make to Victoria.

I commend the staff of the committee for the work they did on this report. Their efforts were quite impressive in terms of assembling witnesses and going through what is a significant number of existing reports into the manufacturing sector to ensure that we produced something new and contemporary and did not simply rehash work that had been done by other committees. I commend them for their work, and like Mr Davis, I pay compliments to Christine Campbell for her work as chair of this committee.

Motion agreed to.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Report 2009–10

Mr DALLA-RIVA (Eastern Metropolitan) presented report.

Laid on table.

Ordered to be printed.

Mr DALLA-RIVA (Eastern Metropolitan) — I move:

> That the Council take note of the report.

The Public Accounts and Estimates Committee annual report for 2009–10 is the committee's final annual report to be presented in the 56th Parliament. In presenting it I make the point that, as was indicated to me, it is a record first annual report to be tabled in Parliament this year, thanks to the extraordinary efforts of the PAEC secretariat.

An honourable member interjected.

Mr DALLA-RIVA — Written and authorised by those I now refer to. I say thank you very much to the secretariat, to Valerie Cheong; to the senior research officers Vicky Delgos, Leah Brohm and Christopher Gribbin; the research officer Ian Claessen; a range of secondees and temporary staff; specialist adviser Joe Manders; desktop publisher Mitch Marks; and another person who had to deal with overall business support, business support officer Melanie Hondros. We really appreciate their work because if you go through this report, as was indicated earlier, you will see the huge amount of work that has been undertaken by this committee.

It is interesting to follow on from Mr Atkinson's comments about the lack of involvement at committee level in the significant and important issue of manufacturing. If you look at the corresponding attention to meetings and the number of public hearings you see that, for example, at page 30, in one financial year 237 witnesses appeared before the committee in hearings, 9 reports were tabled, 195 recommendations were made, 9 submissions were received and 58 public hearings were held. It gives you an idea of the workload that PAEC continues to do.

It was also interesting to note that because of that increased workload identified a number of years ago by the then Premier, Mr Bracks — Mr Pakula may recall those public hearings — there was a commitment for additional funds to support — —

Hon. M. P. Pakula interjected.

Mr DALLA-RIVA — Now he denies it. You can tell he is the public transport minister. All jokes aside, the issue there is that there was a commitment for additional funds for PAEC, and I note that Mr Stensholt, the committee chair, the Labor member for Burwood in the other place, in the final statements in his foreword thanks the committee and says:

> It remains my view and that of the committee that the structure and remuneration arrangements for the PAEC secretariat are inadequate.

I think this notion that committees are all the same because they are within the committee framework, after the amendments by the government a number of years ago in the previous Parliament, and that this committee does the same workload as, for example, the Economic Development and Infrastructure Committee that was spoken of earlier is incorrect — there is no comparison. There is no comparison with the amount of work that is undertaken by PAEC. As I indicated earlier by reference to the number of hearings, meetings and public interest in terms of the relationship we have with the Auditor-General and the audit subcommittees, there is a whole raft of things that go on. Once you have been in PAEC — I know Mr Rich-Phillips has been there since last century, back in 1999, and he will make his contribution but he would agree — you understand that this committee is a fairly significant committee to be maintained and provided with the necessary support.

I would urge the clerks and those who are responsible for the administration of this committee to give due consideration to the important work that it does and to understand that this is not a level playing field in committee workload and work output. There are significant issues attached to the fact that it reviews the budget — a budget of $43 billion or $44 billion and the estimates and everything else. It is important to put that on the record, and it was reaffirmed by the chair in the foreword to this report.

Again this year it was good to see that we had a rigorous process on the review of the budget, which I will not go through because a number of the committee members will speak on that today. There is also some additional work in progress. At 30 June, as listed, we still have to do the inquiry into budget estimates part 3. We have introduced a system with parts 1, 2 and 3, although the analysis could perhaps be a bit better. There is the ongoing inquiry into Victoria's Audit Act, and that is a big and significant issue given the responsibilities under the act. The Audit Act was amended in 1994 and a review of the act is timely. It is interesting to note from the consultation process that there is a considered view not only within Australia but elsewhere about how Victoria has led the way on a number of financial reporting issues in going from the old system to the new system, taking into account public-private partnerships and assessing how we manage the budget into the forward estimates.

Obviously we also have to do the review on the findings and recommendations of the Auditor-General's reports. We undertake the follow-up reviews, and not many members would know this. Listed on the notice paper for tabling today are a number of the Auditor-General's reports. The committee reviews those reports to determine whether there has been application of and attention by the government to the recommendations in those reports. That procedure is an overarching scrutiny not only of the Auditor-General but also of the departments and their performance. As well as that, there are some other issues such as financial audits et cetera.

I thank all involved for the work that has contributed to the tabling in Parliament of the very first annual report to be tabled after the end of the financial year, as has been brought to my attention, ahead of those of the Ombudsman and the Auditor-General.

Ms HUPPERT (Southern Metropolitan) — I rise to make a few comments regarding the annual report of the Public Accounts and Estimates Committee for 2009–10. I also join in congratulating the secretariat, ably led by Valerie Cheong, on its work in getting the report to the Parliament so quickly.

This report provides a great opportunity to showcase the very busy year the Public Accounts and Estimates Committee has had. There have been nine reports tabled in Parliament, reflecting the broad range of activities of the committee, from the public accounts and estimates function to the auditing function. As we have heard, the work we have been doing this year included the committee continuing its inquiry into the Audit Act. It has followed up on the reports from the Auditor-General, and it has also had the process of budget estimates hearings and reviewing the budget papers.

This important committee plays a significant role in ensuring the continuing accountability and transparency of government. I thank all those who participated in the work of the committee this year, including the secretariat, which I have already mentioned; the witnesses who appeared before the committee in public hearings, both here and during our trip to New Zealand; and also my colleagues, the members of the committee. I particularly pay tribute to the chair of the committee, the member for Burwood in the other place, Bob Stensholt, who has done a sterling job of managing the work of the committee over the last 12 months.

Again I point out that this is a very important committee, and it is a delight to see that it is the first to have its annual report tabled in Parliament today.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I rise to make some brief remarks on

the annual report of the Public Accounts and Estimates Committee and mainly to associate myself with the remarks made by Mr Dalla-Riva. It is important to note that this is the first annual report covering the 2009–10 financial year to be tabled. The committee has always encouraged other agencies and indeed other committees to ensure that they produce timely annual reports. PAEC has been producing its own annual report for a number of years now, and I am pleased that its annual report is the first to be tabled in Parliament following the conclusion of the financial year.

Mr Dalla-Riva spoke about the resourcing issues for the committee. As long as I have been a member of PAEC, resourcing has been an ongoing issue, as has getting the overarching administration of the Parliament to recognise the role played by PAEC and the need for that role to be recognised with appropriate resourcing. As the annual report notes, the committee continues to be challenged in terms of attracting appropriate staff. We are very fortunate to have an excellent, well-skilled committee secretariat. The reality is that we are always looking to supplement that secretariat with more skilled people. That continues to be a problem in terms of recruiting additional people at the salary bands that are made available to us through parliamentary administration. As the annual report notes also, we continue to have a vacancy for a senior researcher position because we are simply not able to attract further quality candidates at the salaries that are made available. Again, it goes to the overall question of resourcing.

The report sets out the work program of the committee over the past 12 months: 75 meetings in total, including deliberative meetings. As Ms Huppert noted, to run that hearing program, the committee relies upon the cooperation of a large number of witnesses. I take this opportunity to thank those people, the majority of whom are members of the public service across various agencies and departments. The committee recognises that their appearance before the committee requires a great deal of preparation and the committee is appreciative of the work they do in preparing for those hearings.

In conclusion, I thank Valerie and her team for all the work they have done over the past 12 months. The committee could not produce the amount of work it does to the standard it does without the strong support it receives from Valerie and her team. We are very well supported by our secretariat. We are very fortunate to have such a high quality secretariat. I simply reiterate the need for parliamentary administration to recognise the quality of the members of that secretariat and ensure that they are remunerated appropriately and that the secretariat can continue to recruit people of a high standard to continue the work of the committee.

Ms PENNICUIK (Southern Metropolitan) — I too am pleased to speak briefly on the annual report of the Public Accounts and Estimates Committee. I start by also acknowledging the hard work that is done on behalf of the committee by the committee secretariat, led by Valerie Cheong. I echo what Mr Dalla-Riva, Ms Huppert and Mr Rich-Phillips have said — that is, that none of the reports 88 through to 96 which this annual report lists could have been tabled in Parliament without the hard work of the secretariat. Its members do the majority of the work, which is overseen by the committee. The actual hard yards are done by the members of the secretariat. I want everybody to be in no doubt about that and about our appreciation of their work and also their cheerful disposition in carrying out that work.

At page 33 people can see the reports tabled by the committee. They are the report on the budget estimates part 2; last year's annual report; reports 91 and 93, which are reviews of the recommendations of the Auditor-General's reports; the discussion paper for the inquiry into Victoria's Audit Act; report 94, the *Report on the 2008–09 Financial and Performance Outcomes*; report 95, the report on the appointment of persons to conduct the financial audit of the Victorian Auditor-General's Office; and the reports on this year's estimates parts 1 and 2. As Mr Rich-Phillips pointed out, they have come from some 75 meetings of the committee. It is certainly the busiest committee of the Parliament.

I have made my criticisms of the Public Accounts and Estimates Committee in that certainly it is the Greens position that this committee should not be chaired by a member of the government, and during the estimates process there are an awful lot of Dorothy Dix questions and government propaganda. Notwithstanding those comments and views that I still hold and would repeat, a lot of useful and very important information is provided by this committee to the Parliament regarding the budget and the finances of the state of Victoria.

The chair of the committee has been committed to improving financial reporting. In report no. 88 there were 53 recommendations made to the government on how improvements to financial and resource management and accountability in the public sector can be strengthened. We still struggle with government members to get them to agree to some of the recommendations PAEC has put forward. Notwithstanding my criticisms of the committee and some of the processes of budget estimates, there are

also some inroads into strengthening accountability and reporting that have come from the work of this committee. I commend the report to the house and the people of Victoria.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Auditor-General's reports on —

Portfolio Departments: Interim Results of the 2009–10 Audits, July 2010.

Taking Action on Problem Gambling, July 2010.

Duties Act 2000 —

Treasurer's report of exemptions and refunds arising out of corporate consolidations for 2009–10.

Treasurer's report of exemptions and refunds arising out of corporate reconstructions for 2009–10.

Essential Services Commission — Review of Accident Towing and Storage Fees Final Report, June 2010.

Statutory Rules under the following Acts of Parliament:

Guardianship and Administration Act 1986 — No. 69.

Victorian Civil and Administrative Tribunal Act 1998 — No. 68.

Subordinate Legislation Act 1994 — Minister's exception certificate under section 8(4) in respect of Statutory Rule No. 68.

NOTICES OF MOTION

Notices of motion given.

Mr TEE having given notice of motion:

Mr D. Davis — On a point of order, President, I consider that the motion that has been put forward may not conform with the rules of the house and may be ultra vires in the sense that it seeks to refer something that is beyond the capacity of the Ombudsman to deal with. I ask you, President, to seek some ruling or consider this very closely in light of the precise wording of the motion.

Mr Tee — On the point of order, President, there are two issues here. Firstly, President, you have previously made it clear that your jurisdiction, as it were, is in relation to the standing orders, not in terms of providing legal advice to the house about the powers of the Ombudsman, which is really at the heart of the objection that Mr Davis raised. Mr Davis said this is outside the jurisdiction of the Ombudsman. That is, consistent with your previous ruling, not really a matter for you, President, in that provided it is consistent with standing orders it is a matter for the Ombudsman to determine whether an issue is within his jurisdiction.

Secondly, President, if you were of a mind to consider the jurisdiction of the Ombudsman, section 16 of the Ombudsman Act is very clear. It says that where a matter is referred to him by the Legislative Council 'the Ombudsman shall, notwithstanding anything to the contrary in this act, forthwith investigate that matter and report thereon'. So even if you, President, are of a mind to consider this matter, the jurisdiction is clear.

Mr D. Davis — Further to the point of order, President, I draw your attention to the Ombudsman Act 1973, section 13, on functions and jurisdiction, subsection (1) of which says:

> The principal function of the Ombudsman shall be to enquire into or investigate any administrative action taken in any Government Department or Public Statutory Body to which this Act applies or by any member of staff of a municipal council. The Ombudsman shall, notwithstanding anything to the contrary in this Act, forthwith investigate that matter and report thereon.

In that context, this does not deal with members of Parliament or councillors, and there are other avenues if the member wants to seek things.

Mr Hall — On the point of order, President, I listened to what Mr Tee said, but I believe this is an important decision for the chamber itself to make, not the Ombudsman, because the Ombudsman Act is clearly an act of this Parliament and indeed it was framed so that it does not give carte blanche approval for the Parliament to refer any matter whatsoever to the Ombudsman. Any matter that the Parliament refers to the Ombudsman must fit within the functions of the Ombudsman.

Honourable members interjecting.

Mr Hall — I invite those who are interjecting from the other side to have a look at the act, in particular section 13, which talks about the functions and the jurisdictions of the Ombudsman. It says very clearly in section 13(1):

> (1) The principal function of the Ombudsman shall be to enquire into or investigate any administrative action taken in any Government Department or Public Statutory Body to which this Act applies or by any member of staff of a municipal council.

Further, if members look at subsection (3) of section 13, they will see that the act says:

> (3) Nothing in this Act shall authorize the Ombudsman to enquire into or investigate any administrative action taken —
>
> …
>
> (e) by a municipal council or a councillor of a municipal council acting as such.

It is important that the Parliament be able to make references to the Ombudsman, but only if they fall within the functions and jurisdictions set out in the Ombudsman Act 1973. This resolution is a grubby attack on individuals, but moreover it is unconstitutional according to sections 13 and 16 of the Ombudsman Act. It is important that we, as a house of Parliament, make a decision as to whether this is appropriate and not leave it to the Ombudsman.

In supporting this point of order I suggest that it is unconstitutional to refer the matter which Mr Tee has put forward to the Ombudsman for his consideration.

The PRESIDENT — Order! I am of the view that this debate would go on for quite some time if it were allowed to continue. I express the view that I am not particularly concerned about the first part of the notice of motion, but I am not at all clear as to the second part. I will seek advice and come back to the house with a response.

Mr DALLA-RIVA having given notice of motion:

Mr Viney — On a point of order, President, I draw your attention to rulings described in *May's Parliamentary Practice* about the length of a notice of motion — I think the guideline is about 250 words. This guideline is to prevent members doing what was just done: trying to enter an essay into the record. Moving a notice of motion on such a wide range of topics and in excess of the number of words in the general guideline for a notice of motion should be ruled out of order.

Mr D. Davis — On the point of order, President, whilst there are guidelines on this matter, there is latitude where detailed material is required, where matters that are precisely connected are involved and where it is clear that the detailed allegations that are being sought for examination need to be put down in a precise format.

The PRESIDENT — Order! On the point of order, as the clerks have not seen the notice of motion we are not clear as to whether it exceeds the recommended number of words cited in *May*. It was extensive, but I will wait until I receive the notice of motion before I make a ruling.

Mr Tee — On a subsequent point of order, President, there is an inconsistency in approach with the previous order in relation to my notice of motion; the President is taking a completely opposite approach in this matter.

The PRESIDENT — Order! We are going to try to kill this off. If we continue on, it will descend into farce. I am fascinated that I earlier ruled that I would seek advice as to whether or not the notice of motion that was moved could be dealt with before the house, and Mr Tee now seems to contradict that ruling. I will not comment on what it is about. I will seek advice on a ruling for Mr Tee's notice of motion as well.

Mr Viney — On the point of order, President, this relates partially to your advice that you will consider the matter in relation to its word length. In connection with that matter I put to you that you give consideration as to how it would be possible for the house to debate a matter that had such a lengthy list of unrelated topics. I ask you to consider that some guidelines be given as a ruling from the Chair as to how a notice of motion is framed so that the house has some capacity to debate the range of issues listed.

The PRESIDENT — Order! I have said that I will take both notices of motion into account and all the points of order that have been made, in particular those raised by Mr Viney. I will get back to the house on these matters.

Further notice of motion given.

MEMBERS STATEMENTS

Hoon driving: government policy

Mr DALLA-RIVA (Eastern Metropolitan) — I was having my Weeties this morning and almost choked when I read on page 11 of the *Herald Sun*, 'Hoons' cars to go under the hammer'. This was a reform that was supposedly brought out by the Minister for Police and Emergency Services, Mr Cameron. The article says:

> Car crushing will begin today under tough new anti-hoon laws.

I thought, 'Hang on, I have seen that before'. I thought I would go back and, yes, there was a policy that we announced back on 20 January — 'Baillieu government to crush hoon driving with tough new laws'. I thought,

'Gee'. I then went to the *Age* and I saw this whiteboard with its reference to 'the cheese'.

The government's approach to policy is to attack the opposition, to copy its policies and then to come into places like this with grubby motions, as we heard earlier. That is the way it is going to win government! No, it is not. In fact, so far it has stolen 66 of our policies, because it is policy bereft. It has no idea of what to do. It has a transport system that is out of control. Now it has a whiteboard on which it is trying to work out a strategy; that strategy is 'Attack the opposition. That will win us government'. No, it will not. No more; people are sick of it. People want to have real action, real policies and a real agenda.

Bring it on, in my view. Keep on putting out the phoney press releases on car crushing laws, which are just bunkum. We know the government has this whiteboard in operation and it is just trying to get the cheese. Keep bringing it on, because it is getting pretty mouldy.

Climate change: Gippsland

Mr SCHEFFER (Eastern Victoria) — I commend the Brumby government on the Victorian climate change white paper and its commitment to support working people in Gippsland who will be affected by the adjustment to a low-carbon economy. Today the Minister for Regional and Rural Development, Jacinta Allan, and the Minister for Energy and Resources, Peter Batchelor, will be in Morwell to talk to people in the Latrobe Valley about the Victorian climate change white paper and how it will both challenge and benefit Gippsland.

People in the Latrobe Valley are amongst the most knowledgeable in Australia on the causes and impacts of climate change because they live close to the open-cut mines and the generators that produce Victoria's power that drives our economy and our prosperity. Gippslanders understand that fossil fuels contribute to carbon emissions and global warming. They also know that their livelihood depends on the energy industry and are understandably cautious about changes that may harm their capacity to earn a living. They have seen industry restructure before and know that they can become worse off.

However, I am certain that Gippslanders are ready to support reform because our government is prepared to provide practical support to help them retrain and move into new areas of employment. The climate change white paper recognises that the Latrobe Valley is the centre of Victoria's electricity generation sector and that energy adjustment will directly affect people. The white paper's Latrobe Valley Advantage Fund will promote skills development programs and support new industries in the valley as well as new research into sustainable resource management, low energy emissions and alternative uses of coal.

Attorney-General: conduct

Mr FINN (Western Metropolitan) — Brendan Donohue told us last night on Channel 7 that the Deputy Premier and Attorney-General, Rob Hulls, sees cheese as the panacea to all the government's electoral problems. I suppose that should not be surprising coming from a man who often presents himself as a rat with a gold tooth. His response to this chamber's request — —

Mr D. Davis — On a point of order, Acting President, the member over there, Mr Murphy, just took a photograph in the chamber. There was a flash across. I understand that members of the public are not entitled to take photographs in the chamber. You may find it interesting to see groups of MPs discussing — —

Hon. M. P. Pakula — He said it was an accident.

Mr D. Davis — No, he took it. There was a flash.

The ACTING PRESIDENT (**Mr Leane**) — Order! I ask the member whether it was an accident.

Mr Murphy — Yes, it was an accident.

The ACTING PRESIDENT (**Mr Leane**) — Order! It will not happen again. I ask the member to delete whatever it was.

Mr FINN — People have been known to queue up to take photos of me.

The ACTING PRESIDENT (**Mr Leane**) — Order! I ask Mr Finn to clarify whether he referred to the Deputy Premier as 'a rat with a gold tooth'.

Mr FINN — No, what I said was he presents himself quite often as a rat with a gold tooth.

The ACTING PRESIDENT (**Mr Leane**) — Order! I ask the member to withdraw that.

Mr FINN — I do not know what is going on with this place sometimes. It is covering up all sorts of things, but I am happy to withdraw it if that is the desire of the Chair.

The ACTING PRESIDENT (**Mr Leane**) — Order! I ask the member not to reflect on the Chair and to withdraw the comment.

Mr FINN — I would never dream of reflecting on the Chair. In response to this chamber's request for information and cooperation the response from the Attorney-General is invariably, 'Stiff cheddar'. Let me give Rob Hulls some advice: if he seeks electoral Nirvana, he should forget the lactose-laden dairy products. He should seek guidance from the good people of Niddrie, who find his social engineering program quite appalling. They are sickened by his experimentation with children that sees them as nothing but guinea pigs who grow up with two mums or two dads. The people of Niddrie have not forgotten it was Rob Hulls's initiative that gave Victoria abortion on demand up until the moment of birth — and in some cases beyond.

It is just not good enough. I can assure you that nobody in Victoria will easily forgive Rob Hulls for taking justice out of our justice system as he continues to stack every level of the judiciary with his civil libertarian mates. When Victorians are finished with Rob Hulls in November of this year — I can assure you and I can assure Victoria — he will have plenty of time for cheese tasting.

Australian Labor Party: communist members

Mr KAVANAGH (Western Victoria) — Earlier this month Bob Carr publicly praised the Democratic Labor Party as being fundamentally correct in its assessment of the infiltration of the ALP by communists. He wrote:

> … the bombshell … is the system of dual membership of the ALP and the CPA, something long suspected but now spelt out by the ASIO documents …
>
> The implications are huge.

He added that the revelations vindicate the Democratic Labor Party and said:

> … the DLP indictment of the ramshackle Labor Party … was mostly right.

He says the evidence is that probably two Whitlam government ministers were also members of the Communist Party.

Mr Carr is also reported as saying:

> Calwell accommodated himself to the communist-dominated Victorian state ALP executive and finally, absurdly, joined in even while serving as federal leader.

An editorial in the *Australian* says that Frank Hardy, among other people, was accepting money from the Soviet Union for his propaganda work in Australia, but this is not widely known because of the Marxist domination of history faculties.

By its nature communism inherently means mass murder and an economic backwardness to the point of widespread cannibalism. For a long time the efforts and concerns of anti-communists have been ridiculed with the phrase 'Reds under the beds', but the truth is that the documents show that Communist Party members were not under the beds but were in the universities and also in the halls of political power, including the party executives, Australian parliaments and cabinet rooms under the aegis of the ALP after 1955.

It is a disgrace that this issue has not been taken up by the press in Victoria; it has been totally ignored.

Regional and rural Victoria: performing arts tours

Ms DARVENIZA (Northern Victoria) — I was delighted on 7 July to attend the Bell Shakespeare production of *Twelfth Night* at the Westside Performing Arts Centre at Mooroopna. This is a gender-bending mayhem of a love story, and yet behind the fun and the laughter is a strong story of survival and identity, which in this performance had the contemporary setting of a bushfire recovery centre. There was one set depicting a recovery centre following the devastating Black Saturday bushfires. The donated clothes and household articles became costumes and props. The cast were bushfire survivors, including firefighters.

That first-class performance was just one of many exhibitions of fine performing arts that can be enjoyed, thanks to the Brumby Labor government's commitment to providing opportunities for Victorians to experience the arts wherever they live through the Labor government's Touring Victoria arts program.

Regional Victoria already has a thriving art scene, and these tours ensure that communities get to experience some of the best Victorian talent around. There is everything from poetry in Port Fairy and Daylesford to musical theatre in Mildura and Mallacoota and contemporary dance in Swan Hill, Hamilton and Portland. We have seen regional tours, including the Melbourne Chamber Orchestra, the Australian Centre for Contemporary Art, Spontaneous Broadway and the Polyglot Puppet Theatre.

Our Major Touring Initiative is designed to get our flagship contemporary art in front of regional

audiences. We have seen regional tours by the National Gallery of Victoria, Orchestra Victoria, the Australian Ballet and the Australian Centre for the Moving Image.

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

Attorney-General: conduct

Mrs PEULICH (South Eastern Metropolitan) — I was not surprised but still disappointed to learn that the Deputy Premier of the state, who is also the Attorney-General, had a large whiteboard in his room with only a few words placed on that whiteboard to spell out his winning election policy. The key point was the fact that a cheese and a trap had to be found. I am not surprised to see imagery such as this being invoked by the man who has often been associated with lots of dirty tricks, unfortunately. The metaphors he invoked in that imagery are appropriate to sum up his contribution to public life and important policy areas in justice.

It is a confession of failure. It is a confession that this government is on the nose; that it is tired, it has run out of ideas, its policy is full of holes, its effect is mouldy and detrimental to the community, just like a stale piece of gorgonzola or blue vein cheese tucked away at the back of the fridge and concealed by pâté de foie gras and bottles of champagne — this corrupt government has been having a party at the expense of Victorians. This government is on the nose, and the whiteboard is evidence of that.

Portland: harbour upgrade

Ms TIERNEY (Western Victoria) — On 29 June I joined the Minister for Regional and Rural Development in Portland to announce a $4.6 million upgrade to the Portland harbour. The Brumby Labor government will contribute $3.1 million to the project under the Regional Infrastructure Development Fund, with the remaining $1.5 million from the Glenelg shire. This upgrade will ensure that Portland benefits from the full potential of its tourism appeal. It will allow for larger cruise ships to stop over in Portland, resulting in passengers spending their tourism dollars in Portland.

The upgrade will also build on Portland's fishing industry, allowing for new berthing facilities which can cope with larger vessels to accommodate higher-end recreational fishing. As well as benefiting the commercial fishing industry in Portland, this upgrade is expected to generate almost 200 jobs when the facilities are fully operational, with an extra 66 jobs over the two-year construction phase.

Western Victoria: timber harvest coordinator

Ms TIERNEY — On another matter, the Minister for Regional and Rural Development also announced $100 000 to employ a timber harvest coordinator, who will assist the Southern Grampians and Glenelg shires with the blue gum harvests in the area. Timber harvesting in the region is expected to create up to 2000 jobs over the next five years. A report by Buchan Consulting estimates that this project will inject an extra $20 million into the region.

This project is just another example of the Brumby Labor government's commitment to rural and regional Victoria through its support of infrastructure, tourism and industry.

Marine parks: conservation priority review

Ms PENNICUIK (Southern Metropolitan) — Last weekend the Victorian National Parks Association (VNPA) released its latest conservation review, *Marine Conservation Priorities and Issues for Victoria*, which looks at the need to better protect Victoria's marine environment. It was conducted over two years by Australian Marine Ecology, a scientific organisation specialising in marine ecological research.

Based on this new research the VNPA has called for the state government to undertake a comprehensive independent, science-based assessment of Victoria's marine habitats' values and threats; complete a detailed statewide action plan to address marine pests, pollution and climate change impacts; introduce new marine planning legislation to protect and manage Victoria's marine area; and create a new Victorian marine and coastal council with an expanded and strengthened role to replace the Victorian coastal council, which will be abolished.

The report identifies 20 priority areas for marine protection in Victoria, including new and expanded marine parks, but the Premier has categorically ruled out any new marine parks in the next four years, a pre-emptive decision which is not based on scientific evidence and what is best for our marine environment and does not take marine conservation seriously.

Around 80 per cent of Victoria's marine species are found nowhere else on earth, so it is our responsibility to look after this unique marine habitat. The Victorian National Parks Association study was based on a government data set and it found that that data set was deficient and in need of review.

Attorney-General: conduct

Mr D. DAVIS (Southern Metropolitan) — I am pleased to rise today and draw the house's attention to the extraordinary planning undertaken by the Attorney-General in his office. I note the report tabled last night, which confirms that his chief of staff had written notes on the whiteboard listing the priorities and a complete key agenda — —

Mr Dalla-Riva interjected.

Mr D. DAVIS — There is nothing new in terms of policy, as Mr Dalla-Riva said. The government has copied 66 policies from the opposition so far. There is nothing new in policy unless it is necessary for a political response. Under 'Policy' it says 'identify the cheese' and 'anticipate the opposition'. This is a sign of a government that is bereft of ideas after 11 long years in power. It is a tired old government; it has run out of puff. It has no new ideas; it is a government that is not fit to govern. There are points outlined under 'Better at politics', 'Third parties', 'Broaden the constituency', 'Inner city' — it is clearly worried about Mr Barber and his party in the inner city — and 'Sell the message'.

Honourable members interjecting.

Mr D. DAVIS — It is hardly rocket science, that is right, but at the same time this shows a government that has no ideas; it has run out of puff. The Deputy Premier is copying ideas, as is the Premier. It is about time this government went. It is a shame that the government has come to this level, but that is what has happened.

Slater and Gordon: 75th anniversary

Mr MURPHY (Northern Metropolitan) — On Tuesday, 20 July, I attended the first public screening of *True Believers*, a film celebrating 75 proud years of Slater and Gordon representing working people around Australia and the rest of the world. Established in 1935, Slater and Gordon has built a powerful reputation as a law firm which fights for the best outcomes for everyday Australians.

True Believers highlights the firm's interaction with the labour movement in Australia over the past 75 years and the many achievements it has accomplished for the labour movement and working families over those years. *True Believers* contains rare footage of the firm's many partners over the 75 years, and it is clear from all the footage that every one of them had a passionate desire for working people to be able to achieve justice in the Australian legal system.

Members will recall that Slater and Gordon represented the Australian Council of Trade Unions and asbestos victim support groups in the James Hardie inquiry, resulting in the establishment of a $1.5 billion settlement in 2006. Whilst no amount of compensation will ever make up for the many loved ones that have been lost over the years, the fund is significant in demonstrating that justice can and will be done in Australia when it comes to the rights of working people in our community.

Slater and Gordon has contributed so much to Australian working families over the years, and it is fitting that in its 75th year former partner Julia Gillard would become Australia's first female Prime Minister — a Prime Minister who represents working families like few before her. I thank those at Slater and Gordon for their invitation and wish them all the best for the next 75 years.

Climate change: Western Victoria Region

Ms PULFORD (Western Victoria) — The climate change announcement made by the Premier and the Minister for Environment and Climate Change on Monday will deliver many great things to my electorate of Western Victoria Region. *Taking Action for Victoria's Future*, a Victorian climate change white paper action plan, in addition to creating a more sustainable future, will deliver millions of dollars in new investment and thousands of new jobs to regional Victoria.

Western Victoria will directly benefit from around $4 billion of investment in wind generation and geothermal energy generation as a result of the 20 per cent national renewable target, and a share in around $50 million per annum over five years towards energy efficiency measures in households and industries through the Climate Communities program. The package will support an expansion of the Climate Community grants program, with regional facilitators supporting local action. These facilitators will be able to provide expert advice and assistance with Climate Communities grant applications, and ensure that recipients are able to share ideas and experiences directly with their local communities.

An amount of $160 million will be available for refitting government buildings to a higher energy efficiency standard, including upgrades to campuses operated by South West TAFE and 62 regional public schools. The package also includes an expansion of the government's rebate scheme for the installation of solar hot water to help households reduce their energy bills and emissions, which complements commonwealth

government's rebates. I am delighted that the Brumby Labor government is taking leadership on such an important issue.

Food bowl modernisation project: business case

Mr DRUM (Northern Victoria) — Once again the food bowl modernisation project is in the headlines for all the wrong reasons. Recently the Auditor-General's report was released. It clearly stated that at the time the government started the implementation stage of the billion-dollar project, there was not even a business case in place to underpin the viability of the project. It is understood that the reason the original business cases were rejected was that they clearly showed that the water savings of 225 gigalitres which had been promised by the Premier, John Brumby, were hugely overstated and exaggerated.

The documents which make up the original business case have been requested through freedom of information by the coalition in opposition, an application which has been opposed by the Brumby Labor government. This request was then taken to the Victorian Civil and Administrative Tribunal, which handed down an order in favour of those documents being released to the Victorian public. Now the Premier has decided that under no circumstances will he allow these papers and this flawed business case to be delivered, and he has lodged an appeal with the Supreme Court. This is the fourth time the Labor government has taken Supreme Court action to avoid freedom of information matters being made available to the Victorian public. The Premier knows that the business case will show once and for all that this project was instigated against the financial checks and balances that should accompany a project of this scale.

It will prove once and for all that the government's actions were totally amateurish and incompetent, and it has been deceitful ever since the implementation of the food bowl modernisation project. Victorians are waking up that this Supreme Court suppression action is happening now only to keep the embarrassment away from the state government until after the election.

Laurimar Primary School: opening

Mr ELASMAR (Northern Metropolitan) — On Friday, 25 June, I attended the official opening of the new Laurimar Primary School in Doreen, a suburb in my electorate, by the Minister for Education, Bronwyn Pike. My parliamentary colleague the member for Yan Yean in the Assembly, Danielle Green, was also in attendance on this joyous occasion. It is always a joy for me to visit schools which have new learning facilities provided by the Brumby Labor government. I congratulate everyone involved in the planning and building of this marvellous new primary school.

Aichi Prefecture: sister state 30th anniversary

Mr ELASMAR — On Sunday, 18 July, I was delighted to attend the reception in honour of the 30th anniversary of the sister-state relationship between the state of Victoria and Aichi Prefecture. The Premier and his wife, Ms McKenzie, officially welcomed the Governor of Aichi, His Excellency Mr Masaaki Kanda, and his wife, Mrs Kanda. Invited guests were then treated to an incredible and outstanding display of samurai swordsmanship on the steps of Parliament. The ceremony in Queen's Hall was certainly an enjoyable occasion. I wish to thank the Premier and the organisers from the protocol and special events branch for a splendid job well done.

Junior Triple Zero Heroes

Mr EIDEH (Western Metropolitan) — I am delighted to congratulate young Victorians who last week were recognised for taking responsible action by calling triple zero in emergency situations. Twenty-two young Victorians aged between 4 and 13 are now Junior Triple Zero Heroes, and I am proud to say that many of the recipients of this title are residents in my electorate. These outstanding heroes were presented with awards by the Minister for Police and Emergency Services, Bob Cameron, and Essendon footballer Jason Laycock. They are indeed worthy of this recognition and have set a great example for young people all over Victoria with their courageous acts. It is because of these young heroes that specialist help was sought and followed in emergencies and the lives of family members and communities were saved. Acknowledging the Junior Triple Zero Heroes helps us to recognise the importance of promoting responsible use of the triple zero system to Victorians of all ages.

I also commend the staff at the Emergency Services Telecommunications Authority, who handle over 1.8 million emergency calls a year with patience and expertise. Without this vital service, people in need would not be able to get help and lives would be lost as a result.

La Trobe Lifeskills: art exhibition

Ms MIKAKOS (Northern Metropolitan) — On 29 June I was pleased to launch the La Trobe Lifeskills 2010 art exhibition, 'Load Ya Brushes', held at the La Trobe University Museum of Art. Being based at the Bundoora campus of La Trobe University, La Trobe

Lifeskills provides young people identified as disengaged, at risk or living with a disability with the opportunity to take full advantage of campus life and to engage in the activities on campus. It was very pleasing to see the importance Lifeskills places on nurturing the imagination and creativity of its young people. These crucial skills will be at the centre of each young person's own endeavours as she or he moves through the different phases of their life. This exhibition showcased the creative and imaginative talents of all the participants. I wish to congratulate the organisers and all of the artists whose work formed part of this exhibition.

Youth Parliament

Ms MIKAKOS — In the first week of July some 100 young people from eight schools and groups around Victoria participated in the 24th YMCA Victorian Youth Parliament. It was an absolute pleasure for me, along with a number of other members, to assist by acting as Acting President on one of those days. The session over which I presided included students from Bendigo YMCA, Wangaratta YMCA, Overnewton Anglican Community College and my old school, Ivanhoe Girls Grammar. The debate in which these students were involved was on the introduction of standards for the Publication of Positive Body Image Bill and the Prosecution for Cyberassault in Educational Institutes Bill, both important issues for young Victorians. It was very rewarding to watch a passionate group of young people who understand the importance of democracy and political engagement. I congratulate the YMCA, all the volunteers and the youth participants for their contributions.

POLICE STAFF ROSTERS: PRODUCTION OF DOCUMENTS

Mr D. DAVIS (Southern Metropolitan) — I move:

> That, in accordance with sessional order 21, there be tabled in the Council by 12.00 noon on 10 August 2010 a copy of all staff rosters produced by each police station, criminal investigation unit, crime desk, sexual offences and child abuse unit and traffic management unit in Victoria for the pay periods ending in July 2009, including the rank of each member (with name and other personal details deleted).

This is an important production of documents motion and it is important that the house understands the full context of it. There has been a public debate and it is therefore strongly in the public interest that this information be available to the community. The public debate is centred around the adequacy of our police force and the deployment of police across the state. We have seen police stripped from local neighbourhood police stations. I could quote many examples, but just to illustrate the point I will put on the record the example of the police station near my office in Ashburton. I have spoken about this station in the chamber in the past.

The opposition has under FOI obtained these very same police rosters — in fact, for two years running. Now this FOI request by the opposition has run into heavy weather, and I will come back and explain something about that in a moment. But let me give the context of a local police station so the community understands why the opposition is seeking this document and why it is in the community interest.

In Ashburton the police numbers have been dropped from 11 full-time officers down to 1 part-timer who works from 10 o'clock to 4 o'clock, Monday to Friday. The part-timer is basically a well-meaning officer, but he is a desk jockey who is bound to that station. The government, through the decisions of Victoria Police, has centralised police in the Boroondara district. That has been supported by the member for Burwood in the other place, Mr Stensholt, and the state government through the Minister for Police and Emergency Services, Mr Cameron.

What concerns us greatly about these rosters is that they are a snapshot of deployment into local areas and areas of policing that give a very good understanding of the government's and Victoria Police's priorities and the steps that are being taken to combat the problem of crime and in particular violent crime in our community.

The information that was provided under FOI to the opposition for two years running has now been blocked by the police commissioner, and indeed a decision to review has been made by the Minister for Police and Emergency Services, Mr Cameron. The story of the current FOI request that in one sense this motion seeks to replicate through the chamber is that that FOI request worked its way through the process, and a ruling was made by VCAT (Victorian Civil and Administrative Tribunal) to release the information. This is the third year, and VCAT made the ruling to release the information. The government then sought to appeal to the Supreme Court in an attempt to block the release of this information. This was not just the action of the police commissioner but the action of the Minister for Police and Emergency Services as well.

This is clearly an attempt to thwart transparency and prevent information being obtained that is quite properly in the public domain. This is information that does not identify any policeman or policewoman,

because the names and so forth are deleted. What it does is in line with previous FOI requests. It makes that information public and gives the community, the opposition and others a clear snapshot of what is happening with policing in this state. That is a clear matter of public interest. It is data that has been in the public domain before that the government is now seeking to block through the FOI process, through the legal processes and through the extraordinary attempt by the minister to allow an appeal to the Supreme Court to overturn a positive decision made by VCAT in the interests of transparency, the community and on the basis of the opposition's FOI request.

This motion is an attempt to stop the government reverting to a focus on secrecy. It is an attempt to have this information in the public domain as soon as possible. The legal processes are necessarily long and cumbersome. Motions such as this one for the production of documents could well enable this to be dealt with very quickly. The information was dealt with quickly in previous FOI requests. It is not that there is too much material: it is quite manageable; it has been done twice before. But now in an election year the government is seeking to block the release of this information.

This is a classic case where in the public interest this chamber is taking action and saying those documents must be in the public domain. That is right and proper, and these are precisely the sorts of steps this chamber should take. For that reason I urge all in the chamber to support this motion and, in doing so, thwart the government's attempt to stymie the release of information through the FOI process but strongly assert the right of the chamber to demand that these documents be in the public realm.

Ms PENNICUIK (Southern Metropolitan) — I have listened to what Mr Davis has had to say. Given that the FOI request that is at the bottom of this motion has been upheld by the Victorian Civil and Administrative Tribunal and that the government is choosing to up the ante and go to the Supreme Court regarding documents that have been legitimately called for and that VCAT has declared have been legitimately called for and are in the public interest, and given that the government is forever going on about how accountable and transparent it is, this action in appealing or challenging the VCAT decision in the Supreme Court is the antithesis of the openness and transparency that the government is always on about. There does not appear to me to be any reason why the government would be opposing the release of these documents on any legitimate grounds or on the grounds of a need to keep these documents away from public view. For those reasons the Greens will support the motion.

Mr LEANE (Eastern Metropolitan) — Mr Davis's motion is very similar to other motions for the production of documents that we have had each sitting Wednesday. The government has a concern about where the opposition wants to go with this motion as far as demanding rosters from each individual police station in relation to staffing numbers. I am not too sure if this is a catalyst for getting rid of the position where it is up to police command to decide where it deploys its personnel at each individual station. It has always been left up to the police hierarchy to decide where police are deployed.

I am not too sure if the opposition wants to get these documents so as to instigate some public debate about where police should be deployed and to influence the police hierarchy without having the knowledge that the police hierarchy has as to why it deploys individual police officers at which time to which station, divisional car or unit. We are concerned about the intentions of the opposition as far as wanting to influence police rosters. Usually on documents motions we have a set position, but on this one we have a concern about why the opposition would want to influence police rosters out in the community.

Mr D. DAVIS (Southern Metropolitan) — I urge the council to support this very sensible motion that seeks to ensure that there is a proper arrangement for the release of those documents.

Motion agreed to.

SUGARLOAF PIPELINE PROJECT AND FOOD BOWL MODERNISATION PROJECT: PRODUCTION OF DOCUMENTS

Mr HALL (Eastern Victoria) — I move:

That, in accordance with sessional order 21, there be tabled in the Council by 12.00 noon on 31 August 2010 a copy of the following documents:

(1) the business plan for the Sugarloaf pipeline project and annexures;

(2) the initial business plan and annexures for the food bowl modernisation project prepared by the State Owned Enterprise for Irrigation Modernisation in Northern Victoria and submitted to the Treasurer and Minister for Water in August 2008; and

(3) the revised business plan and annexures for the food bowl modernisation project prepared by the State Owned Enterprise for Irrigation Modernisation in Northern Victoria and submitted to and endorsed by the Treasurer and Minister for Water in June 2009.

This motion seeks the release of business plans relating to the Sugarloaf pipeline project and also business plans relating to the food bowl modernisation project, both the initial business plan proposed and the final business plan that was submitted to and endorsed by the Treasurer and the Minister for Water in June 2009. The motion seeks very important information not just for the opposition parties but for the people of Victoria, because it relates to some very significant investments in water infrastructure in this state. The pipeline project is worth in excess of $700 million, and in respect of the food bowl modernisation project we are talking about projects well in excess of $1 billion in terms of costs.

One would assume that in both those types of infrastructure projects there should be sound business cases developed before such investments were made. That is what this motion seeks, and it is only fair, transparent and accountable that the people of Victoria understand how taxpayer funds are being spent and the basis for the decisions to expend that sort of money. One would hope the basis for that would be contained in such business plans. Unfortunately the opposition has need to resort to provisions in the sessional orders of this Parliament to obtain these documents because efforts to have them released by other means have proved unproductive up to this point in time. It reflects very poorly on the government that despite our having gone through those various other means, the government still refuses to release the plans.

In respect of the Sugarloaf pipeline project, its business plan has been sought by various community groups, but the government has rejected their efforts to get hold of it. In respect of the food bowl modernisation project, its initial business plan was sought by the opposition under freedom of information as far back as August 2008, and there was a subsequent appeal to the Victorian Civil and Administrative Tribunal of the government's decision not to release it.

A recent VCAT hearing ordered that that document be released, but the government again resisted that and has now appealed that decision in the Supreme Court. That seems churlish and childish to me. It is obvious from its refusal to accept the decision by VCAT that the government has got something to hide. Also we are well aware from other debates on this in the Parliament that there have been a number of versions of the food bowl modernisation project business case. That is why we are seeking in this resolution both the initial business plan and the subsequent business plan that was finally endorsed and approved by the government.

The need for transparency of government and for the government to make available these business plans has been well argued in the past, most recently by the Auditor-General, who serves this Parliament well and reported to it in June this year on irrigation efficiency programs. Within that report to the Parliament the Auditor-General made comment on the business cases for some of these projects.

If you look at page 15 of this report, entitled *Irrigation Efficiency Programs*, tabled in June this year, you see it talks about developing the business cases and why it is so important that business cases be developed so that the various options can be considered and value for taxpayers money can be evaluated fairly. I will not go through and quote the particular provisions and arguments set out by the Auditor-General as to why it is necessary for the development of business cases, but it is instructive to repeat in this debate what he said on page 16 of this report under the heading 'Food bowl modernisation project and Sugarloaf pipeline':

> The development of the business cases for the FMP and the Sugarloaf pipeline commenced only after the government had committed to the projects and approved the funding. This process is contrary to the explicit and mandatory business case guidance for projects such as these.

He goes on to make that argument. Very clearly the government decided to proceed with this project and then develop a business case to substantiate that decision after the event. That is not good practice. However, if the government believes it has subsequently developed a sound business case to support its decision to make those investments, let us see it. That is all we say: let us see it. I fail to understand why the government is not prepared to make that business case available now. Obviously it is embarrassed by the contents of it. That is why it is refusing to follow the direction of VCAT in respect of releasing that particular document. It was instructive in the VCAT hearing that we had a senior government officer from one of the government departments make the comment that the first business case submitted to the cabinet of this government did not come up with findings sufficient to substantiate investment in this project.

We were told through evidence presented to VCAT that in this case the organisation was sent back to develop another business case that would support this level of investment. That is why we are seeking both the initial business case and the subsequent business case that was approved by the government. It is a fair and reasonable request that the business plans for these matters be released. VCAT has said that the plans should be released, and it is incumbent on the government to observe the decision of VCAT. It is extraordinary that

the government is prepared to challenge that decision in the Supreme Court.

It is incredible that at one time this government claimed to be open, honest and accountable. I have not heard the government describing itself in recent years as being open, honest and accountable, but nevertheless, this is an opportunity for the government to demonstrate that it is. If this government still has any claims at all to being open, honest and accountable, then it will support this resolution and moreover it will act on this resolution and make available to the opposition and the people of Victoria the business case with respect to both of these projects. I urge the government to do so by supporting this motion.

Mr VINEY (Eastern Victoria) — Mr Hall has not been listening much lately, but in case he has not heard it for a while, this is an open, honest and accountable government, and it is committed to honesty, accountability and openness in its considerations and dealings. As Mr Hall well knows, the position of the government in relation to these requests for documents is that the government does not oppose the first request for documents, because the process we go through when the house makes a request is that we consider the request. Because of that commitment to openness, honesty and accountability we will go through a process of properly considering it. As I look at Mr Koch pulling faces over there I think it is interesting that this debate is apparently so important that he is the only member of the Liberal Party in the chamber. That is how important the opposition thinks this debate is.

The process the government goes through in the consideration of all these matters is that we will consider the request for documents, and where they can be released, they will be. Where documents meet the test that they do not breach executive privilege — that is, they do not breach cabinet confidentiality, ministerial obligations to maintain the confidentiality of cabinet deliberations or ministerial deliberations as to particular positions a minister might take in cabinet — that they do not breach commercial in confidence and that they do not breach legal professional privilege, then they can be released.

The government will consider these matters and will make its determination in accordance with that proper consideration. As I have said before, the very important principles that we apply to this process go to the heart of the Westminster system. They go to the heart of how, under the Westminster system, there is a cabinet system where there is appropriate consideration — —

Mr Drum interjected.

Mr VINEY — Mr Drum, there is appropriate consideration of these matters where, in exactly the same way as previous conservative governments have done, we make sure that cabinet and the ministers are able to make determinations based on frank and fearless advice from the public service. That can only be maintained by protecting the privileged nature of those matters. Provided we are able to satisfy ourselves with that process, documents will be released.

I am not in a position to make a determination because I am not a member of the cabinet and so it is not for me to make that determination, but the house is well aware that the government has released thousands of pages of documents under these constant requests by the opposition for documents to be released.

Whilst we do not believe that the process of the house demanding release of documents is necessary, because there are other mechanisms for these things to be done, we have paid respect — —

Mr Drum — You just put them on the Net, where they belong.

Mr VINEY — Mr Drum, we have paid respect to the fact that the house has given itself this authority, and we have paid respect to that determination of the house by considering each request for documents in turn. The house has made requests for voluminous documents that would now go into the millions — —

Mr Koch — Not quite millions.

Mr VINEY — Mr Koch thinks not quite millions. I am not sure Mr Koch is in a position to determine that. When these broad requests are made it requires the public service on each occasion to search through hundreds of thousands of documents to see whether or not they fall within the ambit of the request and then to determine in relation to each document whether or not that document can be released under the guidelines that the house has been provided with numerous times by the Attorney-General. Thousands and thousands of documents — —

Mr Koch — Thousands and thousands? Spare me!

Mr VINEY — Mr Koch, you have never been in government so you do not have a clue. There is an extraordinary continuation of requests for documents that tie up the public service endlessly, and from all these requests there have been no great political hits on the government; there has been no real issue. We are happy to have openness and accountability.

Mr Drum interjected.

Mr VINEY — Mr Drum, it was your party that gave up representing country Victoria for the white cars of office. It was your party that did that, Mr Drum, and I will say this — —

The ACTING PRESIDENT (Mr Somyurek) — Order! Mr Drum cannot constantly interject. He should not provoke the member speaking. Mr Viney should stick to the motion.

Mr VINEY — I am happy to stick to the motion. Just a moment ago we had from Mr Hall, a member of a party that was prepared to nobble the Auditor-General last time it was in office, a lecture about the role of the Auditor-General to members of a party that has actually enshrined in the constitution the independence of the Auditor-General and has enshrined the independence of the Ombudsman as an officer of the Parliament. All those reforms were undertaken by this government. It has opened up the accountability and democratic representation of this house so that it is a truly representative democratic institution representing the views of the people of Victoria. This is the party that has done that. It has maintained the Auditor-General's powers so that he can do the work that he does. It has done similar things in relation to the Ombudsman. For Mr Hall to lecture members of that party is a bit rich. Government members remember what those opposite did. We remember that when they were last in office and were uncomfortable with the Auditor-General they attempted to nobble the Auditor-General.

We will not oppose this motion because it is a first request for documents. The government will properly consider the request for documents in an ordered way in accordance with the guidelines that have been provided in correspondence from the Attorney-General to this house. They have been outlined by the Leader of the Government in this house in numerous debates every Wednesday that the house has sat when further documents have been requested. We will consider it in the proper way.

Mr BARBER (Northern Metropolitan) — The Greens will support the motion. My only regret is that if we receive this business case, it will be well after the actual project has been built. Mr Viney is concerned about the length of time that it might tie up people in the public service. If we had received this business case in advance of the project, we could have potentially saved the public billions of dollars when we realised — as I am sure the business case will demonstrate — that this project is a financial lemon.

If the government were forced to go through the sort of discipline that a private investor would go through before committing to a particular project and put out its business case to attract funds directly from the financial market, I am sure that many of these wasteful projects would not have been funded. In any case, to avoid such problems in future it is essential that we start putting the government through the discipline of having its business plans for major infrastructure projects exposed to scrutiny.

Mr HALL (Eastern Victoria) — In reply I want to quickly make a couple of points. Firstly, I thank the Greens for indicating their support for this motion. Secondly, in response to Mr Viney's comment that such requests involve voluminous documents and require much time to collect them, this is a specific request for only three documents. The request is simple in regard to what it refers to. Mr Viney also made the comment that where they can be, these documents will be released — that is, where they do not breach cabinet confidence and commercial confidentiality they will be released. The Victorian Civil and Administrative Tribunal has already made that decision for the government. It has determined that they should be released under freedom of information provisions. There is no argument about in-confidence matters relating to commerciality and cabinet decisions. Therefore we look forward to the release of these documents in the time frame specified in the motion.

Motion agreed to.

BAY OF ISLANDS COASTAL PARK: PRODUCTION OF DOCUMENTS

Mr BARBER (Northern Metropolitan) — I move:

> That, in accordance with sessional order 21, there be tabled in the Council by 12.00 noon on Tuesday, 10 August 2010, a copy of all documents held by the government relating to Origin Energy's application and subsequent approval for exploration in the Bay of Islands Coastal Park under section 40 of the National Parks Act 1975.

This motion relates to a request for documents that would have formed the basis of the minister's decision to approve exploration for gas in the Bay of Islands Coastal Park. I will be very brief on this motion.

The process of approval in question is one by which the minister makes a decision. However, it is also subject to disallowance by the Parliament. As the Parliament has that involvement in the process, it is only appropriate that the Parliament review the same material that the minister would have reviewed when making his decision. Members of Parliament also have to decide whether they will endorse or take another course on his decision. Some very basic material has been released

into the public domain, largely through the federal environmental approval process. I cannot believe that that alone was the basis for the minister's consideration. Therefore I am requesting that we have the opportunity to look at the material he considered before deciding to grant this approval.

Mr VINEY (Eastern Victoria) — The government takes the same position in relation to this motion as it took on the previous motion. Where it is appropriate for documents to be released, they will be released. If in any way they breach the guidelines that have been provided to the house by the Attorney-General, which have been referred to by the Leader of the Government in this house and by me in numerous debates, they will be unable to be released and therefore will not be released.

Mr D. DAVIS (Southern Metropolitan) — The opposition supports Mr Barber's motion under sessional order 21. We believe it is appropriate that the documents requested be in the public domain. The fact that the documents are in the public domain neither endorses nor fails to endorse the particular project, but it would inform public debate. It is legitimate for the community to be informed of these matters and for people to be able to make a decision in the light of the full information that would be available to government but is not currently in the public domain.

Obviously with all development projects of this nature a balance needs to be struck between the creation of jobs and forward economic development on the one hand and the protection of legitimate heritage and environmental values on the other. The way to strike that balance is to do so with the greatest amount of information in the public domain.

Mr BARBER (Northern Metropolitan) — I have to take issue with one thing Mr Viney said — that is, if a claim of executive privilege is found, then the government is unable to release the documents. That is not true. Even if his claim of executive privilege were to be found — and there is, of course, a huge legal dispute about that — it does not mean that the government cannot release the documents. It simply means it has the choice not to do so. At any time the government, if it wanted to, could provide more information than — —

Mr D. Davis — In the public interest.

Mr BARBER — In its own interest, I would argue, Mr Davis, because we have moved well past the point with this government's political capital where its members can simply say to the public, 'Trust us'. What members of the public are increasingly saying is, 'Show us, and then we'll decide whether we can trust you'.

I understand that Mr Viney does not make these decisions anyway, and he has the great advantage of being completely uninformed about the matters that he is debating. It is just a piece of political advice to the government. As its members seek to get endorsement from the public, their attitude to information needs to become more open. What I am seeing as time goes by is that it is becoming less open.

Motion agreed to.

YARRA PARK: PRODUCTION OF DOCUMENTS

Mr BARBER (Northern Metropolitan) — I move:

That this house —

(1) notes the failure of the government to comply with the resolution of the Council of 25 November 2009 to table a copy of all documents relating to proposals to transfer control of Yarra Park to the Melbourne Cricket Ground Trust or the Melbourne Cricket Club;

(2) notes the Attorney-General's letter of 8 December 2009, indicating that the government was seeking to comply with the resolution by early 2010 and further notes that 33 weeks have passed and the government has still failed to comply; and

(3) demands that the Leader of the Government urgently comply with the resolution of the Council of 25 November 2009 and lodge all documents with the Clerk by 12.00 noon on Thursday, 12 August 2010.

This is a follow-up to a motion previously moved and supported by the Council to provide documents to inform our deliberations on a bill to transfer the ownership or control of an important piece of land — the MCG and its surrounding parklands — from the City of Melbourne over to the MCG Trust and through it then to the MCC (Melbourne Cricket Club). Obviously is important that members are informed about the matters they are voting on in this house. It is a disappointment to me that the chamber went ahead and endorsed such legislation without understanding why, how and what the motion was. Nevertheless, public interest in the management of the site is going to continue unabated at least from the point of view of everybody who resides near or enjoys the park, which is not simply those who go to see games played at the MCG.

Belatedly, and after I had moved my motion, last night the government tabled some documents in the chamber which I have now had the chance to examine. Those

documents seem to relate almost entirely to public interest and public involvement in this process. There is nothing in that material; the vast majority of it is simply a photocopy of a Melbourne City Council report which would ordinarily have been a public document. The government has indicated in its letter that it has held back more than it has given in this case. There is nothing that tells us exactly how, why, under what circumstances and with what intended result this transfer was made.

Alternatively there is no paper trail of any seriousness that we can examine. It is possible the whole plan was worked out on the back of a napkin in a corporate box of the MCG. But I am hoping the government seriously considered why it was transferring control to a new body and what it was expecting out of that new body. As that will continue to be of a broader public interest, I would like to have that particular context tabled so that various processes that will now operate under the act passed by this Parliament can be understood by members of the chamber as they monitor that performance over time.

Mr Viney — On a point of order, Acting President, I have to say I find it difficult to see how this motion is now in order. I have been given advice that this is a debating point, but I have to say, given that the motion refers to the failure of the government to comply with the resolution, the government complied with the resolution yesterday, precisely in accordance with both its obligations and in relation to a letter from the Attorney-General of 8 December last year. The government said it would comply in 2010; it has.

People might want to say this took too long or there are still some documents that have not been provided. The claim of executive privilege has been applied to those documents. There is nothing in the sessional orders of the house that says the government's advising the house of executive privilege in relation to certain documents is non-compliance. It is absolutely compliance. The sessional orders do not provide a capacity for the government to indicate there is executive privilege.

I struggle to see how this motion is in order. The motion notes the failure of the government to comply. Members might not be happy with the extent, response or elements of the compliance. That might be subject to a separate motion. But this motion before the house is not valid. This motion cannot stand because it notes the failure of the government to comply when the government has complied. On that note I seek a ruling. The Acting President is a little tied up, but I seek a ruling as to how on earth we consider a motion that says 'notes the failure of the government to comply' when yesterday the government complied with sessional orders.

To me the motion should not stand. At the very least Mr Barber should withdraw it. If he does not withdraw it and replace it with different formal words, then the motion should be ruled out of order.

Mr Dalla-Riva — On the point of order, Acting President, was Mr Viney's contribution a point of order? I thought it was part of the debate.

Mr BARBER — On the point of order, Acting President, the motion notes the failure of the government to comply with the resolution by tabling all documents. Mr Viney's view might be that partial compliance equals compliance, but those are the matters we argue about every time we move one of these motions.

Mr Viney — On the point of order, Acting President, the sessional orders regarding the requirements on the government to produce certain documents say what should happen when a requested document is claimed to be covered by executive privilege and set out a procedure for dealing with executive privilege if it is claimed and the house does not agree with that claim.

What we have in front of us is a motion that notes the failure of the government to comply with a resolution of the house in accordance with sessional orders. I put it to you, Acting President, that the sessional orders have been complied with in that the government yesterday tabled documents in relation to this matter. If the house is unhappy with the claim of executive privilege, that is a matter for the house, but that should be dealt with by a different and separate motion. This motion notes the failure of the government to comply with a resolution that it has complied with. I do not see how the house can vote on a motion that says the government has not complied with the sessional orders when it has.

Mr BARBER — On the point of order, Acting President, Mr Viney has just raised an extra point of order — that is, that the motion is out of order, because the next step is to go through the process that we have set out. The last time we tried to do that the government opposed it and refused to comply with it as well. It remains the case that point (3) demands that the Leader of the Government lodge all documents. He has not lodged all documents; therefore the motion is not only in order but appropriate.

The ACTING PRESIDENT (Mr Somyurek) — Order! I do not uphold the point of order. It is clearly a matter for the house.

Mr VINEY (Eastern Victoria) — In that case, Acting President, the government will be opposing this motion. I think the correct thing for Mr Barber to have done if he had concerns about the extent to which documents had been provided, would have been to withdraw his motion, submit a new motion and argue his case in relation to that. This motion does not do that. It notes the failure of the government to comply with a resolution of the Council with which it has complied. Mr Barber and the opposition might not like the government's response — that is a matter for them to consider — but the government has complied with all the obligations on it under the powers that this house has given itself. If the members of the unholy coalition of the opposition and the Greens want to argue the toss over it, that is up to them. However, I suggest to the Mr Barber that he should put it in the form of a motion that makes sense. This motion notes the failure of the government to comply with a resolution with which it has complied. The motion is absurd, and the government cannot support it.

Mr DALLA-RIVA (Eastern Metropolitan) — It has been an interesting debate thus far, and it is good to see that the executive is again trying to flex its muscles on the will of the Parliament. As the motion rightly points out, the matter is for the house to determine. Mr Barber is correct in his assertion. I spoke in favour of the bill at the time, and I put on the record that I did so as a member of the Melbourne Cricket Club, although my membership was already on the record.

The fact of the matter is that this motion is about seeking documents. As Mr Barber has indicated, the government has not complied with the original resolution. It is for the house to determine whether the government has complied. The executive seems to want to determine what the house's will is or is not. This is another classic case of the government being out of touch, continuing to want to flex its muscles in the democratic process of the Parliament and trampling on people's rights.

We will be supporting the motion for the very reasons that Mr Barber has outlined and for the very reasons that Mr Viney tried to outline.

Mr HALL (Eastern Victoria) — I would like to say a couple of words in response. It has been an interesting debate about process. If the government is critical of the decision of the chamber to proceed with this vote, it only has itself to blame because it has taken 33 weeks to respond to the resolution. That does not reflect well on the government at all. Mr Viney suggested that Mr Barber should withdraw this motion and present another motion. Is Mr Viney expecting him to wait a further 33 weeks for a response? I do not think that is good enough.

I am convinced that this motion should be supported by members of the chamber because of the wording in part (3), as Mr Barber pointed out in response to the point of order. We called for all documents and only a limited number of documents have been presented in respect of this matter.

It has been an interesting debate. As I said, the government only has itself to blame. Mr Barber has the support of others in this chamber to proceed with this because 33 weeks is far too long to expect the house to wait before any resolution of this chamber is complied with, either in full or in part. I urge the house to support the motion put forward by Mr Barber yesterday.

Mr LENDERS (Treasurer) — I also rise to speak in this debate, although I was not planning to. However, a couple of things Mr Hall and Mr Dalla-Riva have said invite comment. Mr Viney's point of order was essentially to say that there was a motion put forward in this house asking for documents and that the subsequent resolution has been complied with. There was an informed deliberation on whether these documents were ones to which executive privilege pertained, and as section 19(1) and (2) of the Constitution Act clearly says, that makes these issues ones that are not arbitrarily to be determined by a majority in one house of the Parliament.

There is a thing called the state constitution. Section 19(1) and (2) of the Constitution Act clearly delineates the rights of this chamber and the other chamber under a constitution which is much bigger, much broader and much more authoritative than a view of 21 members of one chamber in the year 2010.

Let us put this into perspective before members opposite start getting on their moral high horse and, in Mr Dalla-Riva's case, getting confused about the difference between the Parliament and the Legislative Council or, in Mr Hall's case, making the statement that it took 33 weeks. Let us forensically analyse what this debate is about. Yes, it did take a number of weeks for the government to respond to the request from the Legislative Council for documents. It was longer than the period the Legislative Council set out in the order; that is an indisputable fact.

What Mr Viney said, if members were listening, before Mr Hall went on to say that it would be another 33 weeks, was that the order was complied with: a number of the documents were released and for a number of documents executive privilege was claimed.

What Mr Viney was saying was that if Mr Barber and the chamber had an issue with that, they should move a separate motion on that. It would not take 33 weeks; it would take one more Wednesday to deal with. So let us not cloud the issue.

The second issue is Mr Hall just saying that it is not good enough that it has taken 33 weeks. I do not think it is rocket science — if anyone in the chamber actually bothers to read the responses that come back from the Attorney-General representing the executive government — that when the house passes a random motion calling for every bit of documentation on something or other, whether it be an electronic document or a more traditional document, we should not assume they are easy to find, easy to process and that somehow or other someone in this Council moving a motion and then pulling the chain and getting the 21 votes instantly behind them because of a pact signed at some retreat back in 2007, or whenever it was when the original Philip Davis agreement was put into place, is reasonable — —

Mr Guy — We will wait and see the preference arrangements in this coming election.

Mr LENDERS — I say to Mr Guy that I am outlining the process we are using here. There is an agreement that people will support each other in seeking documents, which is fair enough. That is fine. Let us see if their eyes are open. But the assumption that when Mr David Davis drafts a motion — or Mr Hall or Mr Barber or Mr Guy or any of the other authors of these motions does so — somehow or other, because they have determined that three weeks or four weeks is a sufficient amount of time, it has a bearing on reality, when it involves dozens of public servants.

It is interesting to listen to members of the parties opposite. I will give credit to Mr Barber: he does not chant his mantra the way the others do. Mr Davis rabbits on daily about how the public service is too big. However, if you are trying to process and deal with hundreds or thousands of documents to make an informed decision about whether they meet the tests of executive privilege, whether they are commercial in confidence, cabinet in confidence or involve privacy issues — all these tests need to be applied for every document — it is not valid for Mr Hall to make a sweeping assertion that 33 weeks is too long. I say to Mr Hall: let us be honest about this. Is he saying we should call front-line public servants out of his electorate to do this work because the Legislative Council has set a time line?

Mr Drum — That is a long bow.

Mr LENDERS — Mr Drum laughs. I say this to Mr Drum: because of a pact agreed to in 2007 opposition members all happily endorse each other's requests for documents without question and without thinking about it, and they may want someone to process 3000, 4000 or 5000 documents on one order before they start on the next order and the following order. How many are there today? There are three or four requests for documents. Is any analysis done by those opposite on how much time and effort dealing with them will take? There is none at all. But Mr Drum would be the first to say that we should put more front-line people in his electorate — which I completely understand — without having any regard to the motion he is about to vote for, which will perhaps require days if not weeks of public servants' time in responding to requests which are often not refined.

Opposition members ask us to tell them anything we know about anything. However, if a document were to be released which breached privacy or endangered lives or jobs, the first people who would criticise the government for neglect would be those opposite.

I say to Mr Hall, before he says 33 weeks is too long and instantly has The Nationals dog being wagged by the Greens chain — the Greens pull the chain and The Nationals jump to the defence of the Greens instantly — without putting it into any context, that even today this house has already voted for three lots of documents, unrefined, broad brush. He suddenly has the view that this house will then express the view that this is too long. The government is responding expeditiously. The government is responding courteously. If the government does not meet a deadline that the Legislative Council has set — —

Mr Finn interjected.

Mr LENDERS — I suggest that Mr Finn saunter down to the table and pick up some of the correspondence. He will find it is very courteous correspondence from my colleague in the Assembly, the Attorney-General, Mr Hulls.

The government will not support the motion coming forward for the reasons Mr Viney outlined. But I thought I should put clearly on the record that some of the assumptions made by those opposite who faithfully carry out their secret pact of 2007 where they will blindly support each other, when the Greens say, 'Jump!', The Nationals say, 'How high, Mr Barber?' and The Nationals jump when the Greens ask them to — —

Mr Finn interjected.

Mr LENDERS — If Mr Finn is talking about pacts between parties, I would like to see how he would explain to his people or Mr Hall would explain to his people why the Liberal-Nationals coalition is preferencing to the Greens in the seat of Melbourne. If he is talking about secret pacts going forward — —

Honourable members interjecting.

Mr LENDERS — The Labor Party has no issue with where it directs its preferences. We are open and transparent.

The ACTING PRESIDENT (**Mr Somyurek**) — Order! Mr Lenders! There is too much noise in the chamber. Mr Lenders should speak to the motion before the house.

Mr LENDERS — Thank you, Acting President. I will speak to the motion. I have been unduly distracted by Mr Guy.

The government does not support this motion. But our eyes are open. The 21:19 rule will apply when the 2007 secret pact will once again be applied and the four opposition parties will vote together.

Mr D. DAVIS (Southern Metropolitan) — I will speak briefly on this motion. The extraordinary and intemperate contribution by the Treasurer points to the fact that this government has become increasingly secretive. It has become determined to fight and block information at every turn. I want to make the point here that the Treasurer is clearly not aware of the motions that have come forward today. If his government had not sought to frustrate the decisions of the Victorian Civil and Administrative Tribunal and the opposition's attempt to get two key FOI applications through we would not have had those motions.

Mr Lenders interjected.

Mr D. DAVIS — I am just making the point here that the Treasurer has sought to appeal against a VCAT decision. He could have released information through VCAT.

Mr Viney interjected.

Mr D. DAVIS — But he has made the reference to those earlier motions today. Mr Viney's very own Treasurer has made reference to those motions, and I am responding to those points. My point here is that there is a very sensible reason why the non-government parties will very often support greater transparency. That is because this government has increasingly become secretive and is determined to frustrate and block the release of information at every turn.

I have to say that this government increasingly is beginning to appear as a secret state. It is a government that is out of time. It is tired and is determined to protect itself from any scrutiny on any issue. The attempt to frustrate the release of police rosters is a case in point today, as is the attempt to frustrate the release of documents ordered by VCAT, as Mr Hall outlined earlier. This motion of Mr Barber's falls into a similar category.

The government could well have released much more material and it could have done it more quickly. I have to say that the role of the Attorney-General as a blocker of information in general is something the community should be increasingly concerned about. He has sought to stop witnesses appearing at inquiries, he has sought to block information sought by parliamentary committees and he seeks regularly through his interventions and letters to this chamber to block the release of information.

House divided on motion:

Ayes, 20

Atkinson, Mr
Barber, Mr
Coote, Mrs
Dalla-Riva, Mr
Davis, Mr D.
Davis, Mr P. (*Teller*)
Drum, Mr
Finn, Mr
Guy, Mr (*Teller*)
Hall, Mr
Hartland, Ms
Kavanagh, Mr
Koch, Mr
Lovell, Ms
O'Donohue, Mr
Pennicuik, Ms
Petrovich, Mrs
Peulich, Mrs
Rich-Phillips, Mr
Vogels, Mr

Noes, 18

Broad, Ms
Darveniza, Ms
Eideh, Mr (*Teller*)
Elasmar, Mr
Huppert, Ms
Jennings, Mr
Leane, Mr
Lenders, Mr
Madden, Mr (*Teller*)
Mikakos, Ms
Murphy, Mr
Pulford, Ms
Scheffer, Mr
Smith, Mr
Somyurek, Mr
Tee, Mr
Tierney, Ms
Viney, Mr

Pair

Kronberg, Mrs
Pakula, Mr

Motion agreed to.

COAL EXPORTS: PRODUCTION OF DOCUMENTS

The Clerk — I lay on the table 10 documents received in accordance with the resolution of the Council of 11 November 2009 relating to brown coal.

I have also received the following letter dated 28 July 2010 from the Attorney-General:

ORDER FOR THE PRODUCTION OF DOCUMENTS — COAL EXPORTS

I refer to the Legislative Council's order of 11 November 2009 seeking the production of:

> all documents concerning government consideration of proposals, including but not limited to, heads of agreement, to pipe and export overseas brown coal from the Latrobe Valley and including details and records of meetings with proponents undertaken by the Premier and Victorian government ministers.

I refer also to my letter to you dated 28 October 2008, in which I noted the limits on the Legislative Council's power to call for documents. These limits centre on the protection of the public interest. In my letter I set out factors which the executive government would consider when assessing whether the release of documents would be prejudicial to the public interest.

The government has estimated that responding to the Council's order in full would require the assessment of a very large number of documents and substantially divert relevant departments' time and resources. Having regard to *Hansard* for 11 November 2009, the government has therefore identified the key relevant documents sought by the order.

The executive government has now assessed these documents against the factors listed in my letter of 28 October 2008. The executive government, on behalf of the Crown, makes a claim of executive privilege in relation to the documents described, and on the grounds set out, in the attached schedule.

The remaining documents sought by the Council's order have been produced by the government today. Some of the documents contain the names and contact details of individuals. In the interests of personal privacy, and in accordance with normal practice, these details have been excluded.

Mr D. DAVIS (Southern Metropolitan) — By leave, I move:

That the list of 10 documents being produced to the Council and the list of the 132 documents upon which executive privilege is being claimed relating to brown coal be incorporated into *Hansard*.

Motion agreed to.

RETURN TO ORDER:

Legislative Council Order dated 11 November 2009, referred to in Legislative Council, *Minutes of the Proceedings No. 143* — Wednesday, 11 November 2009, item 5: Production of documents — Coal Exports

No	Description
1.	Internal DIIRD email, re 'Exergen Summary (for discussion with the Minister)' (12 January 2009) Attaching: 'Project and Technology Overview'
2.	Minutes of meeting between Exergen and representatives of DPI, DIIRD and DOT (22 January 2009)
3.	Letter from Exergen to DPI, re 'Exergen Business Plan — Commercial In Confidence'
4.	Letter from Exergen to the DPI Secretary seeking a meeting (5 April 2009)
5.	Background document and media release by Exergen (undated)
6.	Letter from Exergen to Minister of Energy and Resources attaching a media release (14 May 2009) Attaching: – media release on Major Japanese general trading company buys into Australian clean coal initiative (11 May 2009)
7.	Request for Brief from the Minister for Energy and Resources, re 'Meeting — Exergen and Brown Coal' (20 May 2009)
8.	Email from DPI to DPC, re 'Key messages: Exergen' (28 May 2009)
9.	Itinerary prepared by Exergen, re 'DPI/DIIRD visit to Beaconsfield, Tasmania — Wednesday, 22 July 2009'
10.	Letter from Minister for Energy and Resources to the Premier re recent discussion to consider the merits of an interim allocation of coal for the Exergen Project (5 November 2009)

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
22 January 2009	Presentation by Exergen	Release of this document would: – reveal information obtained by the Executive Government on the basis that it would be kept confidential.
20 February 2009	Map prepared by Exergen	Release of this document would: – reveal information obtained by the Executive Government on the basis that it would be kept confidential.
5 February 2009	Email from Exergen to DIIRD	Release of this document would: – reveal information obtained by the Executive Government on the basis that it would be kept confidential.
6 February 2009	Email from DIIRD to Exergen	Release of this document would: – reveal information obtained by the Executive Government on the basis that it would be kept confidential.
20 February 2009	Further draft time line	Release of this document would: – reveal information obtained by the Executive Government on the basis that it would be kept confidential.

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
24 February 2009	Brief from DIIRD to the Minister for Industry and Trade	Release of this document would: – disclosure would reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer
25 February 2009	Presentation by Exergen	Release of this document would: – reveal information obtained by the Executive Government on the basis that it would be kept confidential.
undated	Notes by DPI	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet. – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
undated	Hand drawn diagram by DPI	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet. – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
undated	Internal presentation by DPI	Release of this document would: – disclosure would reveal information obtained by the Executive Government on the basis that it would be kept confidential
15 April 2009	Draft DIIRD brief to Minister for Industry and Trade	Release this document would: – reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer
21 April 2009	Presentation by Exergen	Release of this document would: – reveal information obtained by the Executive Government on the basis that it would be kept confidential.
21 April 2009	Brief from DIIRD to the Minister for Regional and Rural Development	Release of this document would: – disclosure would reveal information obtained by the Executive Government on the basis that it would be kept confidential – disclosure would reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer
1 May 2009	Email from Exergen to DIIRD	Release of this document would: – Reveal information obtained by the Executive Government on the basis that it would be kept confidential.
	Request for Minister's Endorsement for Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
7 May 2009	Email from Exergen to DIIRD	Release of this document would: – Reveal information obtained by the Executive Government on the basis that it would be kept confidential.
12 May 2009	Internal DIIRD email	Release of this document would: – Reveal information obtained by the Executive Government on the basis that it would be kept confidential.
	DIIRD Cabinet brief re Cabinet Submission	Release of this document would: – reveal the deliberative processes of Cabinet
	DPI Briefing Note for Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Speaking Notes for Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Decision Extract for Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
25 May 2009	Email from DPI to DIIRD	Release of this document would: – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
26 May 2009	Interdepartmental brief by DPI	Release of this document would: – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
29 May 2009	Letter from Exergen to DIIRD	Release of this document would: – Reveal information obtained by the Executive Government on the basis that it would be kept confidential.
29 May 2009	Presentation by Exergen to DPI	Release of this document would: – Reveal information obtained by the Executive Government on the basis that it would be kept confidential.
undated	Time line, prepared by DPI	Release of this document would: – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
2 June 2009	Brief to Premier by DPC	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
26 June 2009	Legal advice from external legal provider	Release of this document would: – Reveal confidential legal advice to the Executive Government.
	Draft Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
	Drafts of commentary on Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
	Further draft commentary on Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
	Draft Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
7 July 2009	Presentation by Exergen	Release of this document would: – Reveal information obtained by the Executive Government on the basis that it would be kept confidential. – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
10 July 2009	Brief from the Energy Sector Development Division to Minister for Energy and Resources	Release of this document would: – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
13 July 2009	Outline re 'Coal Allocation Options — Exergen' by DPI	Release of this document would: – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
	Draft request for Minister's Endorsement re Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
	'Submission information' re Cabinet Submission	Release of this document would: – reveal the deliberative processes of Cabinet
	Request for Minister's Endorsement re Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
16 July 2009	Legal advice by external legal provider	Release of this document would: – Reveal confidential legal advice to the Executive Government.
16 July 2009	Letter from Exergen to Minister	Release of this document would: – Reveal information obtained by the Executive Government on the basis that it would be kept confidential.
	Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
20 July 2009	Internal DPI brief	Release of this document would: – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
20 July 2009	Legal advice by internal legal adviser	Release of this document would: – Reveal confidential legal advice to the Executive Government.
20 July 2009	Letter from Exergen to DIIRD	Release of this document would: – Reveal information obtained by the Executive Government on the basis that it would be kept confidential.
	Draft Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
	Briefing Note re Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Endorsed request for Minister's Endorsement re Cabinet Submission	Release of this document would: – reveal the deliberative processes of Cabinet
30 July 2009	Email from Exergen to DPI	Release of this document would: – Reveal information obtained by the Executive Government on the basis that it would be kept confidential.
	Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
4 August 2009	Internal email chain from DPI to DTF	Release of this document would: – reveal the deliberative processes of Cabinet

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
4 August 2009	Email from DPC to DTF re Cabinet Meeting	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	Brief to Chair re Cabinet Submission	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Briefing Note	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Speaking Notes	Release of this document would: – reveal the deliberative processes of Cabinet
	Revised Brief to Chair	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Cabinet Briefing Note	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
14 August 2009	Internal DTF email	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
17 August 2009	DIIRD Ministerial Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	DTF Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
	Cabinet Speaking Notes	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
20 August 2009	Presentation by Exergen to Minister Pakula	Release of this document would: – disclosure would reveal information obtained by the Executive Government on the basis that it would be kept confidential
	Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	Draft Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Briefing Note	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Speaking Notes	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Cabinet Decision Extract	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	Request for Minister's Endorsement re Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
undated	Presentation by Exergen	Release of this document would: – reveal the deliberative processes of Cabinet
	Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
	Cabinet Briefing Note	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
3 September 2009	Email from DSE to DPC	Release of this document would: – reveal the deliberative processes of Cabinet
7 September 2009	Brief to Premier	Release of this document would: – reveal the deliberative processes of Cabinet
7 September 2009	Internal DSE email	Release of this document would: – reveal the deliberative processes of Cabinet
9 September 2009	Legal advice by external legal provider	Release of this document would: – Reveal confidential legal advice to the Executive Government.
	Cabinet Brief	Release of this document would: – reveal the deliberative processes of Cabinet
	Brief re Cabinet Submission	Release of this document would: – reveal the deliberative processes of Cabinet
	Decision Extract endorsing minutes of Cabinet	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	Draft brief to re Cabinet Submission	Release of this document would: – reveal the deliberative processes of Cabinet
	Speaking Notes for Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
undated	List of questions for Exergen and DPI	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
11 September 2009	Internal DTF email	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
undated	Draft questions prepared by DPC with annotations	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
14 September 2009	PPQ by DIIRD	Release of this document would: – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
15 September 2009	Email chain between DTF, DPI and DPC	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
	DTF briefing re Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
undated	Brief for Premier re meeting	Release of this document would: – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
20 July 2009	Email from DPI to DTF	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
25 September 2009	Draft Discussion Paper by DIIRD	Release of this document would: – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.
28 September 2009	Brief from Energy and Resources to the Minister for Energy and Resources	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
28 September 2009	Letter to Exergen from Minister for Energy and Resources	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
30 September 2009	Email from DPI to DTF and other government representatives	Release of this document would: – reveal the deliberative processes of Cabinet
	Email from DPI to DTF and other departments re draft Cabinet Submission	Release of this document would: – reveal the deliberative processes of Cabinet
2 October 2009	Letter from Exergen to Minister	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet – Reveal information obtained by the Executive Government on the basis that it would be kept confidential.

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
2 October 2009	Emails between DPC and other government representatives	Release of this document would: – reveal the deliberative processes of Cabinet
2 October 2009	Emails between DPC and other government representatives	Claim executive privilege – Release of this document would: – reveal the deliberative processes of Cabinet
d	Comments by DPC on draft Cabinet Submission	Claim executive privilege – Release of this document would: – reveal the deliberative processes of Cabinet
	Draft attachment by DPI for Cabinet Submission ‘	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
6 October 2009	Emails from DTF to DPI and other government representatives	Release of this document would: – reveal the deliberative processes of Cabinet
	Emails between DTF and DPI re further DTF input for Cabinet Submission	Release of this document would: – reveal the deliberative processes of Cabinet
	Emails between DTF and DPI re further DTF input for Cabinet Submission	Release of this document would: – reveal the deliberative processes of Cabinet
	Draft Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
	Email from DIIRD and DTF and DPC and other government representatives re Cabinet Submission	Release of this document would: – reveal the deliberative processes of Cabinet
8 October 2009	Letter from Exergen to DPI, attaching responses to Minister’s further questions	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet – Reveal information obtained by the Executive Government on the basis that it would be kept confidential.
8 October 2009	Internal DSE email.	Release of this document would: – reveal the deliberative processes of Cabinet

DATE	DOCUMENT	BASIS FOR CLAIM OF EXECUTIVE PRIVILEGE
9 October 2009	DPC brief to Premier	Release of this document would: – reveal the deliberative processes of Cabinet
undated	Draft answers by DPI to questions prepared by DPC	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
undated	Further draft answers by DPI to questions prepared by DPC	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
	Draft Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
	Draft Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
	Draft Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet
	Cabinet Submission	Release of this document would: – Reveal, directly or indirectly, the deliberative processes of Cabinet.
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9 November 2009	Draft PPQ by DIIRD	Release of this document would: – Reveal high-level confidential deliberative processes of the Executive Government, or otherwise genuinely jeopardise the necessary relationship of confidentiality between a Minister and a Government officer.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

V/Line: free travel

Mr KOCH (Western Victoria) — My question is for the Minister for Public Transport, Mr Pakula. Following the catastrophic failure of the metropolitan and V/Line train network yesterday, which has seen the Brumby government attempt to grovel to the public by offering merely a single free day's ride on public transport this Friday for metropolitan customers, I note that V/Line has failed its on-time performance targets since September 2009. I ask: why have the minister and the Brumby government decided once again to discriminate against regional Victorians through their hastily constructed attempt to pacify the public, despite the fact that regional customers had to travel greater distances than those in the metropolitan area and had no access to alternative public transport?

The PRESIDENT — Order! I am concerned about the member's comments regarding the government grovelling to the public. I think that it is both gratuitous and argumentative. I ask the member to withdraw the comment.

Mr Koch — I withdraw.

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Koch for his question. I welcome it because I welcome the opposition demonstrating in this forum that it has not done its homework — yet again. Mr Koch is wrong, wrong, wrong. Yesterday I announced quite clearly in both a media release and in my statements to the media — and

it has been reported in regional newspapers today and on the V/Line website — that V/Line customers will be compensated in the same way that metropolitan customers are to be compensated.

The difference is that it is simple to put on a free day of travel with the Metro system, but it is difficult to do that on V/Line services because, as the member knows, seats on V/Line services are at a premium. If you simply throw open the service, there is the potential to create a significant problem with regard to the availability of seats for regular V/Line customers. Therefore, rather than taking the same action as that taken for Metro passengers, we announced in a media release, in my public comments and on the V/Line website that all V/Line passengers are entitled to a free replacement ticket upon showing their periodical ticket or a validated ticket for travel yesterday.

Supplementary question

Mr KOCH (Western Victoria) — My supplementary question to the minister is that this is not the same as the offer to the metropolitan travelling public. I therefore ask: what is the cost to V/Line to offer this service to regional Victorians at a later date?

Hon. M. P. PAKULA (Minister for Public Transport) — Let me take Mr Koch through the mechanics of why it is the same. All passengers who were inconvenienced yesterday will receive the equivalent of a free day's travel. Passengers who travel on a daily ticket on the metropolitan service will receive the benefit of a free day's travel on Friday. Unlike daily ticket passengers, a free day of travel does not provide a benefit to metropolitan, weekly, monthly or yearly travellers because they have already purchased their tickets. Those passengers will be able to access a free daily ticket in the same way that periodical passengers do if Metro has not reached its performance targets; passengers present their ticket and they are provided with a free daily ticket.

We have made exactly the same arrangement for V/Line passengers. Those passengers who are able to demonstrate that they have a periodical ticket or a ticket validated for travel yesterday will be able to receive a free daily ticket. We paid great attention to and were very keen to ensure that all passengers who were inconvenienced yesterday were treated in the same way by being provided with a day's free travel. That is what we have done; that is the mechanism we have engineered to ensure that that is the case.

In relation to the other part of Mr Koch's question, there will be no cost to V/Line. The government has indicated that it will share the cost with Metro with regard to the metropolitan day of travel, and other operators such as V/Line, Yarra Trams and bus operators will be no worse off financially.

Rail: Maryborough line

Ms PULFORD (Western Victoria) — My question is to the Minister for Public Transport, Martin Pakula, and on the subject of V/Line. Can the minister inform the house of what the successful return of passenger rail to Maryborough will mean for the town and the surrounding communities?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Ms Pulford for her question. The weekend was a fantastic couple of days for the community of Maryborough and the communities between Ballarat and Maryborough because on the weekend we reconnected Maryborough to the V/Line regional rail network, allowing passenger rail services to run there for the first time in 15 years after that line was closed by the previous government in 1993.

The Premier and I were joined by the member for Ballarat East and the Minister for Agriculture, both from the other place, and by hundreds and hundreds — —

Mr Guy — The line was not closed.

Hon. M. P. PAKULA — Mr Guy said the line was not closed — the line was not closed but no passenger trains have run on it, and that is the purpose of a railway line. Rather than celebrating the return of passenger services in the same way that hundreds and hundreds of members of the local community did on the weekend, building up a brilliant atmosphere in the region, Mr Guy wants to engage in semantics about whether or not the line was closed.

Mr Guy interjected.

The PRESIDENT — Order! Mr Guy has been given his last warning!

Hon. M. P. PAKULA — The new service commenced on Sunday. It is a $50 million initiative as part of the Victorian government's transport plan. It is an initiative that helps link regional and rural communities. There was some fantastic work done by the contractor, Abigroup, which commenced major works on this project just four months ago. Everyone would agree that the communities of Maryborough and Creswick and the communities between Ballarat and Maryborough have waited a long time for the return of passenger rail services, so it is exciting that this project

has been delivered ahead of schedule so that passengers can start enjoying the benefits sooner.

The return of this service will lock in prosperity for Maryborough and Creswick, and from next year Clunes as well. It will significantly improve transport options for people in the region. This reinstated daily service will allow people in Maryborough and Creswick better access to education and job opportunities, health care and leisure activities all the way to Ballarat and on to Melbourne. There will be 14 services a week, giving people access to train services every day of the week. We understand also that nothing is more important to regional Victorians than job security, and that is why we are also investing in job-securing contracts like those for new trains for our regional rail network.

This initiative, like the regional fast rail initiative, is part of the renaissance in rail travel for people in regional Victoria. More people than ever are travelling on our regional trains, and that is why we are making investments right now for future growth on the regional rail network. The increase in patronage that we have seen right across the regional network is a reflection of the investment that the government has made in track, rolling stock, new trains and new train lines right across major regional centres around Victoria.

The return of passenger services to Maryborough last weekend is something that all members ought to celebrate. It will be fantastic for the communities of Creswick, Clunes and Maryborough. The weekend was a great weekend for regional Victoria.

Public transport: infrastructure

Mr D. DAVIS (Southern Metropolitan) — My question is for the Minister for Public Transport. After yesterday's transport system failure does the minister concede that the Brumby government's policy of spending $1.4 billion on a massively overbudget ticketing system is a misallocation and that the overrun money would have been better spent on basic rail and public transport infrastructure, including overhead lines, ballast and the upgrade of signalling infrastructure?

Hon. M. P. PAKULA (Minister for Public Transport) — Mr Davis asked a question about maintenance on the railway lines, so let me give him some figures in regard to maintenance. In the first seven months of the Metro contract, from November to 30 June, it was provided with $145 million from the government, and from 30 June this year to 30 June next year there will be an additional $220 million — so there is $365 million over a period of 19 months to carry out exactly the kind of work that Mr Davis and his Johnny-come-lately party are talking about with this question. That is in stark contrast to the absolute lack of investment in the railway system over the period of the Kennett government when railway lines and stations were closed and there was no investment in the system whatsoever.

Mr Davis talked about the ticketing system. As I have said in this place on many occasions, Victoria needs to move to a new smartcard ticketing system, given that we have a Metcard system which is reaching the end of its natural life and for which maintenance and parts are going to become increasingly expensive and obsolete. Like all major states around the world, Victoria needs to move to a smartcard system, which we expanded on Sunday with the extension of the myki system to trams and buses.

When you are investing in the public transport network you have to be able to walk and chew gum at the same time; it is not one or the other. It is not about putting every dollar that you have and every bit of investment that you have into ballast, sleepers and overhead wiring, although we are doing all of that. It is about having a vision and an agenda for an integrated transport system, including new rolling stock, the reopening of railway lines to regional Victoria, the building of the regional rail link to take pressure off our regional and metropolitan services, and a new ticketing system.

All of that is important, along with things like the Doncaster area rapid transit, SmartBus, new trams and new V/Locity trains. All of that is about building an integrated public transport network where we do not just focus on the basics, although they are important and are being invested in heavily; it is about building a better public transport network through new track, new trains, new trams, new buses and a new ticketing system so we can build a better public transport network for all Victorians.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — In response to the minister's point about walking and chewing gum, I would certainly put it to him that he is doing neither. In response to the minister's points about infrastructure, I ask the following: is it the Brumby government's policy to fine the operator of the metropolitan transport system up to $1 million for basic transport infrastructure work that the Brumby government has failed to undertake over 11 years?

Hon. M. P. PAKULA (Minister for Public Transport) — Mr Davis talks about whether it is policy. It is not a matter of policy, it is a matter of the contract.

It is a matter of the franchise agreement that the government has entered into with Metro, and there were similar clauses — similar, but different — in the previous franchise agreement. It has been the case for a long, long time that there are penalty provisions in the franchise agreement between government and the operator in the event that performance targets are not met. It is not about infrastructure investment per se. There are provisions in the franchise agreements that say that there are penalties that apply if the level of service that the community expects in regard to both delivery and punctuality are not met.

Can I say it is my recollection that it has been put to me in the past by the opposition that those penalties ought to be higher. The reality is — and I have said this many times — that what members of the public expect is that government, through the Department of Transport, through my office and through the operators, whether they be Metro, Yarra Trams or the bus operators, collectively provide them with a good, reliable public transport system. As part of that it is right and proper that a portion of the risk, if you like, is borne by the operators of the system. They do not bear all the risk, but they bear a portion of the risk. It is right and proper that in the event that the operator does not achieve the targets which the government expects, which they have committed to in the franchise agreement and which commuters expect, there is a penalty attached to that. That is the case, and has been the case for a long, long time, as Mr Davis well knows.

Economy: government initiatives

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Treasurer, John Lenders. Can the Treasurer update the house on how the Brumby Labor government's strong leadership is keeping the Victorian economy heading in the right direction, and can he also update the house on current employment data?

Mr LENDERS (Treasurer) — I thank Mr Somyurek for his question about how this Brumby Labor government is managing the Victorian economy. During 2009, in particular during the global financial crisis, we saw that Victoria was a stand-out success compared to most other jurisdictions. You can measure that by the economy continuing to be competitive and therefore attracting jobs, strong state investment in skills and strong state investment in infrastructure, what that has meant ultimately, getting to the second part of Mr Somyurek's question, is a net increase of 115 000 jobs during the last year.

Mr Leane — It is good.

Mr LENDERS — It is indeed good, Mr Leane. We on this side of the house celebrate jobs being created, whereas there are others in this place who are disappointed when jobs are created because it just removes another negative story for the opposition to run on.

A most interesting point, in a sense, from objective observers talking about Victoria is the Access Economics report released earlier this week on the state of the Australian economy. The Access Economics report paraphrased *When Harry Met Sally* to describe the jealousy felt by other states when looking at Victoria's high-performing economy and record of creating jobs. I quote from the Access Economics report.

Mrs Coote interjected.

Mr LENDERS — I suggest to Mrs Coote that she perhaps read the Access Economics report. I quote from it:

> With apologies to the restaurant scene in *When Harry Met Sally*, we can only imagine that other state premiers must look at John Brumby, sigh, and say, 'I'll have what he's having'. Victoria continues to chalk up enviable outcomes on key indicators. That includes jobs, where the state has racked up the fastest growth in Australia. And it includes housing construction, where Victoria has made the best effort of any state to keep up with demand, and where the leading indicators in housing finance and building approvals suggest that the state will continue to outstrip Australian gains for at least a … while further.

For Mrs Coote's benefit, the start of the Access Economics report says:

> With apologies to the restaurant scene in *When Harry Met Sally*, we can only imagine that other state premiers must look at John Brumby, sigh, and say, 'I'll have what he's having'.

What we see here from Access Economics is a statement on where it thinks the Victorian economy stacks up against the economies of other states.

We do not rest on our laurels in Victoria. There is more to be done: there are more jobs to be created, there is more work to be done to position our state to go forward as a great place to do business, a great place to create jobs and a great place to improve the lifestyle of Victorians. We will continue to focus on making the state more competitive, boosting the skills of our population, boosting the infrastructure we need to build on and being innovative and at the lead to create jobs in Victoria. We will not rest on our laurels; there is more to be done. But in Victoria hard work, innovative plans, sticking to the plans, having policies and making tough decisions are generating job growth, which assists in

improving the lifestyle of Victorian families and makes Victoria a better place to live, work and raise a family.

Planning: high-density developments

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. Noting the Labor government's objective of turning Melbourne into Sydney through high-density, high-rise developments across all of the metropolitan area, I ask: what recent research has been conducted by the minister or his department to declare that suburban bus routes such as the 513 from Eltham are able to accommodate high-rise, high-density development, or has the extent of the government's research simply been to examine *Melway*?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's interest in this area. I welcome it because we know that his concerns in relation to expanding the urban growth boundary and the various amendments that have been brought before this chamber have created some contention, or might I say some tension, within his own party. Even last night Mr David Davis raised the matter of VC67 and VC68 and which one we were likely to introduce first for debate in this chamber.

I know that Mr Guy is concerned about urban density. One of the most important points about urban density and how it is presented is that we have to have a strategic approach to it, and a strategic approach is identifying the right locations. As has been the case here with the development assessment committee legislation and the urban development zone and the other work we have already debated in this chamber on many occasions, it is about working with local governments to identify where that density or intensification should occur.

I know that Mr Guy would like to flag that it could potentially occur all across Melbourne, and so scare anybody who lives in any part of Melbourne into thinking that there is the potential for urban density to appear next door to them, in their own backyard or down the street. That is not the case. What is particularly important in connection with the policy that we have developed around Melbourne @ 5 Million and the actions we are seeking to take is to work with local governments, through the planning process, to identify the strategic locations where density is appropriate. That means working with local communities to identify those locations, whether they are old industrial sites, whether they are locations along transport corridors or whether they are locations in activity centres.

What is important is that if you do not identify the strategic locations then increased density will potentially appear across Melbourne in different shapes and forms. What will happen is that as the pent-up demand for greater housing choice appears, greater density will appear across Melbourne rather than in those strategic locations. So as part of good policy, good policy development and good policy implementation, we are seeking to have that density implemented through various planning scheme amendments that have been brought before this chamber for debate.

We look forward to the adjustments to the urban growth boundary, we look forward to the other support for the additional infrastructure that goes with that — the native grasslands reserve, the regional fast rail corridor and the ring-road corridors — and we look forward, if and when they are brought to this chamber, to support for the measures that will see additional density provided for in existing suburbs in those strategic locations, as opposed to the lack of clarity we see from the opposition when it comes to these issues and its lack of support for these issues as they are dealt with in this chamber.

Supplementary question

Mr GUY (Northern Metropolitan) — I thank the minister for his answer. I note that he mentioned internal contention. I also note comments from the Labor member for Brunswick, Carlo Carli, that Labor's current planning policy is turning Brunswick into Miami, and I ask: why is the minister ignoring the growing concern about mandating high-density development even from his own backbench and not changing government policy so that high-density development is built only in defined areas so that Melbourne's livability will be preserved?

Hon. J. M. MADDEN (Minister for Planning) — I cannot say how entertained I am that Mr Guy has an enthusiasm for Miami. I suppose he means Miami, Florida, as opposed to Miami on the Gold Coast, because they are certainly slightly different. There are probably parts of both Miamis that are quite nice, I suspect.

But of course I do not believe those comments in relation to Brunswick are appropriate. I do not believe they are appropriate because what we are seeing in Brunswick and what we are seeing in Moreland is the council adopting an approach for additional density in appropriate and strategic locations. It is important to realise that in the likes of Moreland or other municipalities we have a lot of what were formerly

industrial areas that no longer suit the purposes of the sorts of industries that might previously have operated in those suburbs. They allow for additional housing, additional housing types and additional housing choice for those who might demand that in the future.

I make the point to Mr Barber, to Mr Guy and to anybody who has an interest in planning that what we are seeing in terms of household formation should inform what we do in the planning field, particularly planning policy and its implementation into the future. If we had no population growth at all in Melbourne and in Victoria, we would still need more dwellings. We would still need more dwellings because what we are seeing — and this is a great attribute of not only Australia but Victoria in particular — is that people are living longer, which is a great thing, but as part of living longer — —

Mr Jennings interjected.

Hon. J. M. MADDEN — Hence the comparison to Miami. We are all living longer. Why not retire to Melbourne where you have the lifestyle instead of retiring to Miami? Can I make the point that, because those people in Miami and those people in Brunswick and those people in Melbourne in general are living longer and probably spending those years on their own for one reason or another, and certainly in smaller households, they need smaller dwellings. They need the opportunity to downsize and potentially to free up the capital they might have had tied up in the other property or to rent a property that is smaller, because they do not necessarily need the larger household type that might have been appropriate for them in the middle years of their life.

We are also seeing younger people in the community wanting to move out of home but stay in the suburb that they have grown to know and love. Hence they are actually looking for a smaller dwelling that is affordable as well. What we are seeing in these sorts of suburbs that are closer to the city is the evolution of a different housing type and the need for that different housing type on the basis of our changing household formation. I know that we have critics on the other side of the chamber who deny the prospect of more dwellings in any existing suburbs, but it is just as important to provide those choices for the current ratepayers, the current residents in those suburbs. It is important for them to have a choice in the future as they look for different housing types.

What we have seen in Moreland is those former industrial sites being redeveloped. I bet if Mr Guy asked some of those residents what they would prefer next to their home, either a factory or more dwellings — not only because of amenity and real estate values — but because of a sense of community that they would prefer and request that it be zoned for residential development rather than industrial development. What we are seeing in many of these inner suburbs is this land being rezoned for residential development and for a different dwelling type because of the different dwelling needs of our community as we go forward.

I know Mr Guy is very sceptical and would like to reinforce that scepticism across the community. He would like to play to the audience and scare people around urban density, scare people around more housing choice, scare people around providing more housing, but can I just say that it is important that we take this strategic approach, that we give clarity, that we identify those strategic locations and that we work in partnership with local councils and communities to deliver this so that we ensure that we continue to make Melbourne and Victoria the best place to live, work and raise a family.

Information and communications technology: national broadband network

Mr EIDEH (Western Metropolitan) — My question is to Minister for Information and Communication Technology, John Lenders. Can the minister inform the house on recent job announcements in the information and communications technology industry and in particular the announcement of the operational centre of the national broadband network, which is yet another vote of confidence in Victoria?

Mr LENDERS (Minister for Information and Communication Technology) — I thank Mr Eideh for his question. I am absolutely delighted that the operational centre of the national broadband network (NBN) has come to Victoria. I agree with Mr Eideh; I think that is a ringing endorsement of our information and communications technology (ICT) sector in this state. It is the largest single ICT project ever in this country and one that has caught worldwide attention. For a national government to have the courage and vision to invest in a broadband network across a country that will deliver services not just in large metropolitan areas but across the entire regions of a country, where every single premises will have either fibre to the home or high-speed wireless or satellite within a short period of time, is in itself a stunning innovation. I am delighted that because of Victoria's strength the NBN has decided to locate its operating centre here in Melbourne.

I am delighted about that not only because it means that we are getting this great technology, this new information highway into the state — and quickly — but also because it delivers jobs. It delivers jobs, jobs and more jobs to Victoria. The operating centre by itself will deliver something of the order of 700-plus jobs here in Victoria. When a company lays off workers or when a company contracts in size we often have debates about where the jobs are coming from as industry changes. We are seeing in this particular sector a growth in jobs that is particularly strong, but it is not just the NBN operating centre that is creating jobs; it is all the other jobs that flow from it.

If we talk about the spin-offs that come from the NBN, the operating centre here in Melbourne was barely announced when Huawei, one of the world's largest IT companies, announced that in partnership with RMIT University it was going to create 1000 training places to deal with job opportunities that will arise out of the NBN.

Hon. J. M. Madden interjected.

Mr LENDERS — No, not 200 000, Mr Madden; 1000 training places. What that means is that these are being centred at RMIT in Melbourne. Also flowing from this, on 6 July we had further jobs coming into Victoria from Cutting Edge, a digital company that has done work for projects like *MasterChef*, which has caught the imagination of many of our citizens — some might even say more of their imagination than has the federal election campaign. It has done work for *Australian Idol*, Network TEN AFL and Baz Luhrmann's *Australia*. All of this is from a company that has decided to create 65 new IT jobs here in Victoria.

Also Australia's fastest growing IT company, VMware, has just opened a new Victorian headquarters at Southbank, creating 75 new jobs. Mrs Coote is ecstatic with delight, because that is 75 jobs that are being created in our electorate. In addition to that, the tech leader Enex TestLab has expanded its Victorian operations, adding 20 more staff.

In many ways, as strong an example as you could get of what the NBN and new technology do — and those of us who care about regional Victoria will know this — is that a major information and communications technology company, Vertex, has decided to create 600 jobs in Ballarat. We see that having a strong ICT sector and a government that will nurture it makes the economy more competitive and attracts investment in skills and infrastructure. We will generate jobs right across Victoria for the future, and these jobs are such an important part of making Victoria an even better place to live, to work and to raise a family.

Planning: compulsory acquisition

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. Again noting the Labor government's obsession with turning Melbourne into Sydney through mandating high-rise, high-density development across the metropolitan area, can the minister give a categorical guarantee to the house that this government will not use compulsory acquisition powers to force people from their homes, creating large, vacant lots where higher density developments can then be put in their place?

Hon. J. M. MADDEN (Minister for Planning) — I note that Mr Guy is scaremongering again on all fronts when it comes to the planning system. I also note Mr Guy's ill-informed press release from last week in relation to these matters. Can I say that Mr Guy's ill-informed comments on these matters just display, in a sense, the approach Mr Guy will take to try to scare anybody in the community about the prospect of planning controls in their areas.

In relation to what Mr Guy mentioned in his question — and he said more about it in his press release last week in terms of land acquisition — land acquisition has been one of those things that has existed across governments for many years. It still exists; it is not going to change, and as such this government's use of it would not change either. In relation to comments I might have made about VicUrban and the way its role may change in the future, Mr Guy would like to give a false impression of them. Those comments related to land assembly.

That might help give clarity to Mr Guy in relation to these matters. Land assembly has always been one of those issues which is difficult, whether it is in greenfield locations or in inner city locations. I know Mr Guy used Moreland as an exampled in his previous question. In parts of Moreland, particularly towards the Northcote end in High Street, we have seen a number of old shopfronts that have been redeveloped in various forms. Some of those shopfronts could lie dormant for many years while somebody may assemble a parcel of land to enable a block of shops to be redeveloped into something more substantial. Sometimes it might be developed into a commercial precinct, a business precinct or a residential precinct in one form or another. It may be single storey, it may be two storeys or it may be more, depending on what the proposal might be. One of the most complex issues in any form of renewal

is land assembly. There is an opportunity for VicUrban to be more active in that space in the future.

But that does not change in any shape or form, nor should it change — and it will not — the way governments undertake land acquisition or the way VicUrban undertakes its land acquisition. I know Mr Guy would like to scare the community and make the case for a fear campaign run around public land acquisition, but that is completely different from what I said. I did not say 'public land acquisition'. I make it clear to Mr Guy today — I make it clear in relation to his press release and I make it clear in relation to his comments today — that those things do not change in any shape or form, although he would like to make out that they will change and he will scare people into believing that they will change, but they will not change. I make that very clear today. Those calibrations do not change in any way.

I again make the point to Mr Guy that he would run a fear campaign on anything, on any front, in relation to any planning permit, any planning control or any planning measure because when he does not have a policy, a fear campaign is the only thing for him to fall back on. That is what we see time and again from this opposition: a fear campaign rather than good policy like our policy that will work to make Victoria and Melbourne a better place to live, work and raise a family.

Supplementary question

Mr GUY (Northern Metropolitan) — The Minister for Planning referred to my previous question, and again I refer to the fact that his own government backbench has serious concerns about the direction on planning, notably, as I said, through the member for Brunswick in the other place, Carlo Carli, who recently derided the planning zealotry of Melbourne 2030, and I ask: when will the minister bring forward his long-awaited review of the Planning and Environment Act, which contains changes to the compulsory acquisition procedures, to give certainty and clarity to councils and communities, or is this another strategy like the new residential zones plan that has failed to materialise under this minister?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Mr Guy's interest in these matters because he is impatient for reform, but as soon as the reforms are presented to Parliament, he blocks them. I make the point here that Mr Guy cannot wait for more reforms so that he can block them, and not only can he block them, but he does not even want to make any changes — —

Honourable members interjecting.

Hon. J. M. MADDEN — I have to use this time very carefully. I make the point that Mr Guy gets impatient for reforms, he gets impatient when it comes to adjustments to the urban growth boundary, he gets impatient about housing affordability, but he gets impatient because every time we bring a reform forward he can block it, undermine it and offer no alternatives.

I make the point that Mr Guy proposes no alternatives to anything we propose other than to block it, criticise it, stymie it and do his utmost to undermine confidence in the planning system by the building and construction industries, which are one of the great employers in this state and have proved to be a great catalyst for surviving the global financial crisis not only in this state but also in this country. Mr Guy would do all he could to undermine that confidence as we go forward.

Mr Guy raised matters about the Planning and Environment Act review and the draft bill to amend the Planning and Environment Act. There are issues that no doubt were raised in our public consultation by various sectors, and we will make announcements about some of those issues that the public had concerns about. I make this point: when we introduce something the opposition says we have not consulted enough, but when we take our time and consult more, it says it takes too long. So we have this tension in the mind of Mr Guy, tension within the mind of the opposition and tension in the leadership of the opposition about what it does or does not want from the planning system. It wants things faster and it wants more consultation, but at the end of the day it does not want any of that.

Even when opposition members decide they want something they do not talk about it amongst themselves because, when we introduce something and make an offer to the opposition, the Leader of the Opposition on the other side of the house can ask me what conversations I have had with Mr Guy in relation to these matters.

Mr Guy interjected.

Hon. J. M. MADDEN — Mr Guy can yell at me all he wants, but if he wants a conversation with Mr Davis, he should have it with Mr Davis, not through me. He is sitting right next to Mr Davis, so why not tap him on the shoulder and say, 'Do you have a view on this, Mr Davis'? Why doesn't Mr Guy ask him that? And I see Mr Davis smile because I am not even sure Mr Davis has had a tap on his shoulder to discuss various matters.

We have an obstructionist opposition that becomes impatient when we do not introduce things, because that does not give it anything to obstruct. It wants us to introduce these things sooner rather than later so that it can obstruct them.

I will be making announcements about these issues in forthcoming weeks. I look forward to the support of the opposition on those announcements rather than seeing the recurring theme from the opposition in this place when it comes to planning — to criticise everything and support nothing. I look forward to that because the future of the state, the future of the building and construction industry, the future of the jobs that go with it, the future of the prosperity that comes to families because of those initiatives around the building and construction industry are of profound importance to Victorians in the future, but unfortunately the opposition does not see it that way. The opposition sees the political opportunity to vote things down and criticise and block them as its only chance to get coverage and headlines in the newspaper. I look forward to its support. I look forward to the epiphany, even though I would suggest it is probably never going to be forthcoming to the opposition, in relation to planning and planning policy on these fronts.

Planning: Docklands development

Ms MIKAKOS (Northern Metropolitan) — My question is also to the Minister for Planning, Mr Justin Madden. Melbourne's Docklands precinct has transformed over the past 10 years to a thriving commercial and residential hub. Can the minister update the house on any recent initiatives to ensure the successful future development of Docklands over the next 10 years?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Mikakos's interest in the area. I know that she has a great interest in all things planning. She provides an enormous amount of support in her role as parliamentary secretary in the planning portfolio. I would like to thank her for that and again thank her for her interest in Docklands.

What we have seen at Docklands over the past decade is that to date 3400 dwellings have been constructed and now around 6000 people call Docklands home, 21 commercial buildings have been developed and something of the order of 19 000 people come to work there each day. In the past 10 years we have seen $6 billion of private investment in the revitalised waterfront. That is not a bad amount of work in the past decade.

What is particularly important is that Docklands provides a choice for people in relation to whether they might want to live close to work or whether they might want to live in high-density development — whether they want to live slightly differently from what might have been the traditional suburban developments that we have seen in the past. That is part and parcel of what Melbourne @ 5 Million and Melbourne 2030 are about. Those policies that we as a government have put out in the public domain are about trying to strike the right and sensible balance between growth in our suburbs and growth and renewal in strategic locations.

There is no better site and location for strategic renewal than the Docklands precinct. Members will recall that the site was a lot of rail yards and a lot of space in and around the port that was in many ways underappreciated and undervalued not only in light of its waterfront location but also in light of what it could deliver in terms of resident numbers and jobs into the future.

Over the next 10 years we would expect significant investment, additional renewal and continued development across the Docklands precinct. Recently I made announcements about how we see our role through VicUrban as an authority across the next 10 years. We have announced that we will work in partnership with the City of Melbourne. It will become the authority responsible for the currently developed areas of Docklands; VicUrban will continue to be the master developer and also the authority for the areas that need to be developed as part of Docklands over and above the existing components.

As part of that we are conscious also that, because Docklands has now taken form and shape and we have a much better sense of those who work, recreate and live in the precinct, we need to look at and consult more broadly on what the needs of that precinct might be over the next 10 years, particularly when it comes to whether the likes of schooling and child care — the sorts of services which may or may not be needed in this precinct over the next few generations — are of critical importance to those in this area. We need to look also at different models for the way people might live.

In recent announcements with Bronwyn Pike, the Minister for Education and the local member for the precinct, it was recognised that people may not necessarily want to have their kids educated in the community they live in. Whilst there are children living in families in Docklands, some people may want to work in Docklands and bring their children to schools in Docklands, have them educated in central Melbourne

and then in a sense take them home with them at the end of the day when they leave work — or some sort of combination of the above. There are different models for living that we need to investigate.

As part of that we are undertaking a combined consultation process with VicUrban, the state government and the City of Melbourne. That will be undertaken in a number of ways with residents and with businesses. There will be active and interactive opportunities for people to be engaged in the process so that not only those who live or work there but all Melburnians who have an interest can have a chance to have an influence on the way that Docklands takes shape, particularly around infrastructure and services, into the future.

I would encourage anybody with an interest in this field to go to the appropriate websites to look at how they can be involved and to be involved if they want to make a contribution, because it is important that all parts of Melbourne and Victoria contribute to making Victoria a great place to live, work and raise a family.

Buses: route 694

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Public Transport, Mr Pakula. It relates to the Knox-Maroondah-Yarra Ranges bus service review, which was released in April. In that review at recommendation 41 we have the initiative in relation to bus route 694, 'Remove route'. Under 'Needs assessment', it says:

> Remove duplicative and indirect service to improve network.

There seems to be some confusion in the community in regard to this. As reported in the *Ferntree Gully, Belgrave Mail* of 8 June 'your local MP, Mr Merlino' said:

> This service has been complemented by improvements to routes 688 and 698, which will provide additional services.

That is a separate question. I understand those routes run in parallel for part of their distance with route 694, but route 694 is the only route that allows you to move across the Dandenongs escarpment there, from Mount Dandenong to Kallista to Belgrave. Therefore the community wants to ensure that service on a route such as that will continue. Can the minister confirm that the recommendation of the bus review that route 694 be removed is not going to be followed?

Hon. M. P. PAKULA (Minister for Public Transport) — I thank Mr Barber for the question. The bus reviews have of course been an integral part of the government's efforts to improve bus services throughout Melbourne. They form a very valuable part of the process, because what the bus reviews do, as Mr Barber knows, is provide us with a huge number of recommendations, not all of which are acted on at the time that the bus review is released.

One of the great benefits of a bus review is that, because of the level of community consultation, local government consultation and consultation with commuters that is undertaken during the bus review, the department is able to gather information about a whole range of potential improvements that can be carried out now or in the future as funds become available. The benefit of a bus review is that you have the opportunity to make some changes up front, and in the future more of those recommendations can be brought forward as we can afford to do so. Equally there are other recommendations in the bus reviews that are not now or in the future ultimately accepted by the department.

I am advised — and I will advise Mr Barber further if this is not the case, but I imagine that he would not expect me to have encyclopaedic knowledge of every bus route in Melbourne — and my advice to him and to the Parliament is that despite that recommendation there are no changes envisaged to bus route 694 at the current time.

CSL Ltd: Broadmeadows biotechnology facility

Mr ELASMAR (Northern Metropolitan) — My question is to the Minister for Innovation, Gavin Jennings. Could the minister inform the house of how the Brumby Labor government is working in partnership with the Gillard Labor government and CSL Ltd to drive new jobs in the Victorian biotech sector?

Mr JENNINGS (Minister for Innovation) — I thank Mr Elasmar for his question and the opportunity to talk about a great collaboration between the Gillard government and the Brumby government in supporting innovation investment in not only great science in the Victorian and Australian economies but also a great Australian company, CSL. Recently I joined the Premier, the federal minister for innovation and science, Senator Carr, and other representatives of the local community at a great announcement of CSL's investment in Broadmeadows which will see $235 million spent to create a state-of-the-art biotechnology facility which will reinforce CSL as one of the world's leading biopharmaceutical companies.

CSL, which started its life as the Commonwealth Serum Laboratories in 1914, is a great success story not only in terms of biotechnology, pharmaceuticals and

research and development but as a company of international standing. It is Australia's 13th largest company. In terms of expenditure on research and development it has the second biggest expenditure of any Australian company, second only to BHP Billiton. They are the dimensions of the importance of CSL.

CSL is an international company. When it was establishing its Broadmeadows facility it had the option of locating it in any of the 27 countries around the world in which it operates, but it chose to invest in Victoria. It chose to seek a collaboration between the commonwealth government and the Victorian government to underpin that $235 million investment. It will be undertaking important research work which will hopefully lead to some therapeutic intervention to support cancer treatment and treatment for blood-borne diseases and heart illness in the future. It is very prospective work. We think it will not only achieve a direct result in relation to the therapies that will apply for those illnesses, which will contribute to a greater quality of life for people around the world, but obviously will also find international markets in the pharmaceutical sector.

It is a great opportunity to create jobs in the construction phase; 320 jobs will be created in construction. There will be somewhere of the order of 330 ongoing research high value-adding jobs for Victorian scientists and people who will be working in this facility to make sure we maintain our momentum in innovation and the biotech sector and in terms of driving jobs for the future. That is something the Brumby government is committed to supporting. I am pleased in this instance that the Gillard federal government chose to support our actions to support this great Australian company, CSL, in its expansion into the future.

RULINGS BY THE CHAIR

Notices of motion

The PRESIDENT — Order! Earlier today Mr Tee gave notice that the Ombudsman investigate the actions of certain councillors at Kingston City Council. I note the various observations from both sides of the house in relation to the powers of the Ombudsman and his capacity to investigate such a matter. The matter for me to decide is not on the powers of the Ombudsman but on whether Mr Tee's motion complies with the standing orders of the house.

I am strongly of the view that the house is its own master and will decide if this matter is referred to the Ombudsman. The Ombudsman will then decide if he can, and will, investigate these matters. Therefore the motion of Mr Tee, given that it complies with the standing orders, will be placed on the notice paper. Once again I say the house will decide the matter.

I have also now had the opportunity to examine the extensive notice of motion given by Mr Dalla-Riva earlier. Under the standing orders the Chair has the power to omit material from a notice of motion that is not considered to be in accordance with the standing orders. In accordance with longstanding practice I have directed that certain material be deleted from the notice.

As I did in relation to Mr Tee's notice, I reiterate that it is not the role of the Chair to give a legal opinion on the provisions of the law. It appears to me that there are no parliamentary grounds upon which to rule either notice out of order. However, I am concerned at this emerging trend of asking the Ombudsman to examine matters which involve members of Parliament. This, in my view, is an undesirable practice as it seeks to involve the Ombudsman in matters which are largely of a political nature. I do not believe this is consistent with the Ombudsman's principal function, which is to examine administrative decisions taken in government departments, public statutory authorities or by staff of a municipal council. I ask members to be mindful of my concerns when preparing notices of this nature in the future.

Sitting suspended 1.03 p.m. until 2.02 p.m.

OFFICE OF POLICE INTEGRITY: PRODUCTION OF DOCUMENTS

Debate resumed from 24 March; motion of Mr DALLA-RIVA (Eastern Metropolitan):

That this house —

(1) notes the administrative failure of the Office of Police Integrity in the management of the prosecution case against former assistant commissioner of police, Mr Noel Ashby, and further notes Victorians will now not be in a position to examine the evidence concerning, or properly debate issues surrounding, the reported involvement and conduct of Mr Martin Foley, MP, member for Albert Park, and the now Minister for Roads and Ports, Mr Tim Pallas, MP, in the case;

(2) further notes that in the absence of a broadbased, independent anticorruption commission in Victoria few formal mechanisms exist to restore public confidence or fully and independently probe the broader implications of preliminary evidence in the case; and

(3) therefore orders that in accordance with sessional order 21, there be tabled in the Council by 12.00 noon

> on 13 April 2010 a copy of all relevant material collected for the prosecution case against the former assistant commissioner of police, all background material that supported the case, including but not limited to transcripts and recordings and other documents that form part of the authorised telephone intercepts and including specifically any and all documents and information in the possession of the Office of Police Integrity and the Department of Justice that refer to the member for Albert Park and the now Minister for Roads and Ports and material that refers to members of the Brumby and Bracks governments' ministerial staff, either current or past.

Mr FINN (Western Metropolitan) — I rise to support the motion so ably put by my friend and colleague Mr Dalla-Riva. In doing so I move an amendment, which I now ask to be circulated:

> That the words '13 April 2010' be omitted with the view of inserting in their place '10 August 2010'.

It should be obvious to most members of the house that 13 April has passed. We need to make this amendment, as it will be clear and obvious to all.

I will say a few words on the motion before us today. I believe we have a law and order crisis in this state, but I do not believe the crisis is among the rank and file of policemen and policewomen on the front line. I do not believe they are responsible for the concerns that people have about their safety. I do not believe those men and women who go out every day and every night and put their lives on the line to protect us are responsible for the law and order crisis that we suffer from in this state.

I do not think there is any doubt that for some years the Victoria Police hierarchy has been in disarray. We have not recovered since the appointment of Christine Nixon as Chief Commissioner of Police, when this government brought her down from New South Wales in a way that created pandemonium within the force.

Over Ms Nixon's time as chief commissioner we saw that she had no great enthusiasm for the task of protecting the community and putting the law into place but an enormous capacity for social engineering within the police force. She pushed her own agenda the whole time she was chief commissioner, and as a result the fibre of the Victorian police force was destroyed. She set out to destroy the fibre and the culture of the Victorian police force, and I have to say she was singularly and extraordinarily successful in doing that. It will take us years to recover from Christine Nixon's time as Chief Commissioner of Police.

Those of us who have been touched by cancer would know this metaphor very well. If Christine Nixon were the original cancer in the Victorian police force, she has produced a number of secondary cancers. Now that she has gone she has left behind her a number of cancers in the force that the government has no intention of trying to remove. Until they are removed we will continue to have a law and order crisis in this state. We will continue to have a situation where people will be playing games and putting social engineering and political policy ahead of the enforcement of law and order in Victoria. That is a tragedy for average Victorians and for those of us who are genuinely concerned for our safety.

I live in and represent an area where far too many situations get out of hand — where people's personal safety is at risk, people are seriously injured and people find themselves being bashed, robbed or are under some sort of threat. I am just hoping that at some stage in the not-too-distant future we might be able to recover from the years of the Nixon menace at the Victoria Police and VicPol might be able to get back to what it is really good at — that is, fighting crime and protecting Victorians.

One of those cancers I referred to is the Office of Police Integrity. The OPI is a circus. It was set up almost as a personal police force of the then chief commissioner to get her enemies, real or perceived, within the police force. Now that she has gone it is time for the OPI to go as well. As soon as she walked out the door it outlived its usefulness. I am hoping the OPI and others around the leadership hierarchy — and I use that term loosely — of Victoria Police today will be removed and we will again, in the not-too-distant future, have a police force which is led by people who have the best interests of Victorians at heart and genuinely want to see policing in this state as it is supposed to be — and that is all about protecting Victorians. As I say, that is not happening at the moment and it is long overdue.

I hope Mr Dalla-Riva's motion will go some way towards establishing the facts of this matter and that it might make some contribution to giving us back the police force that we once had and were once so very proud of.

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to speak on the motion. In particular, I welcome the opportunity — —

Mr D. Davis interjected.

Mr TEE — No. Mr Davis should know that we have checked and that is not the case. The part of the motion I want to focus on firstly is what is claimed to be the absence of a broadbased, independent anticorruption commission in Victoria. What that

exposes on many levels is the age of this motion, which was moved in March this year. It is very much a dated motion, but it gives me an opportunity to talk about how we have continued with the evolution of the anticorruption mechanisms in Victoria.

As we all know, the Office of Police Integrity has been in place for some time. Through that office we have seen the director initiate and prosecute a number of cases against members of the police force. I am sure that quality work will continue. More recently and more importantly, having set up that mechanism and a number of other mechanisms, the government established a review — the Proust review — which examined all the anticorruption mechanisms and models in place, the strengths of the agencies and identified gaps in the current arrangements. The review considered the powers, functions, coordination and capacity of existing agencies and made a number of recommendations. I am pleased the Premier has accepted those recommendations.

What we will see in the next 12 to 18 months is the establishment of a Victorian integrity and anticorruption commission. That body will investigate allegations of serious misconduct and corruption in the public sector and local government. It will deal with whistleblower complaints. It will comprise three independent officers of the Victorian Parliament. There will be a new public sector integrity commissioner, who will be the chair of the commission. The director of police integrity will continue his current role. He has already got substantial experience through the OPI and its investigations into police corruption. However, the role of the OPI will be extended to both sworn and unsworn employees.

I am sure Mr Finn is very pleased that the police force will continue to do the sensational work that it has been doing, particularly in relation to crime with rates at historically low levels, as I am sure he will acknowledge. Victoria leads the country in terms of its low crime rates, which is a great testament to both the current Chief Commissioner of Police and his predecessor. There will also be the addition of a chief municipal inspector and a parliamentary integrity commissioner.

In order to oversee the work and to ensure that there is coordination and information sharing across the agencies, the Proust review recommended the establishment of an integrity coordination board. That will comprise a number of agencies that are currently in existence, including the Ombudsman, the Auditor-General, the public sector integrity commissioner, director of police integrity, chief municipal inspector, parliamentary integrity commissioner and public sector standards commissioner.

Not only do we have a holistic approach but we also have a coordinated approach. In response to the motion, to the extent there have been gaps in our broadbased, independent anticorruption system in Victoria, this review has had a look at those gaps and identified them. The government has committed to the recommendations which will ensure that those gaps are addressed. This will be overseen by a parliamentary committee, which will monitor the functions of the independent integrity commission.

It has been a long time since March when we started this debate, and a lot of water has flowed under the bridge since then. For that reason the motion looks very dated. As well as being dated, the drafting of the motion has been done in a lazy way. It is very broad and ill considered. I would perhaps go so far as to say it is ill informed. What jumps out from the third paragraph of the motion is the breadth of the scope of the material being sought, because what is being sought here is all relevant material collected for the prosecution case and that, as I would have thought Mr Dalla-Riva would understand, would be a vast bulk of evidence and material.

I do not know what is in there, but the nature of these investigations is that they are lengthy, they are thorough and they contain voluminous amounts of material. That in itself is not a problem. However, if this motion were ever successful, and I hope it never is, what worries me about it is the impact it would have on innocent third parties caught up in this police investigation. We give our police significant powers, but we entrust them to keep what they learn private to the extent that it is not going to be used in and is not required to serve the interests of justice. It might be relevant to the case, but it must never see the light of day. This may or may not include — and again I do not know what is in the brief — conversations with friends, wives, girlfriends, partners, husbands, children or people up the road. The ‘relevant material collected for the prosecution case’ is a very broad description, but it goes beyond that.

Mr Dalla-Riva interjected.

Mr TEE — If Mr Dalla-Riva stopped at ‘relevant material’, that would be one thing, but this goes even further: it is Mr Dalla-Riva’s hand of Big Brother reaching across into people’s private lives and demanding that ‘all background material that supported the case’ be provided to this Parliament. Not only are we looking at material that was relevant to the

prosecution but Mr Dalla-Riva and the opposition are demanding that anything, including the lives of private individuals and their private affairs, which may or may not be 'background' to what occurred in an investigation that might have taken months or even years, has to be — —

Mr Finn interjected.

Mr TEE — A good point, Mr Finn!

Mr Finn — If it is not relevant, we don't want to see it!

Mr TEE — No, that is not right. Mr Finn should move an amendment, because that is not what this motion says. This motion says, 'all relevant material' and/or 'background material'. I agree with Mr Finn: it would be one thing if the benchmark was 'relevant material', but the benchmark in this sloppily drafted motion is for all 'background material'. I do not see on what basis the public interest or the community's interest is served in ascertaining background material to this investigation. I do not understand on what basis the opposition, and on what basis Mr Finn, would justify that intrusion into the lives of Victorian citizens — —

Mr Finn — It is called justice; it is probably a foreign concept to you!

Mr TEE — These are people going about their lives, people minding their own business, doing their own thing, yet Mr Finn wants to haul them into this chamber and have their activities made public in the interest of justice! Is that what the interest of justice demands? Does the interest of justice demand that people minding their own business get hauled before this Parliament because of some interest that Mr Finn may or may not have? This is an appalling abuse of process, it is an appalling intrusion into the private lives of Victorian citizens and it ought not be supported in any shape or form.

Mr DALLA-RIVA (Eastern Metropolitan) — Despite the ranting of the previous speaker, the bottom line of this motion is that it is not seeking material — —

Mr Tee interjected.

Mr DALLA-RIVA — This is what happens when you have a lawyer debating a motion! The motion is very clear: it states that it seeks a copy of 'all background material that supported the case'. Mr Tee is very selective. He must need a whiteboard and perhaps a cheese board to understand the motion, because he clearly failed as a lawyer, he is clearly failing as a member of Parliament and he is clearly failing in the debate here today. The bottom line is that this motion is seeking to examine the documents relating to the administrative failure of the Office of Police Integrity in the management of a prosecution case against former Assistant Commissioner of Police, Mr Noel Ashby.

The opposition understands through reports that there were issues relating to the involvement of members of Parliament. We believe, and it is believed — —

Mr D. Davis — Mr Pallas and Mr Foley.

Mr DALLA-RIVA — The Minister for Roads and Ports, Mr Pallas, and Mr Foley, the member for Albert Park in the other place, may have had conversations in this particular case. The opposition is seeking the following information: what was their involvement; what were they involved in; what was the relationship between the Chief Commissioner of Police, those members of Parliament and perhaps other members of Parliament, and the issue of Mr Ashby, Mr Mullett and Mr Linnell?

It is interesting to note that in the debate put forward by the government, there was nothing to argue. Mr Viney said the government would normally not oppose this motion and that Parliament should be undertaking some kind of investigation into the proceedings. That is not the case; what we are seeking are the documents. It is fair to say that this motion is about the fact that the government has not had an independent, broadbased anticorruption commission. The opposition is very clear about that and we have been saying there has been a cover-up.

The government sits there and says, 'This is about undertaking an investigation into the proceedings in the court'. We do not know, because we never saw the documents; we never saw the brief of evidence. That was the argument I raised in my initial contribution to debate on the motion. We do not know exactly who was involved, how they were involved, and at what level the government, the police or certain individuals were involved in corruption. We do not know if there were people involved within the bureaucracy. We do not know exactly whether there were issues relating to individual members, relevant departments or specific ministers.

Hon. M. P. Pakula — Say it out there!

Mr DALLA-RIVA — The Minister for Public Transport is saying, 'Say it out there!'. What? This has been a very public issue. We are seeking the tabling of these particular issues through the powers of the Parliament. If the government has nothing to hide, as

was indicated, it should put that forward. It was interesting that in Mr Viney's contribution he said, 'We normally do not oppose these motions'. In fact I went through and had a look at the number of motions that have been moved in this chamber — and there were something like 36 as at the date I moved the motion — and there was only one motion on which the government called for a division. It said no to all the other motions. This goes back to 2007, 2008, 2009 and 9 June 2010, the date on which I had this report commissioned by the table office. Why is it that the government has supported all motions except one? I will tell the house why: it is because the government knows there is something there. That is what this is about. The government sits there and says, 'Jeez, we had better oppose this one. We have supported all the others'.

Mr Viney — You are gutless. You are absolutely gutless!

The PRESIDENT — Order! That is inappropriate. I ask Mr Viney to withdraw.

Mr Viney — I will withdraw.

Mr DALLA-RIVA — That reaction is interesting.

Hon. M. P. Pakula — Fair enough, though. If you want to make an allegation, just make it. Make the allegation. Make it!

Mr DALLA-RIVA — 'Make the allegation', the minister says. I think the allegations and the issues I have raised here are very clear. I have argued for the motion. I have been very clear about what we are seeking. Mr Tee's notion that we are seeking everything beyond this is nonsensical in the context of the motion. As I have indicated, the very issue is that the government has not divided on motions except for the first one, but it is hell-bent on opposing this, for very — —

Mr Viney — Those reasons were spelt out.

Mr DALLA-RIVA — 'The reasons were spelt out'. You argued the reasons, Mr Viney, and you know they were nonsensical.

Mr Viney — Those reasons were well spelt out.

Mr DALLA-RIVA — You know that is not the case. As I indicated in my original presentation, there were briefs of evidence against Mr Ashby, Mr Mullet and Mr Linnell; each of them thrown out. We know that. It appears to be an administrative failure. The government cannot come in and say it does not support the motion. I have read through and understood Ms Pennicuik's concerns, and again — —

Mr Viney — They are the same as mine.

Mr DALLA-RIVA — No. Ms Pennicuik raised the issue.

Mr Viney interjected.

Mr DALLA-RIVA — Perhaps Mr Viney might want to look at the Legislative Council's *Hansard* of the 56th Parliament for 23, 24 and 25 March 2010 — —

Mr Viney — You had better not quote from it, because it would not be appropriate.

Mr DALLA-RIVA — Can I not inform myself by reading it, President? Again this is an example of where the executive wants to dominate even the parliamentary debate. Mr Viney wants to tell me what I can and cannot do in my own Parliament. Mr Viney did not elect me. The government did not elect me. It was the people in the Eastern Metropolitan Region who elected me to represent them here, so it is interesting that Mr Viney, who references everything but understands nothing, would realise that I can read a book. I have got the book in front of me.

It was interesting because Ms Pennicuik's comments related to the lack of an independent crime commission. Her concerns were that perhaps the motion was too broad. Ms Pennicuik's contribution raised other issues, not the issues that Mr Viney raised. On the way through, Ms Pennicuik had a go at us about the independent, broadbased commission against corruption and a few other things. I am not speaking on her behalf, but I think Ms Pennicuik would essentially agree that the lack of an independent, broadbased anticorruption commission is the reason we are in this situation now and why we have problems dealing with corruption at different levels, whether it be in government, with individuals, in the bureaucracy or with the police.

Mr Viney — Or opposition interference in local government, for example.

Mr DALLA-RIVA — It is amazing that there is this whole range of issues and all we get is barking from across the chamber and threats such as, 'Say it outside', 'We cannot debate this', 'You cannot say that', 'You should not refer to notes' — threats, threats, threats. That is what this government has been built on. It continues to issue threats. This government can no longer do that. This motion is a real motion; it is a

motion that should be supported. I commend the motion to the house.

The PRESIDENT — Order! By way of clarification before I put the motion, it is not appropriate to quote from *Hansard* that has been printed within the last six months on a matter related to the debate. However, it is okay to paraphrase.

House divided on amendment:

Ayes, 17

Atkinson, Mr	Kavanagh, Mr
Coote, Mrs (*Teller*)	Koch, Mr
Dalla-Riva, Mr (*Teller*)	Lovell, Ms
Davis, Mr D.	O'Donohue, Mr
Davis, Mr P.	Petrovich, Mrs
Drum, Mr	Peulich, Mrs
Finn, Mr	Rich-Phillips, Mr
Guy, Mr	Vogels, Mr
Hall, Mr	

Noes, 21

Barber, Mr	Murphy, Mr
Broad, Ms	Pakula, Mr
Darveniza, Ms	Pennicuik, Ms
Eideh, Mr	Pulford, Ms
Elasmar, Mr	Scheffer, Mr
Hartland, Ms (*Teller*)	Smith, Mr
Huppert, Ms	Somyurek, Mr (*Teller*)
Jennings, Mr	Tee, Mr
Leane, Mr	Tierney, Ms
Madden, Mr	Viney, Mr
Mikakos, Ms	

Pair

Kronberg, Mrs	Lenders, Mr

Amendment negatived.

Motion negatived.

SELECT COMMITTEE ON PLANNING PROVISIONS

Establishment

Debate resumed from 23 June; motion of Mr BARBER (Northern Metropolitan):

That —

(1) a select committee of seven members be appointed to inquire into amendment VC67 to the Victoria Planning Provisions;

(2) the committee will consist of three members from the government party nominated by the Leader of the Government, three members from the Liberal-Nationals coalition nominated by the Leader of the Opposition and one member from the Australian Greens nominated by the Australian Greens Whip;

(3) the members will be appointed by lodgement of the names with the President by the persons referred to in paragraph (2) no later than 4.00 p.m. on Friday, 25 June 2010;

(4) the first meeting of the committee must be held no later than 4.00 p.m. on Monday, 5 July 2010;

(5) the committee may proceed to the dispatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy;

(6) four members of the committee will constitute a quorum of the committee;

(7) the chair of the committee will be a non-government member and the deputy chair will be a government member;

(8) the committee will advertise its terms of reference and call for submissions and all such submissions received by the committee will be treated as public documents unless the committee otherwise orders;

(9) the committee may commission persons to investigate and report to the committee on any aspects of its inquiry;

(10) the committee will present its final report to the Council no later than 30 September 2010;

(11) the presentation of a report or interim report of the committee will not be deemed to terminate the committee's appointment, powers or functions;

(12) the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders and sessional orders or practices of the Council, will have effect notwithstanding anything contained in the standing or sessional orders or practices of the Council.

And Mr D. Davis's amendment:

In paragraph (10), after 'The committee will present' insert 'an interim report by 10 August 2010 and'.

Debate adjourned on motion of Ms PENNICUIK (Southern Metropolitan).

Debate adjourned until later this day.

POLICE: INDEPENDENT INVESTIGATORY BODY

Ms PENNICUIK (Southern Metropolitan) — I move:

That this house calls on the government to establish a civilian-managed body, independent of Victoria Police, to investigate all police shootings, incidents involving serious injury, deaths and serious injury in police custody, and complaints against police that involve allegations of human rights abuses.

I have moved this motion today because there has been a longstanding concern in the community, not just in

Victoria but around the world, about internal police investigations of police shootings, deaths in custody and complaints against police.

Most people in the community see an inherent conflict of interest in police investigating police, especially when those investigations are not open to public scrutiny. I will start by saying — as I have often said in relation to motions involving the subject of the police — that, like all members here and people in the community, I believe most police are good people who aim to carry out their public duties with the highest integrity and to the best of their ability.

However, the police have extensive powers under the law that they can use, and they can be intimidating to members of the public. Police are also armed with an array of weapons, including firearms, batons and capsicum spray, and now, unfortunately, in the state of Victoria some police will also be armed with tasers. With those powers and the ability to deploy weapons there needs to be much scrutiny of the use of those powers and weapons against members of the public.

Incidents happen where civilians are shot and killed by the police. Unfortunately Victoria has the dubious honour of being the state with the highest number of police shootings in Australia — far and away above any other state. There have been many inquiries and much public commentary and concern about that state of affairs. You can go back as far as 1994 to Task Force Victor, which was a comprehensive review by Victoria Police and the Department of Justice following the fourth police shooting in that year.

One of the recommendations of Task Force Victor was that consideration be given by the Deputy Ombudsman (Police Complaints), as it was then, to having reports of investigations of police shootings where persons are wounded scrutinised by external experts to ensure an informed review by persons not exposed to the institutional press of the Victorian police force. What is meant by the 'institutional press' that operates in police agencies is that, however objective the police investigators might be, they cannot rid themselves of shared assumptions and beliefs. External expert assessors not only bring expertise to the task but are by definition free of the organisational influence to which police members are unavoidably subject. That was 16 years ago, and the situation still exists today.

Members will be aware that I have taken an interest in the police shooting of Tyler Cassidy on 11 December 2008 and that I have already mentioned this case in this chamber on two or three occasions. It is true to say that the death of Tyler and the circumstances in which it occurred have had a profound effect on me. I have tried to help and support his family as much as I can through their ongoing ordeal. Members will recall that on 10 December 2009 I read in this house a statement prepared by Tyler's mother, Shani Cassidy. I remind members of some of Ms Cassidy's words:

> It is one year ago since Tyler was killed and my family is still searching for answers and for action to prevent further police shootings. We have tirelessly campaigned for an independent investigation of his killing, but to no avail.
>
> We are appalled at the treatment we have received from Victoria Police. We have no confidence in the system of police investigating police. The police investigation has been a closed shop, managed internally and out of reach and scrutiny of our family and the Victorian community.
>
> Basic human rights have been denied. Communication with the families of victims needs to be urgently addressed with an independent family liaison person appointed.
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> …
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> Better training and alternatives to deadly force need to be addressed urgently.
>
> Wholly independent investigations of deaths caused by police are needed.
>
> On this anniversary of Tyler's death, we mourn his incomprehensible loss and will work even harder to prevent a recurrence of this preventable tragedy.

I am sure members can only imagine the incredible stress and grief that Tyler's family has suffered. At 15, Tyler is believed to be the youngest person to have been shot by police in Australia's modern history, yet the Office of Police Integrity (OPI) declined to take the case on under its own public interest provision in the Police Integrity Act. It is difficult to comprehend a case of greater public interest than the fatal shooting of a 15-year-old boy by four police officers in a public place. As a result the investigation of Tyler Cassidy's shooting was conducted by the police with oversight by the ethical standards department but with no external oversight. The OPI, however, reviewed the police investigation after it was completed, which to my knowledge has not been made public. If mistakes or omissions had occurred in the course of the police investigation, it would be too late to rectify them.

On 11 December 2009 I wrote to the director of police integrity (DPI) asking him why, given the obvious public interest in the Tyler Cassidy case, the OPI had declined to oversee or conduct the investigation into that shooting. I received a response from the director of police integrity, who had also written to Ms Cassidy quite a long time after she had written to him asking why he had not taken on the case. My letter did not necessarily go only to why he had not taken on the case

but rather to what guidelines the OPI would use in determining whether a case was of sufficient public interest for it to take on the case.

The DPI furnished me with the criteria, which I believe have not been made public:

> The criteria that inform decisions made under section 40(4)(b)(1) of the Police Integrity Act are:
>
> > The complaint involves issues where there is substantial reason to believe that an investigation by Victoria Police may not result in a full, complete and impartial investigation of the complaint —

I think the Tyler Cassidy case fits that criterion.

> The complaint relates to alleged misconduct involving substantial risk to public confidence in the process for investigating complaints against police —

I believe the Tyler Cassidy case would fit that criterion.

> The complaint has attracted or could attract substantial political or public interest, apprehension or concern —

I would suggest that the Tyler Cassidy case definitely fits that criterion.

> The complaint relates to conduct that has affected a large number of persons or the rights of persons generally or a group of persons within society (may include specific reference to human rights, discrimination et cetera) —

ditto.

> The complaint relates to a Victoria Police member or station with a significant complaint history or intelligence indicates that the member or the station is of concern to OPI —

perhaps not.

> The complaint contains information that has the potential for wider intelligence value for target development —

definitely.

> The complaint is from the chief commissioner —

no.

> The complaint involves allegations of exceptionally serious misconduct, criminality or corruption —

that is yet to be determined. And:

> The complaint relates to an OPI area of emphasis and is serious —

definitely. Obviously the complaint is serious because a young person was killed by police in a public place. Also the emphasis of the Office of Police Integrity over the last five years has been on the excessive use of force by the police and their ongoing lack of training in and deployment of less lethal methods when dealing with confronting situations. That has been an emphasis and a subject of several OPI public reports.

That is all a matter of history. The OPI did not do anything during the course of the police investigation, but it did conduct a review of the investigation after it was completed.

Complaints have been raised publicly by the family of Tyler Cassidy about their treatment during the police investigation, including what follows. There was a delay in notifying the family of what had occurred. In the immediate aftermath of the shooting, members of the family were separated from one another for the purpose of police interviews. The interviews of family members took place at the very station where two of the officers involved in the shooting were ordinarily stationed. The police visited the family house at 2.00 a.m. the following day for the purpose of seizing Tyler's computer and other items. As far as I know they have not been returned to the family.

There has been an ongoing and consistent lack of dialogue and communication from police and other institutions — often requests for information are not responded to or are responded to after a very lengthy delay. Information was and continues to be withheld from the family. They feel they are being drip-fed and that crucial information will only come to light, if at all, at the coronial inquest.

From the outset there have been no offers of assistance or support. Despite repeated requests, the family and its legal representatives have never received witness interview transcripts or even been informed of whether or not these transcripts exist. That is a highly unusual situation which puts the family at an unjust and unacceptable disadvantage in terms of preparing in even the most basic way for the coronial inquest. There appears to be no videorecording of any interviews by police, although this is absolutely standard procedure in homicide investigations and was promised to the family by Assistant Commissioner Cartwright.

It appears that important elements of the case were omitted, including an investigation into a possible assault on Tyler earlier that evening that may have contributed to his reportedly fragile psychological state, and vast amounts of irrelevant information about Tyler have been included in the report of the police investigation. There have been inexplicable delays in completing the investigation, finally brought to a head by a demand from the coroner.

Other issues that have been publicly raised include the fact that Shani Cassidy was not informed of the decision to undertake an autopsy on the body of her son or of her rights to object to that. Whether this was intentional or unintentional, it was and is still very unfair and a breach of process. Ms Cassidy only found out about this fact from her legal team. She and her partner, Greg Taylor, have since met with the complaints officer at the Coroners Court. A lengthy discussion was had, followed by a letter from the chief executive officer to the family, but that is all after the event and should never have happened.

Ms Cassidy has also stated that after her son's shooting she was not permitted to see his body until about 10.00 a.m. the next day at the morgue when she was only permitted to view him briefly through a glass window.

Due to her experiences Ms Cassidy has called for an end to the practice of police investigating police. Those who have come into contact with Shani Cassidy can only be touched by her dignity and her courage, particularly when you consider what she must go through every single day of her life. It is now more than 18 months since Tyler was killed.

Ms Cassidy's campaign for an end to the practice of police investigating police has prompted me to bring this issue to the Legislative Council, but it is fair to say that the obvious flaws of the current process of police investigating police has been a longstanding concern of mine and of many in the community. It is difficult to find information about the outcomes of other police shootings in Victoria which have not resulted in a coroner's inquest or in charges being laid. It is difficult to find information about them even if coronial inquests have been undertaken.

The outcomes of police investigations are sometimes not known to the families or the community. This causes ongoing suffering to families who have had their loved ones seriously injured by police or who have been killed by police — either they have been shot by police or have died in police custody as a result of some other cause. We have a situation where police are investigating themselves with regard to these incidents. They are not open to public scrutiny at the time, and they often never come to public view after the fact.

Shani Cassidy has been bravely prosecuting her campaign in the media. At the same time she is suffering immense grief. She has been supported by other groups in the community, such as groups from the community legal sector and other groups concerned about police shootings and the investigation of police by police. Those groups that have signed on to assist with this campaign include the Darebin Community Legal Centre, Flemington and Kensington Community Legal Centre, Youthlaw, Human Rights Law Resource Centre, Fitzroy Legal Service and the Indigenous Social Justice Association of Melbourne, Melbourne Copwatch, the National Police Accountability Network and many others in the community.

A petition has been drawn up as part of that campaign. However, it was drawn to the attention of those who had written the petition that it was unfortunately not able to be tabled in Parliament, so the process of collecting signatures was discontinued. The petition was sent to me, and unfortunately, due to the way it was worded and presented, I established it would not be able to be presented to the Parliament. That is an issue I have talked about in here before, that perhaps the rigid standards that apply to petitions that citizens in good faith are trying to present to Parliament could be looked at. They have been looked at by a committee, and the recommendations have not been taken up. In the end the petition could not be presented. It contains 96 signatures — just under 100. Because it could not be presented as at petition in the normal way, I undertook that I would present it as part of my presentation today and that I would read it into *Hansard*.

Hon. M. P. Pakula interjected.

Ms PENNICUIK — I will not read every name on it, but I have mentioned the number of the signatures to that petition. The petition says:

> We, the undersigned, call for the establishment of an independent civilian agency to investigate deaths in custody and human rights abuses by police officers.
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> On 11 December 2008 in Melbourne 15-year-old Tyler Cassidy was shot dead by members of Victoria Police. Had his death occurred in Belfast, London or Toronto, an independent civilian body would have commenced investigation of the incident immediately. Trained civilian investigators would have attended the scene, separated and interviewed civilian and police witnesses and collected and preserved forensic evidence. This evidence would then form part of coronial inquest proceedings and, if appropriate, a prosecution and misconduct proceeding against police.
>
> In Melbourne Tyler's shooting is being investigated by the Victoria Police homicide squad. This investigation is overseen by the ethical standards department (ESD) and also an internal branch of Victoria Police. It is being oversighted by the OPI.
>
> In Australia the Royal Commission into Aboriginal Deaths in Custody noted:
>
>> The breadth and quality of the coronial inquest often 'reflected the inadequacies of the perfunctory police investigations and did little more than formalise the

> conclusions of police investigators'. The report emphasised the 'general inability of coroners to control the quality of preliminary police investigations which lay the foundation for the subsequent coronial inquest' (RCIADIC 1991, vol. 1, p. 130).

> Under international human rights law, investigators of deaths in custody must be independent of the police. Oversight is not sufficient.

> In Tyler's case there is no institutional or practical independence between the investigators and the police they are investigating.

> This process is incompatible with Australia's international human rights obligations under the International Covenant on Civil and Political Rights and Victoria's Charter of Human Rights and Responsibilities Act 2006.

> Can civilians investigate allegations of police human rights abuses?

> The Police Association argues that only police can investigate deaths in custody. Examples of civilians investigating police reveal otherwise. The Police Ombudsman for Northern Ireland is a leading example of a civilian agency that investigates deaths in custody and police human rights abuses. Its fully trained civilian staff attend the scene within an hour of the death and collect all forensic evidence and interview witnesses. Only 25 per cent of the investigating staff in the Northern Ireland police ombudsman's office are former police officers and none of these officers previously worked in Northern Ireland. The Washington, DC, Office of Police Complaints currently employs no former police officers and yet is capable of conducting investigations.

> In Victoria, the OPI investigates 3.2 per cent of complaints made to it. The rest are handed to the Victoria Police for investigation or 'management'.

> Until Victoria establishes an independent and civilian investigation commission, not only are individuals and families denied effective remedies, but the public and particularly its young and marginalised members remain unacceptably at risk of death, injury and ill-treatment by police officers.

> Tyler's death should not be investigated by the police. Tyler's death deserves a true investigation — not an exercise by police in justifying their actions.

> We, the undersigned, call on the Victorian government to immediately establish an independent commission to investigate Tyler's death and other human rights abuses by the police. To comply with human rights standards, investigations must be the following:

> (1) independent — practically, hierarchically, institutionally and culturally;
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> (2) adequate — capable of ascertaining whether the use of force was lawful or otherwise and whether human rights standards and safety-first principles have been complied with;
>
> (3) prompt;
>
> (4) open to public scrutiny;
>
> (5) enable the effective participation of the family/victim;
>
> (6) state initiated.

Obviously there are many concerned citizens who were moved by the circumstances of the death of Tyler Cassidy to sign that petition calling for an independent investigation of his death, but also — as Shani Cassidy and the aforementioned organisations have called for — it is now time for Victoria to set up an independent body to investigate police shootings, deaths in custody and complaints against police involving human rights abuses.

Tyler Cassidy's case is also pertinent to the findings of the OPI about the ingrained go-in-hard mentality of Victoria Police and that office's finding that police officers continue to deal in inappropriate and unresponsive ways with people who are drug or alcohol affected or who may be suffering from a mental illness. There has been much said in the press about Tyler Cassidy's psychological state that night. Much of it is incorrect and most of it, if not all of it, is irrelevant. However, what may have happened to Tyler in the lead-up to his death is relevant but is not being followed up. A witness quoted in the *Weekend Australian* magazine of 8–9 August 2009 said that he had encountered Tyler minutes before he was killed and said of Tyler:

> He bent and patted our dog. We did not feel threatened; nervous maybe. We saw an agitated boy who was crying out for some attention. We saw a kid who needed to talk to someone.

Unfortunately we may never know what happened. This element was excluded from the police investigation even though it may have been entirely relevant to it.

The coronial inquest into the death of Tyler Cassidy has still not commenced. The latest information we have is that it is due to commence in October, nearly two years after the death of Tyler Cassidy. It remains to be seen how well the police investigation will serve the inquest, but the family has grave concerns and such concerns have been raised by others for decades in regard to previous coronial inquiries following police investigations into shootings.

The Royal Commission into Aboriginal Deaths in Custody also emphasised that the general inability of coroners to control the quality of preliminary police investigations laid the foundation for the subsequent coronial inquest. It appears from what has happened since December 2008 that the Victorian coroner has been put in that position and has to rely on the police

investigation into the police shooting of Tyler Cassidy with very little external oversight and only belated external oversight by the OPI.

All of this has occurred away from the eyes of the public. The police brief of their investigation is not a public document. Justice for Tyler Cassidy is going to depend on the thoroughness and integrity of the police investigation, and there are certainly clouds over it, to say the least.

It is also interesting to note that just recently at the Queensland inquiry into the death of Mulrunji Doomadgee on Palm Island, May Brian Hine, deputy chief magistrate, following his inquiry, stated on 14 May:

> I recommend that the future investigation of deaths in police custody, which exhibit indicia of unnatural causes or which have occurred in the context of police actions or operations, be undertaken solely or primarily by the —

Crime and Misconduct Commission —

> as the specialist misconduct and anticorruption body for the state of Queensland. To enable this to occur, I recommend that the CMC be resourced and empowered [by legislative fiat] to undertake the role.

We are already seeing in Queensland in relation to this problem of the police investigating police that there has now been a recommendation by the Chief Magistrate that it should no longer occur in Queensland. For Victoria to take this on board would be in line with what is happening in Queensland and in line with what is happening in other places in the world.

As raised by Mr Tee, who is presently in the chamber, when he made his contribution with respect to the motion debated previously in relation to the production of Office of Police Integrity documents, the government belatedly acted on the recommendation of the Greens that it should conduct a review into the gaps in Victoria's anticorruption system. The government commissioned the Proust review, which has recommended a model.

Mr Tee has spoken about this model as if it is the perfect model, but I do not think it is a perfect model. Certainly the Proust review did the only thing it could have done, which was to identify the glaring gaps in the system of anticorruption bodies that exists in Victoria at the moment, but I am not sure that it is the perfect model being put forward because there are still gaps, one of which is that the parliamentary integrity commissioner can investigate members of Parliament but the proposed independent commission against corruption cannot investigate members of Parliament unless it is referred by the parliamentary commissioner. That is at least one gap that exists. This is not the place for me to go into a critique of the Proust model, but I would be happy to do that on another occasion.

My point is that the government has said it will act on the recommendations and reform Victoria's anticorruption system, and I say that while that is happening it is an opportune time for the government to have a look at this other glaring issue of police investigating themselves when it involves a police shooting, a death in custody or a serious incident or complaint involving human rights abuses. It is an opportune time for the government to look at that because it does not necessarily fit into the anticorruption model. What we are talking about may not, and at most times probably would not, involve corruption, but obviously the case of a death involves a fatal use of force which needs to be scrutinised.

There are existing models around the world such as the Police Ombudsman for Northern Ireland, the Office of Police Complaints in Washington, DC, and the Law Enforcement Review Agency in Manitoba. They independently investigate deaths and complaints from the public about human rights abuses by the police, and they do that in an effective way.

The status quo we have in Victoria, where police investigate themselves, is not the status quo around the world. That has already been pointed out in Queensland only this year as something that should not continue in that state, and I am saying that with the opportunity for a reorganisation of the anticorruption system, the Ombudsman's office and the Office of Police Integrity, for that matter, this is a golden opportunity to do something about this.

If members want to know more about what bodies exist overseas, they can do no better than read the report prepared by Tamar Hopkins from the Flemington and Kensington Community Legal Centre. Ms Hopkins went overseas, visited these bodies and conducted research into how they work. This investigation was funded by a grant from the Victoria Law Foundation. Ms Hopkins wrote a report called *An Effective System for Investigating Complaints against Police*. If the Attorney-General and the Chief Commissioner of Police in Victoria have not read that report, then they should read it. We now have an opportunity to move to a fairer, more open, transparent and effective system of investigating these matters.

At present Victoria does not have an adequate framework for dealing with complaints against members of the police force that do not relate to

corruption. The second part of my motion is that not only should police not be investigating shootings or deaths in custody but they should not be investigating complaints against themselves in terms of human rights abuses. As I have already mentioned, of the complaints directed to the Office of Police Integrity, the majority — 97 per cent — of them are referred back to the police. In many of those there is found to be no case to answer.

It is very hard to know whether it is true that there is no case to answer, because there is no external scrutiny of that process. While that may be the outcome, I suggest that people do not bring complaints against the police lightly, so usually there will be something to a complaint. The public will never know, because it is not an open and transparent process. It is a case of the police investigating complaints against their own members. That is not a situation that we should allow to continue in Victoria when there are viable alternatives, options and models around the world.

The lack of a police investigation unit also places us in breach of section 9 of the Charter of Human Rights and Responsibilities Act. It places members of the Victorian community at risk, closing off our avenues for appropriate remedies when there has been wrongdoing by the police — and there has been. Even the most enthusiastic champions of the police would admit that there is wrongdoing by the police in the area of human rights and that that needs to be handled by an external investigating body.

In nearly every instance Victoria fails the test of adhering to these essential hallmarks because of the current system of in-house investigation of police by police. As I mentioned, in 2007–08, 97 per cent of complaints about police conduct referred to the Office of Police Integrity were referred by the OPI to the police to investigate. As the OPI noted in its paper *Improving Victorian Policing Services Through Effective Complaint Handling*, most of those complaints are not investigated. There is a need in Victoria to change the way we deal with police shootings, deaths in police custody and complaints against the police.

I quote from a letter sent in August last year by the Flemington and Kensington Community Legal Centre to the Attorney-General and the police minister asking them to consider this issue. The point is made that:

> Some police and former police argue that only other police are capable of investigating police. Examples of civilians investigating police reveal otherwise.

It states, as I have mentioned:

> The Washington, DC, Office of Police Complaints currently employs no former police officers and yet is capable of conducting investigations. Only 25 per cent of the investigating staff in the Northern Ireland police ombudsman's office are former police officers and none of these officers previously worked in Northern Ireland.
>
> …
>
> In England and Wales the Independent Police Complaints Commission … has the responsibility to conduct and/or manage independent investigation into deaths in custody.

In Victoria we have the Office of Police Integrity, which could investigate police killings and serious injuries. In 2008 it received a budget of $18.9 million, and in the same year Victoria Police received $1.6 billion, so the OPI's annual budget is slightly more than 1 per cent of the police budget. Anecdotal evidence from the staff at the office of Northern Ireland's police ombudsman is that it also receives about 1 per cent of the police budget. As I mentioned, it is able to allocate that to investigation of all police shootings and deaths in custody and also complaints against police. It spends most of its time investigating complaints against police involving human rights abuses and does so in an open and transparent way.

As I started out, I will close by mentioning that certainly the terrible events around the shooting of Tyler Cassidy and the courageous campaign by his mother, Shani Cassidy, and her partner, Greg Taylor, to raise this issue continually since that time have prompted me to bring this motion to the Council. It is a serious motion that goes beyond those tragic events. Shani Cassidy is brave enough to carry this campaign in the community because she does not want to see the same thing happen to others as has happened to her son Tyler and to her and her family.

Although those issues have been very much behind my bringing this motion to the house, I make the point also that it has much wider ramifications. There has been longstanding concern in the community about police investigating police. As I have pointed out, with the Proust review we have an opportunity to look a bit more widely at this particular issue and how it could be better managed in the state of Victoria. In Queensland the Chief Magistrate has called for the practice of police investigating police to stop. I have referred to models around the world that Victoria could look to in instituting a change in how police shootings, deaths in custody and complaints against police are handled in the state of Victoria.

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to speak in the debate on this motion. There is considerable common ground on some of the

sentiments that have been expressed by Ms Pennicuik. There are a number of serious issues underlying the motion: police shootings, incidents involving serious injury, deaths and serious injury in police custody and complaints against police that involve allegations of human rights abuses. They are very serious matters.

It is also true that police have very extensive powers, they carry lethal weapons and on occasions they use those weapons. They have an important and critical role in our community in protecting the community and in stopping crime, which is fundamental to and at the heart of our civil society. While members of the community understand the need for police to have those resources and that on occasions members of the police force are required to use their weapons, they also want that balance to make sure that those powers are not abused.

Members of the community rightfully expect that there will be careful oversight of the powers that police have and that when those powers are used that will be fully and independently reviewed to make sure that the use of the powers was necessary and was not excessive but was proportionate to and reasonable in all the circumstances. I suppose ultimately the best insurance against an abuse of those police powers is to make sure that independent review mechanisms are in place. That is probably the best protection to make sure that force is used only when necessary and to the extent that it is a proportionate response to the situation being confronted. As I said, there is some common ground on those areas, but we then deviate. The motion suggests that there are deficiencies in the overview mechanisms that are in place in Victoria.

The motion calls for a civilian-managed oversight body which is independent of the police. A number of issues then arise. The first one Ms Pennicuik pointed to was the interdependence of any investigation of police by police. There is a clear tension there. Ultimately the nature of these incidents — that is, whether they involve serious injury or death — is such that often it is only the police who have the forensic and technical skills and experience to investigate those events. They have the expertise to find, understand and analyse the evidence and circumstances. Therefore it is inevitable that you will have a degree of police involvement in any investigation, but that is not necessarily the end of the story. You can always use police expertise and maintain a degree of independence. That is the model we have strived for in Victoria.

A number of agencies ensure that we meet community expectations — for example, we make sure when police use force that it is necessary and proportionate. There are a number of layers. A number of different agencies are all relevant. The starting point is the ethical standards department within Victoria Police. The department often uses homicide squad detectives to investigate the sorts of incidents that are covered in the motion. On most occasions they are the appropriate mechanisms. I suspect on most occasions their investigation is the end of the matter.

Sometimes there is a need for greater independence. That is where the Office of Police Integrity comes in. The OPI has extensive powers. It can review all matters relating to police misconduct, it can review all matters involving corruption or other related matters, it is very independent of police, it has its own legislative framework, it does not report to police but reports to the Parliament, it is a civilian body, it has extensive powers, it has coercive questioning powers and it has the full gamut of investigative powers.

The breadth of those powers are extensive in terms of the breadth of the jurisdiction of the OPI. It can investigate all police disciplinary matters, matters of misconduct and corruption matters. It has powers to review any critical incident resulting in the discharge of a firearm irrespective of whether there are fatalities. It has broad powers in terms of its jurisdiction and the breadth of matters it can look at. It also has extensive powers in terms of coercive questioning to get to the bottom of what occurred.

To ensure that matters come to the attention of the OPI, all critical incidents — that is, all incidents involving serious injury or death — are reported to the OPI. The OPI then has an opportunity; it is aware of the incidents and has an opportunity to investigate. Similarly, deaths in custody — that is, either those that occur in police cells or during police detention — are also investigated by the OPI. The OPI is headed by former Justice Michael Strong. It has a very clear, independent mandate. In many ways it meets the needs and expectations of the community.

In addition we have the Ombudsman in place. The Ombudsman can also investigate deaths in custody. He can investigate deaths and serious injuries of members of Victoria Police and those in the custodial environment of Corrections Victoria. The Ombudsman can play a role. In addition to that there is the independent coroner. The coroner can investigate all reportable deaths. Those deaths include fatalities arising from police shootings and those that take place while in custody.

So we have the Office of Police Integrity, the Ombudsman and the coroner. In addition — and these

have certain limitations — civil actions and civil remedies are available. There are a number of complementary, existing, powerful and independent vehicles to investigate police actions. There has been some mention of that. They have been picked up as part of the Proust review which considered whether or not there were any gaps. That report, which I have indicated, has been made public. The government has indicated it supports the recommendations and will act on them.

As part of that there will be an enhanced role and power for the OPI. The OPI will be part of a much larger oversight body to ensure that if there is any corruption, in particular, that that corruption is followed through the various paths of public life or government where it exists. The OPI will ensure that there are no limits in terms of its jurisdiction to follow police corruption. But also the powers of the OPI will be extended from investigating sworn police to additionally investigating the conduct of unsworn police.

In summary a number of important issues that arise from time to time are covered by a number of agencies and that jurisdiction, which has been recently reviewed. The outcomes of that review have been accepted. In many ways it is important that we debate these issues, but the motion is unnecessary. It is unclear what the additional mechanism would look like, what it would achieve and how it would improve upon the independent mechanisms that are already in place. We will not be supporting the motion.

Mr DALLA-RIVA (Eastern Metropolitan) — This motion is about an issue to which Ms Pennicuik obviously has strong ties. You could sense it from the tone of her voice and the concerns she had. It is a matter she has been following for quite a while. I can understand the extent to which she feels passion for the issue.

For the record, as everyone knows, I am a former policeman, a former police detective. I have tried to look at this from the perspective that Tyler Cassidy's death has brought a lot of issues to the fore. I also put on record the fact that since my election to Parliament I have often attended the Flight of the Angels memorial service. I am not trying to sing my own praises, but often I am the only MP there. It is an annual event held by the Crime Victims Support Association. As its president, Noel McNamara, has put it many times, it is an exclusive club — a club of victims who have lost loved ones to murder. They have been distraught by the entire process.

Even charges and convictions will never take away the pain felt by the parents, siblings, other family members and friends of murder victims and those who have had other relationships with them. In one sense I fully understand where Ms Pennicuik is coming from with this motion.

I have read about the circumstances of Tyler Cassidy's death in a variety of sources, not just the media. I have read the report of the Coroners Court inquest, which is on the website and is dated 4 March 2010. I understand how heartbreaking it is for his family members and how hard it is for them to reconcile the fact that a 15-year-old boy was shot and killed. The persons who shot and killed him were police officers. They are the facts.

The question then turns to the motion to establish a body to oversee Victoria Police and investigate such cases. It makes the assumption that the police had set out to do what unfortunately occurred in the case of Tyler Cassidy. I was not there; Ms Pennicuik was not there. However, from reading through what is available on the website and in the media reports it is clear that some events occurred prior to his death. I do not want to go through all those events as they are on the record. I would not say it is quite clear, because that needs to be determined independently, but a range of issues might have led to the:

> Four members of Victoria Police —

being —

> … involved in the immediate interaction with Tyler and the fatal shooting.

I am quoting from the inquest ruling on applicants to be granted leave to participate as interested parties pursuant to the Coroner's Act.

During the 55th Parliament I was a member of the Law Reform Committee which finalised an extensive review of the Coroner's Act. The very same issues about process, the issues about viewing the body, were all brought up. That was about not just fatal shootings but also the ordinary event of a death in a hospital or elsewhere. For grieving families it is very difficult to reconcile the unexpected death of a loved one.

While I understand the merits of Ms Pennicuik's motion and the notion that because of those circumstances we therefore need a civilian-managed body, on balance the argument has not been established.

Ms Pennicuik spoke about the police shootings in 1994. I remind Ms Pennicuik and others that there have been

extensive police shootings. Police have been shot. There were the Walsh Street shootings in 1988 and a whole series of incidents that followed from that, including many police shootings. Gangland wars also followed, and again there were many shootings as a result. All the way along the police have tried to manage this issue.

One of the major issues confronting our society — and I have seen it in my role as shadow Minister for Corrections — has been the enormous growth in the number of mentally ill people in our prison systems. We know there are circumstances where individuals have sought to have applied to their person lethal force by police officers as a way of dealing with their emotions and their issues. It is commonly referred to as death or suicide by cop, or similar words. Again it is difficult in the circumstances of what was raised to then argue that because of this event there ought to be a civilian-managed body to investigate all police shootings. As we know, in this state there is the coronial oversight. We have also heard that there are other independent oversights.

As I have said to others, I think the issue here is who then has the investigative power and capacity to deal with the complexities of issues such as crime scenes involving death. They are very complex issues. I am not saying that they could not be investigated by trained civilians. However, ultimately an investigator is an investigator is an investigator, whether they are the police or employed by an independent statutory authority or another jurisdiction. They will follow a process. It has been argued that a civilian-managed body would be less weighted towards the police when examining an issue that involved the police. I do not think the arguments put by Ms Pennicuik are persuasive. The motion outlining the establishment of the civilian-managed body is confusing.

For a number of years we have indicated there is a need for an independent, broadbased anticorruption commission, and I think that, as Ms Pennicuik rightly indicated, the model that has been proposed by the government is perhaps a bit flawed. It is significantly flawed in our view, but flawed enough such that there is not the opportunity for such a process to be undertaken separately from the Victoria Police. In my view the issue of complaints against police which involve allegations of human rights abuses is that they would be of a criminal nature or of a nature that would involve investigation. Again it is a very difficult issue, because often people make allegations against police for the sole purpose of getting off a particular charge or because they have a vendetta against the police or whatever. It is not so clear-cut as to say that is what should occur.

I have a feeling that the motion is more about having police investigated because it is just an easier way to get at them. I do not think that is necessarily the case. In Victoria we have what we call the criminal justice system. We have a thing called a judge and jury, and if there are issues of a criminal nature, those persons would be charged and brought before a judge and jury. On balance I think that is where it ought to lie.

In terms of some of the other issues, there are and have been changes to the way policing is done. Back in my day you had a baton and the next level of force was a firearm — a revolver. There was nothing in between. Things have developed, and there is now the armament systems and procedures baton, known as an ASP baton, and a whole range of other weapons, including capsicum spray and the taser, and then you get to the more lethal force of a firearm.

So there are different mechanisms now in terms of policing to deal with different threat levels. Circumstances surrounding the death of Tyler Cassidy may have been different had the police had a taser. I do not know; that is an issue that will be assessed and canvassed in the independent coroner's report. I think a motion like this needs a bit more thought and a bit more exposure about some of the ways it might be set up — the structure, the process, who would be on the civilian-managed body, how they would be trained and where those trained investigators would come from. It really does open up a Pandora's box.

I have tried to look at this not from the perspective of being an ex-policeman, whereby people would say, 'He's an ex-copper; therefore he's going to be with them' and so forth. I have tried to look at it by taking into account my overall understanding of the way the criminal justice system works and the way that investigations are conducted, and an understanding of the complexities and deep emotions of people who have been victims of such serious events as have been reported today in Parliament. I agree with the principle underlying the motion, but I think there is a lot of work to be done before we move to support the motion.

Mr KAVANAGH (Western Victoria) — I appreciate a lot of the sentiment behind this motion, and if it were restricted to the case of killings, I would probably support it. But I think that perhaps the addition of complaints against police that involve allegations of human rights abuses is too wide and not justified in all the circumstances. As far as police shootings go, I would say that killing people is obviously an extremely serious matter and it should be investigated. Although the police no doubt do a good job in their investigations and are not biased, it is

important that they are seen not to be biased and that justice is not only done but seen to be done. Although the result may well be the same between a police investigation and an independent investigation, the way people react may not be the same. People are likely to have more faith if an investigation is done by an independent investigator.

I cannot agree with Mr Dalla-Riva's comment that an investigator is an investigator is an investigator. But having said that, I would also say that from what I have seen of many of these cases it is quite understandable what the police do, because they are often threatened. It is not just an annoying situation or someone behaving badly; it is actually people threatening the police, and in that situation I think they are justified in using force. With some regret I do not feel that I can support Ms Pennicuik's motion, even though I agree with the first part of the motion. I think the last part of the motion makes the potential operation too broad.

Ms PENNICUIK (Southern Metropolitan) — I thank Mr Tee, Mr Dalla-Riva and Mr Kavanagh for their remarks on the motion I have brought to the Parliament today. I regret that members have indicated they will not be able to support the motion, because the motion is not prescriptive in what the government must do. It just seeks to establish such a body, and that can be done in many ways, as I have outlined in my contribution.

Mr Tee admitted that there was common ground, that there are serious matters, that the police have extensive powers and lethal weapons and that the community expects the use of those to not be excessive and to be reasonable in the circumstances. He said that ultimately we do need independent scrutiny of that. But we do not have that in Victoria; we do not have independent scrutiny. Mr Tee went on to say that he cannot support the motion because he says we have independent scrutiny in terms of the ethical standards department. The ethical standards department is an internal body of the police; it is not external to the police, so it is not independent. You cannot call something independent when it is part of the police.

Mr Tee also said that the Office of Police Integrity has extensive powers and thus is the appropriate body to do the job. In my contribution I said the OPI does have the powers but it very rarely uses them. Even in situations such as the death of Tyler Cassidy, which obviously fulfilled the criteria by which the Office of Police Integrity could investigate such a matter, it did not happen. It has not happened in the majority of cases.

Mr Tee mentioned the coroner. The coroner has a role and conducts an inquest, but the coroner does not oversee the investigation. She is dependent on the police investigation and can only investigate on the basis of the police brief handed to her.

Mr Tee went on to talk about the Proust review and the extended powers of the Office of Police Integrity to further investigate corruption and to include unsworn police officers. These are great things but they do not have anything to do with investigating police shootings or deaths. He tried to say that the motion I put forward was unnecessary and unclear. I have been very clear why it is necessary that we have independence in investigations of police shootings, police deaths in custody and complaints against police involving human rights abuses.

Mr Dalla-Riva admitted that the tragic case of Tyler Cassidy, whose family has to live with this matter forever, has brought these issues to the fore. Tyler's case prompted me to bring this motion before the house, but it is a longstanding issue of concern to other families with a family member who has been the victim of a police shooting or suffered a death in custody or human rights abuses at the hands of police.
Mr Dalla-Riva also talked about the families of murder victims. I have the same level of sympathy for anybody whose family member has been a victim of murder or another unexpected death, but that is not the subject matter we are talking about here today.

Mr Dalla-Riva said there was an assumption in my motion that somehow the police had set out to do what had occurred. There was no such assumption. Nobody knows the exact circumstances of what occurred. Unfortunately some of the events have not been properly investigated by the police. What happened in the lead-up to the events at the skate park in Northcote is pretty well on the public record. Those events are pertinent to what happened, so already we know there is a problem with the police investigation.

Mr Dalla-Riva went on to talk about police shootings and the Walsh Street shootings. These were tragic events for the people concerned and the families of those policemen. Again, this is another subject of great concern, but it is not this subject, which is the independence of police investigations.

I think Mr Dalla-Riva also misunderstood some of the things I was saying, or he has his own view on these matters. He talked about coronial oversight. I am not sure there is coronial oversight. The coroner waits for the police brief, but she does not oversee it. On the issue of other independent oversights, they can occur,

but they do not always occur; and if they do not occur and mistakes have been made, they cannot necessarily be redressed, particularly in terms of a lack of complete records of interview. As I mentioned previously, the interviews with police involved in the death of Tyler Cassidy apparently have not been videotaped, a practice which is standard procedure in a police-related death. It has not occurred in this case, so there are already some very dark clouds over that investigation.

Mr Dalla-Riva seems to think I am talking about another oversight body. I am talking about a body which conducts the investigation, as is the case with the police ombudsman in Northern Ireland. That particular body conducts the investigation. It is a civilian body, and although there are some ex-police in it, they make up a minority and they are not police from the same jurisdiction. They wear bright orange-coloured uniforms and they take over the investigation of every police-related death. It is a completely external body and it is independent of the police. That is the point of the body, and that is the point Mr Kavanagh made in his contribution when he mentioned that if I had confined my motion to police shootings and deaths, he would have supported it because — and he stole the words out of my mouth — the community would have more faith in these investigations if they were conducted not by the police but by an external body. That support is something that has been recognised for ages — even Mr Dalla-Riva would concede that point.

To return to Mr Kavanagh's point, complaints against police that involve human rights abuse might go to things such as being beaten in police cells or being beaten when taken into custody — matters which obviously are not as serious as someone's death but are serious complaints. The other models I referred to in my contribution carry out that function as well, which is why I included them in my motion.

The last point I wish to raise is the use of tasers. Mr Dalla-Riva mentioned the use of tasers, and I note that Shani Cassidy has supported their use. The Greens and I do not support the use of tasers because they are just another potentially lethal weapon. We do not know whether there would have been a different outcome at the Northcote skate park that evening, but I would suggest — as the Office of Police Integrity has in terms of other incidents — that had police been better trained they could probably have defused the situation so that there would not have been the need for any weapon to have been used. As Mr Dalla-Riva said, we do not know this because we were not there. However, what we do know is that four police and one 15-year-old child were there, so something went terribly wrong.

I would like to finish by saying that one of the things that has concerned me and caused me a lot of grief is the portrayal of Tyler Cassidy in the media. Tyler Cassidy was the victim. He was not committing a crime. He is now not with us to tell his side of the story. The media has put out much irrelevant and incorrect information about Tyler Cassidy, but the other side of the story — what the police were doing, what they did do — is still unknown to the community and to Tyler's family. That has been the case with many other police shootings.

In conclusion, even though the house will not support the motion today, Mr Tee, Mr Kavanagh and Mr Dalla-Riva understand the issues before us. They understand that the community wants independent scrutiny of police actions and use of force. One day we will have an independent body that will investigate these matters, just as there will be one in the state of Queensland before too long. Victoria should not lag behind in this respect; it should act to establish such a body for the betterment of the police and for the community then everybody will be in a better position. Both the community and the police will be able to be more confident in the outcome of such investigations in the future.

House divided on motion:

Ayes, 3

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

Noes, 36

Atkinson, Mr	Lenders, Mr
Broad, Ms	Lovell, Ms
Coote, Mrs	Madden, Mr
Dalla-Riva, Mr	Mikakos, Ms
Darveniza, Ms	Murphy, Mr
Davis, Mr D.	O'Donohue, Mr (*Teller*)
Davis, Mr P.	Pakula, Mr
Drum, Mr	Petrovich, Mrs
Eideh, Mr	Peulich, Mrs
Elasmar, Mr	Pulford, Ms
Finn, Mr	Rich-Phillips, Mr
Guy, Mr	Scheffer, Mr
Hall, Mr	Smith, Mr
Huppert, Ms	Somyurek, Mr
Jennings, Mr	Tee, Mr
Kavanagh, Mr (*Teller*)	Tierney, Ms
Koch, Mr	Viney, Mr
Leane, Mr	Vogels, Mr

Motion negatived.

DISTINGUISHED VISITOR

The PRESIDENT — Order! I draw to the attention of the house the fact that we have in the gallery a

former member for Templestowe Province and Leader of the Opposition, Mr Bill Forwood.

FAMILY AND COMMUNITY DEVELOPMENT COMMITTEE

Reference

Mr KAVANAGH (Western Victoria) — I move:

That this house —

(1) notes that on 20 May 2010 the *Herald Sun* reported on the recently released 2007 annual report of the Consultative Council on Obstetric and Paediatric Mortality and Morbidity which showed that 54 out of 181 late-term foetuses who were aborted for 'abnormalities' survived late-term abortions but all of them in the period studied died 'postnatally';

(2) further notes that babies born after around 22 weeks of gestation have a significant chance of survival which increases sharply with each further week of gestation to, at around 26 weeks, achieving a very high chance of survival if given even minimal care, and that the death of every one of these babies in the period studied therefore suggests that they were neglected to death, if not deliberately killed; and

(3) therefore requires the Family and Community Development Committee to inquire into, consider and report on the postnatal deaths of babies born alive in Victoria after failed abortions, with particular reference to the 2007 annual report of the Consultative Council on Obstetric and Paediatric Mortality and Morbidity.

On previous occasions I have expressed in this house my concern about the treatment of babies who survive abortions and are born alive. Indeed I referred to this matter in my inaugural speech.

There is now new evidence relating to the situation in Victoria which suggests that a large number of babies are being born alive after abortions but are being left to die or perhaps are even being actively killed. The Consultative Council on Obstetric and Paediatric Mortality and Morbidity only recently — this year in fact — released its annual report for the year 2007, incorporating the 46th survey of peri-natal deaths in Victoria. Peri-natal means around the time of birth, both before and after.

Page 12 of that report shows statistics regarding late-term abortions in Victoria in 2007. The table shows that for that year there were 181 late-term abortions recorded for congenital abnormalities and 163 late-term abortions recorded for psychosocial reasons. All of these abortions are classified as late-term abortions — that is, they are recorded as being done after 20 or more weeks gestation, as shown on page 12. It is reported at page 11 that of the 345 abortions of relatively mature foetuses conducted after 20 weeks gestation, 293 were stillbirths — that is, the deaths occurred within the womb as the result of being aborted; the foetuses were born dead, so to speak. But in Victoria in 2007, 52 babies, or about 15 per cent of the total, who were aborted died neonatally — that is, they were babies who had undergone abortion but were nevertheless born alive. Every one of those 52 babies died after they were born.

This issue was taken up and formed the basis of an article by Padraic Murphy that appeared in the *Herald Sun* of 20 May. He wrote:

> Almost one late-term abortion is performed in Victoria every day, and 54 babies survived the procedure to die postnatally —

I found 52, but there may be another 2 somewhere in the report —

> according to figures released by the state government.
>
> …
>
> Two of the terminations of health foetuses were older than 28 weeks gestation, but the majority were performed on women who were about six months pregnant.

Mr Murphy quotes Dr David van Gend of the World Federation of Doctors Who Respect Human Life:

> These are babies that are older than some of the children who are born premature and who will thrive.

Dr Matthew Piercey said the deaths raised significant issues for medical practitioners. The article goes on:

> 'If there is a chance of life, then resuscitation facilities should be there. People could be in serious breach of their duties', Dr Piercey said.

In 2008 this Parliament passed what are among the most extreme pro-abortion laws in the Western world. That act has certainly not curtailed the number of late-term abortions in Victoria. Indeed it has been reported by the Royal Women's Hospital that the passage of that legislation has led to more late-term abortions. That was reported on Channel 7 news on 17 April. Unfortunately we can therefore be confident that in 2010 there would be more babies than the 50-plus who were born alive following abortions in Victoria in 2007 only to die shortly after birth. We can be confident that the figures I have quoted are conservative. It is not in the interests of people performing abortions to make mistakes that indicate that the foetuses were more mature than they were; if anything that would be understated, as would the

numbers. I am confident that the numbers I am quoting are, unfortunately, conservative.

Disrespect for the life of the unborn is premised on two principal assertions. The first is that the embryo or foetus is a part of his or her mother's body until birth. The second is that human life does not begin until birth, that the unborn is neither human nor alive until he or she breathes independently. Both of these assertions are false. Although the foetus or embryo is dependent on and enveloped by his or her mother, he or she is also separate and has complete human DNA, which is derived from both parents but is unique to him or her, and his or her blood may also be of a type different to that of his or her mother. In the case of the present motion, however, the concept of humanity before birth is irrelevant. Why? Because this motion is not about what happens before birth. It is about babies who are born alive. It is about babies after birth.

Perhaps the greatest privilege I have had as a member of Parliament is the opportunity to meet a range of extraordinary people, including members of this house and this Parliament. But the most moving and inspiring person I have had the privilege to meet as a member of Parliament is Gianna Jessen. Gianna is a young American woman who survived an attempt to abort her in 1977. Gianna was born after being injected with saline solution while she was still in the womb. That solution was intended to kill her. Medically Gianna burnt in the womb from the saline solution for 18 hours between the abortion and her birth. Gianna bears scars and injuries from that abortion and will for the whole of her life, including cerebral palsy, among other things.

Many aspects of Gianna's story are shocking. One of the aspects that is amazing is the restorative effects of the love and devotion of Gianna's foster mother. Gianna survived and thrived after the abortion to an amazing degree because of the extraordinary love that she was given by her foster mother. Gianna was never expected to be able to walk because of the effects of the abortion, although she does walk and even takes pride in running marathons. She runs with a limp, and in Queen's Hall in 2008 she said, 'After one marathon you should have seen my feet!'.

Of all the amazing parts of Gianna's story, though, one is of particular relevance to this motion. Gianna is certain that she would have been killed at birth if the abortionist had been present at the time of her birth. She is certain that she would not have been allowed to live. However, the abortionist was not there when Gianna was born, and it is this fact and only this fact, Gianna is certain, that allowed a nurse to call an ambulance and for Gianna's life to be saved.

It is not only Gianna's narrative of her life story which makes it clear that failure to abort a foetus before birth brings with it an unsurprising but entirely unjustified assumption by abortionists and other abortion staff in abortion clinics that a right to kill that baby extends even beyond his or her birth. When you think about it, that assumption is understandable but is completely false. Somehow they feel that because they had the right legally to kill the child before birth, that right should extend beyond the child's birth. But this is an entirely false presumption, because even the false grounds upon which the power to kill is justified before birth admit the humanity of the baby upon birth.

There have been at least two official investigations into the deaths of babies born alive in Australia after unsuccessful abortions. We do not know very much about what happens in abortion clinics, but we know that there is no-one in the abortion clinic on the side of the unborn baby or the born baby — the baby who is born alive after a failed abortion. There is no advocate for the unborn; therefore we can be confident that for every case that comes to light that we find out about there are very many more cases of babies who survive abortions but whose story is never told and who we never hear about.

The two cases that have been officially investigated in Australia — one in Sydney and one in Darwin — show that what happens after a baby is born alive following an abortion is precisely what we might expect: babies who are born alive after failed abortions are wilfully neglected to death. There is also evidence from both investigators that it is fairly common for babies to be born alive after failed abortions. We rarely hear about them.

We can be confident that for every case that comes to light there are very many more cases of babies who survive abortions. This I believe explains the comment of the Northern Territory coroner, Greg Cavanagh — Cavanagh with a 'C'; no relation of mine. Greg Cavanagh is quoted as saying that his investigation of the death of a baby in Darwin was of a kind of death that is almost always kept hidden by doctors: of aborted children being born alive.

Someone cleaning up after an abortion in Sydney's Westmead Hospital in 1998 found a baby, still alive, in a bin. In that case too the person investigating had been told, 'Many terminated foetuses live after they are expelled from their mother'. The coroner's hearing in Darwin was told by witnesses that they had known of other aborted babies born alive, although no other case had been reported to officials. They had known of

many cases, but as I said, none of the others had been reported to officials.

Both the investigations into the deaths of babies born alive after abortions show that what happens is precisely what we would expect. It is reported that the abortionists became angry when they were told the babies were still alive and that they did very little to help them. Effectively, I do not think it is unfair to them to say — certainly in the case of the Darwin baby it would be fair to say — that they left the baby to die.

Coroner Cavanagh is reported as saying that the medical personnel he interviewed after the death of 'Baby Jessica' — the name given to the baby who died in Darwin — about her were at pains to invent terms that sounded scientific. They studiously avoided terms recognising the humanity of Jessica and never described her as a baby or a girl. The reasons seem obvious. Surely all medical personnel who are involved in any way with a sick baby are obliged to render assistance to that baby. It is my understanding that this is an existing legal obligation as well as a moral one.

It should be noted that it is entirely possible in normal circumstances for babies born from around 22 weeks of gestation — 22 weeks after conception — to survive. Indeed, according to the website ask.com under 'Miscarriage/pregnancy loss' — I do not believe this is a controversial website; it just gives the normal medical facts — there is a 17 per cent chance of survival for a baby born at 22 weeks, which jumps to a 39 per cent chance of survival for a baby born at 24 weeks, a 50 per cent chance of survival for a baby born at 25 weeks, an 80 per cent chance of survival for a baby born at 26 weeks, a 90 per cent chance of survival for a baby born at 27 weeks and a 90 per cent to 95 per cent chance of survival for a baby born at 28 to 31 weeks. These figures show that babies born alive at the time that many of the late-term abortions are performed in Victoria would normally have a significant to very good chance of survival — indeed, an excellent chance of survival.

However, in Victoria not a single one of the 50-plus babies born alive after a failed abortion survived. This may be partly explained by the fact that the babies were weakened by the abortion itself, and in some cases that they had congenital abnormalities. But in all the circumstances it is reasonable to suspect that one of the reasons for their deaths — the deaths of every single one of them — is that they did not receive the medical care that one would expect for a newborn baby who is in desperate need of such care. We do not know for sure, of course.

The purpose of this motion is to have the matter investigated. Surely all medical personnel who are involved in any way with a sick baby are obliged to render assistance. It is clear to me that as members of Parliament we have obligations to these people — these babies who are so weak and vulnerable. It seems to me that voting against this motion — if there are votes against this motion — would be evading responsibilities, not only as a law-maker but as a human being as well.

This Parliament claims to act under the Charter of Human Rights and Responsibilities. Although the unborn are explicitly excluded from the protection of that charter, the newborn are not, so we are legally as well as morally obliged to help those babies. Of course our legal obligations do not end with the charter. I have not researched it, but it seems extremely likely that we are also legally obliged to act in the defence of these babies under a variety of international rights and treaties, such as international covenants on civil and political liberties and international treaties on the rights of children.

It has been famously said that those who are willing to give away freedom in exchange for security deserve neither freedom nor security. I ask: as a society and as individuals, what protection, what security and what safety do we deserve for ourselves and for the greater society that we represent here if we are willing to deny protection for others, particularly those who are most vulnerable and those least able to defend themselves? Eliminating legal protection for any particular group of people in any society cannot but weaken effective protection for every member of that society and in every category of that society. I say 'effective protection' because protection in a society is not primarily a matter of law. Real effective protection comes not from a legal system but from dominant social attitudes, from the culture of that society. Expressing indifference or contempt for any particular group of individuals surely weakens the awe in which human life is held. That rot will not stop at the members of the particular group that are explicitly treated with contempt but will affect the esteem for all human lives.

The most common response we hear — and we have heard it in this chamber quite often — to the horrible assaults and bashings and attacks that are going on in our streets is, 'We will get more police'. It seems to me that that lacks imagination and insight. It seems to me that if we want to protect people, if we want to raise the esteem in which the lives of others are held, if we want to cultivate respect for others, then we should try to demand respect for every person in our society. We have already shown disrespect to the unborn. It will not

help at all if we also show the same kind of disrespect to the newly born.

The evidence suggests the people of a particular group — those born after failed abortions — are being neglected to death, or at least they may be. This motion simply asks that an existing committee of this Parliament investigate those deaths to determine if they are avoidable or not. In effect this motion gives that committee that option to advise the Parliament on appropriate legislative responses. This motion is not actually about abortion of course; it is about those who have already been born and the way that they are treated. It seems to me, however, that a vote against this motion would demonstrate the falsity of the premises on which the justification for abortion is based. That justification is that human life only begins at birth, and it would destroy really that justification because it would show that there is a lack of concern for human life, whether the person is born or unborn. It seems to me that a vote against this motion is actually a rejection of knowledge and understanding — a demand not to be told; a demand to be ignorant. It seems to me that a demand to be ignorant is something that a member of Parliament should never support.

Mr TEE (Eastern Metropolitan) — I suppose the starting point of my contribution is that I will be voting against this motion. I will be voting against this motion not because there is a rejection of knowledge on my part or a demand to be ignorant or because I am avoiding my responsibilities, as Mr Kavanagh suggested, but quite the opposite. I have had a look at the issue. I have had a look at the report. I have received and obtained a briefing on the report, and I know Ms Hartland from the Greens has also obtained a briefing. Fundamentally the motion is misconceived. It is misconceived because this is not about people who want to have an abortion; this is about women who want to have a child but are unable to do so. I think once we remove the debate around the abortion issue and once we have a look at the facts and the circumstances involving these women a very different picture emerges.

The starting point is Mr Kavanagh's motion which refers to 54 babies identified in the 2007 annual report of the Consultative Council on Obstetric and Paediatric Mortality and Morbidity as having a neonatal death. Every year CCOPMM has a look at incidents such as these, and these are the deaths that occurred in 2007. It then collects whatever information it needs in order to put out its report, and this one was released in 2010. Whilst Mr Kavanagh's motion refers to 54 babies, the report identifies 52 rather than the 54 neonatal deaths. This was a mistake that was made in the reporting of the CCOPMM report by the *Herald Sun* on 20 May; the *Herald Sun* simply got that figure wrong.

As I said, I have asked for and received briefings on the issues involving these 52 cases. Those briefings certainly clarified what has occurred. They clarified the issues and the facts, but they have also left me with a very real sense of the very painful loss of those involved with these 52 babies. When we think about the public debate on abortion, the focus is on women who unexpectedly become pregnant and do not want to have the baby. Rightly or wrongly that is the debate in this chamber, and that debate focuses on the morality or otherwise of a number of issues surrounding the decisions that those women make. But that is not the debate involved with these 52 children. That is not the position that confronted those couples. The CCOPMM report notes that those 52 babies were not necessarily unexpected pregnancies and were not unwanted babies — they were all very much wanted.

The parents wanted to have their baby, but for reasons completely outside the control of the mothers, their baby was very sick — their baby was suffering a severe abnormality, an abnormality that was both profound and likely to be lethal. It was also an abnormality the nature of which was such that the diagnosis could not be made until around the 20-week mark. As a father of two children I have been through that stage. I remember clearly the 18-week scan and tests, and I remember the joy, expectation and hope that we, my partner and I, had at that time and shared with our friends and relatives. I have no doubt that these women went to that same scan with those same hopes and ambitions for their unborn children. Unfortunately for those parents-to-be, that hope and those dreams were short-lived — they were told their child was suffering from a severe abnormality.

The particular circumstances vary in the 52 cases. Some of the foetuses had half a heart; some had brain abnormalities such that if they survived at all they would survive in a vegetative state; and some had a chromosomal abnormality that was likely to be fatal. These were not cosmetic conditions; they were severe, and they were likely to be fatal. The parents-to-be had that terrible diagnosis, which was made probably around the 18-week mark with that scan, and they were then either taken to or referred to a major hospital, usually the Royal Women's Hospital or the Monash Medical Centre, where specialists would confirm both the diagnosis and the severity of the abnormality. If there was any doubt about either of those — the diagnosis or the severity of the abnormality — the parents were referred to specialist review committees. Once the diagnosis was confirmed the parents then had

a number of difficult decisions to make: they could continue with the pregnancy knowing that the child was unlikely to survive to the labour; secondly, they could have an abortion; or thirdly, they could have the baby induced.

I say to Mr Kavanagh: these parents chose not to have an abortion. They may have chosen not to have an abortion because they hold the very same views that Mr Kavanagh holds; I do not know. But they chose not to go down that path. They chose the path of having the baby induced. That was for a number of reasons but those reasons may have included the medical impact on the mother of continuing with the pregnancy. Let us be clear: these parents chose not to have a chemical abortion, and that is a fundamental deficiency in the motion. There are a number of other issues that I have with the way the motion is drafted. The motion talks about the chance of survival of babies born at the 26-to-28-week mark. Healthy babies do have a high chance of survival after that period, but that is not the case here. That is not relevant here. These babies were not healthy and nor were they induced at that period. That figure, the 26-to-28-week mark, is not found in the CCOPMM report, it is not relevant and it is not right. It is not accurate; it fails on two bases: firstly, the babies were very sick, but secondly, they were not all induced at that time — it was before then.

When the parents made the decision to have the baby rather than to have the baby aborted, they knew that that child may not even survive the labour. They made the decision so that they could spend maybe a few minutes with their child. They made the decision based on the best medical advice, and they made the decision after counselling they received — counselling which could take days until they were comfortable with the decision that they made. Then, once their child was born, that child was wrapped up, was kept warm and was pain free. The child had access to palliative care and often then died within minutes in the arms of his or her parents.

Attending the birth of my two children was an incredible and moving experience that I will never forget and one that is so at odds with the experience of parents who know that after the birth of their child that child will be alive for only a matter of minutes that I cannot imagine the trauma they experience. Nor can I imagine why this house would want to add to that trauma. It is offensive and an insult to suggest to those parents, as this motion does, that their children were neglected to death or deliberately killed. Many died in the arms of their parents. In light of what these parents have gone through, that is an awful accusation.

There is no need for this motion. It does not reflect the reality of what has occurred. The motion and Mr Kavanagh would be better served, if we had done the briefing together and found out the issues involved for these people who wanted to have their babies.

The other issue raised by the motion is whether there is sufficient oversight of the circumstances that occur. That is a legitimate question and it is an important issue. Is there sufficient oversight? Again, the answer is clearly yes. The original diagnosis is reviewed by one of our major hospitals. The data, the treatment and the outcomes are all referred to the Consultative Council on Obstetric and Paediatric Mortality and Morbidity where they are reviewed and summarised, and that information is publicly released.

If there is anything untoward or if anyone has any concerns about the process, there is the power for the coroner to independently review the circumstances in each case. These cases can all be referred to the coroner by the parents, the doctors, the hospital or via CCOPMM. There are already in place two independent third-party mechanisms.

This is not a debate about abortion. This is not a debate where there is any merit in dragging in the people involved, the parents who wanted to have a child, and it is unnecessary, unwarranted, unfair and harsh. People who have been through this very difficult situation deserve our compassion and understanding and do not deserve what they have been put through today.

Ms HARTLAND (Western Metropolitan) — I start by acknowledging and sending my profound and heartfelt sympathy to the 181 Victorian families that, during 2007, had their hopes and dreams dashed and their hearts broken by finding that their pregnancy would not result in the birth of a child who could live. My heart goes out to them and I understand and accept that they chose not to carry the hopeless pregnancy to full term. I cannot imagine their distress; nobody can unless they have walked in those shoes. I do not judge you because I have no right to judge them. I acknowledge in particular one of my closest friends who has gone through this very trauma and my heart goes out to her, her partner and her children. I remember how difficult being in this situation was for them.

I am really concerned about this motion because I believe Mr Kavanagh has made a number of mistakes. Mr Kavanagh is a compassionate man who cares deeply about moral issues. However, in this case I believe Mr Kavanagh has made some very basic and

serious research errors. I intend to ask him some questions about those issues.

This motion is basically flawed and will cause enormous distress to people who have already gone through this heartbreak. As I said, I am going to ask the questions. I want to know how Mr Kavanagh decided to construct this motion, but also whether he will withdraw this motion to avoid causing further unnecessary harm to people who have already been heartbroken by the death of their newborn infant. In fact, later on, I seriously want Mr Kavanagh to apologise to the parents he has accused of neglecting their children to death. That is the most appalling statement that could be made.

All along one of the things that has concerned me about Mr Kavanagh's motion is that I am not sure whether it has been based on the *Herald Sun* newspaper article about the Consultative Council on Obstetric and Paediatric Mortality and Morbidity annual report and whether he read the report before or after he wrote this motion, because there are some fundamental mistakes in his motion that make me wonder, although he has obviously talked about the report today, whether he read it before he drafted this motion.

The CCOPMM committee has a very high status. It is a consultative council under the Public Health and Wellbeing Act and has a number of functions which include study, research and analysis into the incidence and causes of maternal deaths, stillbirths and deaths of children. This is a very important committee that does exceptionally good work to help us to understand what has happened and what has gone wrong. I attended an extremely helpful briefing from the Department of Health, and its representatives were incredibly open and forthcoming with information that I needed to clarify the technical language and give me a better understanding of the issues.

I ask Mr Kavanagh: did he read the CCOPMM report before or after he drafted the motion; did he seek a briefing on the report; and did he rely on the *Herald Sun* for his information? There are a number of factual errors in this motion and they seem to have come from the *Herald Sun* article. I am particularly concerned that both the article and Mr Kavanagh's motion referred to 54 live births out of the 181. The report indicates that the figure is 52. I know that this might sound like a minor point, but it is an indication that the *Herald Sun* rather than the primary source may have been relied on for this information.

After having listened to Mr Kavanagh, what also concerns me is that he talked about abortion procedures in America, the Northern Territory and New South Wales. We are talking about a procedure in Victoria being reported by a Victorian committee, and that is what this motion should have been about. We need also to be quite clear that this process is about induced birth. Yes, technically you might want to call that an abortion but it is an induced birth, so of course these babies will usually be born alive.

The 52 live births that are in fact the subject of this motion are listed on page 11 of the CCOPMM report. Late abortions for psychosocial reasons are listed separately on the same page. In 2007 there were 164 late abortions for psychosocial reasons. There were no live births pursuant to those abortions, so we are not talking about them. The 52 women in fact the subject of this motion did not have an abortion in the way that we understand abortion. They wanted to be pregnant. Let us be absolutely clear about that: they wanted a baby. They wanted to continue the pregnancy, if there was any hope at all. They had the labour induced, knowing their child might be born alive. They either chose not to have an abortion or did not qualify for an abortion. If they had had an abortion, a different procedure would have taken place.

That leads me to my third question that I pose to Mr Kavanagh: what indication does he have that the short life of these babies was marked by any amount of neglect, much less that they were neglected to death? When babies are born in this situation — in hospitals, not abortion clinics — they usually draw a few breaths. I understand from the briefing that they are kept warm, hydrated and pain free. If the baby lives long enough to be cuddled, the parents are allowed to stay and cuddle them, if they choose to do so. Doctors and nurses in Victoria are caring professionals. They do not neglect their palliative-care patients. So there are two lots of people caring for these newborns: the parents who may have chosen to be actively involved, and the doctors and nurses who must and do care for all their patients.

Mr Kavanagh's motion referred to these babies being born after 26 to 28 weeks of gestation. He said it twice in that motion and he was wrong twice. So my next question to Mr Kavanagh is: where in the report did he find any indication that these 52 babies were born after 26 to 28 weeks gestation? As we know from the report, the 52 babies in fact the subject of this motion were born at or after 20 weeks gestation. I had a briefing from members of the CCOPMM — if Mr Kavanagh did not have one, I suggest it would have been very helpful — who told me that almost all were pre-24 weeks. There was no indication in the report that they were at 26 weeks, let alone 28 weeks.

This fits with what we know about this heartbreaking situation. A severe abnormality is picked up at the 18-week scan. The parents receive the shocking news. Having witnessed this in my friend's case, you cannot believe how awful it is for a parent to discover that their child is just not going to survive. The heartbreak is shocking. There are more tests to confirm the scan. There are referrals to specialists, to see if there is any hope for the child. There is counselling for the parents. Sometimes they wait for the 22-week scan, but not always.

The CCOPMM briefing included information on the types of severe abnormalities that are listed in medical terms on page 7 of the committee report. I will not go into the details because it is very difficult to do so. Once I was given those details, I was able to understand how someone can know that the baby they are carrying has a terminal condition at the 18-or 20-week mark. Even if they did wait for the 26-to-28-week mark, which they did not, there is no evidence to back up the words in Mr Kavanagh's original motion that 'babies born after 26 to 28 weeks of gestation have a very high chance of survival if given even minimal care' and therefore 'every one of these babies' was 'neglected to death'.

I have another friend who had three babies at the 26-to-28-week mark. One of them did survive but it was a long and gruelling process. These are not easy pregnancies and it is a very difficult time. We are talking about babies who are going to be born with severe abnormalities and most of them are incompatible with life. We are talking about babies whose brains have not developed, whose kidneys have not developed, whose bowels and bladders have possibly not developed and whose limbs are fused. These babies are not going to survive, even if they are taken to full term.

Even if we were not talking about this level of abnormality, that statement would still be wrong. I ask Mr Kavanagh to turn to page 31 of the CCOPMM report, which shows the age at time of death for all neonates in 2007 who did not survive. There were 189 neonatal deaths within four weeks of birth. The 52 babies that are the subject of this motion are not included in the table on page 31, so we are talking about the deaths of much stronger babies who were not induced early after a tragic diagnosis.

All babies who died at 20 to 21 weeks gestation did so within 6 hours after their first breath. That includes those who took a single breath. Of the 47 babies who died at 22 to 23 weeks, all but 3 did so somewhere between their first breath and 6 hours. Even with intensive care at the best available treatment centres, about half the neonatal deaths occurred within the first 6 hours, even of babies born after 37 weeks gestation or up to full term.

My next question to Mr Kavanagh is: is he suggesting that every one of the babies born after 26 to 28 weeks whose death is reported on page 31 would have survived given minimal care and was therefore neglected to death, if not deliberately killed? If so, why does his motion not include those babies?

The 52 deaths that are the subject of this motion are the 52 most examined births and deaths in Victoria, and that is as it should be. Before they died, their cases were referred and discussed over and over. Expertise was drawn from across the state on the nature of the diagnosis. Multiple medical professionals were involved and the deaths were reported to CCOPMM. At every stage health services officers have an obligation to report to the coroner in certain circumstances — for example, if there had been a misdiagnosis or if anyone saw anything other than the best available palliative care for the baby. Parents could have referred independently to the coroner. These deaths occurred in hospitals staffed by medical professionals. The coroner did not investigate any of these 52 deaths. This indicates to me that there was no suspicion of any breach.

I do not want to leave the CCOPMM report without talking about some of the other reported deaths that were also preventable. I would like to highlight some of them, because how can we hold this report in our hands and ignore them? If we turn to page 48 of the report, we read that in 2007, four children aged 10 to 14 years committed suicide; then a further 10 children aged 14 to 17 years committed suicide. Suicide was the second most common cause of death in this age group.

In 2007 I was visited by the director of what was then a new program in my area called Headspace. He told me about the program's aim to create the sort of service that young adults could use so that mental health issues could be picked up early and treated. Three years later we still live in a society where people of all ages are living with untreated mental illnesses that lead to suicide. Headspace and programs like it are not sufficiently funded. My question to Mr Kavanagh is: when will he move a motion to refer the deaths of this group of young people to a committee? This is just as important.

I have found this motion incredibly distressing because through my friends I have experienced this kind of heartbreak. Mr Kavanagh owes an apology to my friends who have gone through this and to the parents,

doctors and nurses he has accused of allowing a baby to die from neglect. Had he read the report or had a briefing from the department before he moved this motion, or if he had spoken to people like my friend who has gone through this heartache, he may have had some understanding of what happens in such cases.

I find it extremely hard to understand why Mr Kavanagh has moved this motion. Who is he or this Parliament to judge the decision of parents who have found out that for whatever reason their wanted pregnancy — and I repeat 'their wanted pregnancy' — could not end in the joy of a healthy baby, whether the baby went to full term or was induced early?

I ask Mr Kavanagh to consider withdrawing what I consider to be an offensive motion. I ask him to apologise to my friends and to the parents, nurses and doctors who care for and love these babies.

Mr FINN (Western Metropolitan) — First of all, I commend and congratulate Mr Kavanagh on bringing this motion to the chamber today. As we are discovering, it is not an easy thing for any member to do knowing the vilification and abuse one often faces when raising these particular issues. Over the last four years I have discovered that Peter Kavanagh is a man of great courage. He is showing that courage again today, and I commend him for it.

So far in this debate there seems to have been some confusion from both Mr Tee and Ms Hartland about the difference between an abortion and an early birth. For example, at our major maternity hospitals we have a sort of schizophrenia — I am loathe to use that word, but I suppose that is what it is. On one floor of the hospital we are desperately trying to save babies who are as young as 25 weeks; on another floor of the hospital we are killing babies who are as young as that. The distinction must be made. I regret there has been a degree of confusion on the part of two of the speakers in this debate so far.

This is a matter that causes me enormous distress. I get particularly distressed when I hear people say that babies with disabilities should be killed. I am the father of a child with a disability. When our four-year-old twins were in utero we were told one of the twins would in all likelihood be a carrier of or a victim of Down syndrome. We were offered the usual option. Thank God we did not countenance that for a moment, because that little girl is now, I have to say, the light of my life. If we had done what so many others do in that circumstance, we would have killed one of the most delightful little girls who has ever walked the earth.

In my view the assumption that the disability of those in utero should be given an automatic death sentence is totally wrong. It shows an enormous disrespect not just of those children before they are born but of all people with disabilities. If you are prepared to kill children who have disabilities, what does it say about your attitude towards older people with disabilities? People who say they would be prepared to kill a child with a disability are saying that anybody with a disability is, at the very least, a second-class citizen. I reject that entirely.

Having said all that, it should be pointed out that this motion is not about the substantive issue that we all seem to have been dragged into after all. This motion is about a referral to the Family and Community Development Committee. This motion is an attempt to find out what is going on. It is an attempt to find out the facts so as a Parliament we can make decisions about what is going on. It would allow Ms Hartland, Mr Tee or anybody to give evidence at those hearings so we can be properly informed of what is happening in our hospitals and clinics. That is what this motion is about. It is not about saying it is wrong to kill babies; it is not about saying it is a good thing to kill babies. It is about a referral to a committee so we can at great length and in great detail look at the facts. These are the facts as Mr Kavanagh has presented them; these are the facts as Ms Hartland has presented them. That is what we are doing here today.

I have to ask why anyone would oppose that. Why would anybody vote against an attempt to find out the truth? Information is empowerment — that is almost a truism. Education on any issue enables us to make decisions because it puts us in a position to know what we are talking about.

At the moment we are basing our discussions on one report and one newspaper article. This motion is about finding out exactly what is going on — the details about why these things are happening, if they are necessary and what are the events surrounding these deaths. I again express my consternation that anybody would not want to find out the truth. The truth is precious, particularly during an election campaign, when it is not readily available. It is important. It is something that we, as elected members of Parliament, must seek at all times. Mr Kavanagh is to be commended on his attempt to refer this matter to the Family and Community Development Committee so that we can find out the truth of this matter.

This matter is not about abortion. I want to make that very clear: this is not about abortion. That debate will continue, I promise you, Acting President, until a

decisive victory for babies has been achieved. However, this debate today is not about abortion. It is about whether we should have an inquiry into what is happening to newborn babies — babies we can see, touch and hold; tiny, fragile babies in need of warmth, nutrition and our protection. That is what we are talking about. Even the Victorian law, horrific as it is, gives these babies the same rights as the rest of us. Those babies are recognised under Victorian law as members of the human race. Even the most enthusiastic proponent of the abortion laws that were passed by this place a couple of years ago would admit — and indeed has admitted — that those babies are human beings.

I think about our little girls, who are now almost five years of age. They were born at 33 weeks — although to look at them now, you would not believe it — and they are not much bigger now — —

Mrs Coote — The rabbits!

Mr FINN — The rabbits indeed, Mrs Coote! They were not much older than some of the babies we are talking about in this debate. I suppose this makes the issue very personal for me. I offer my apologies now in case I get a bit emotional during the course of the debate, but it is something that hits home to me in a very personal way.

I have here an article written by former Labor staffer and now, I suppose, Australia's pre-eminent journalist and commentator, Andrew Bolt. I was going to read all of the article, but I will not go into the details and will just read some extracts from it that refer to the coroner in the Northern Territory to whom Mr Kavanagh referred — the other Mr Cavanagh, whose name starts with a C. I will go through the events described in the article in case anybody thinks Ms Hartland is right — that late-term abortions do not happen and it is all just a dreadful mistake on Mr Kavanagh's part. I will briefly read some of the findings that Andrew Bolt recorded in his column in the *Herald Sun* of 27 August 2004 — coming up to six years ago:

> Jessica Jane, 21 weeks in the womb, was aborted on the night of 13 July 1998, after her mother was given a labour-inducing drug. Carrie Williams, an experienced midwife, was on her own for the delivery of the foetus, which in most such abortions is killed by the trauma of the contractions.

I am sure members could imagine that that would be the case. The article continues:

> Cavanagh's findings —

that is, Coroner Cavanagh —

> go on: 'She placed what she assumed to be the foetus in a kidney dish and took it from the mother's room. She heard the baby cry, which shocked her'.

I think most of us would understand that in this situation. The excerpt continues:

> A distraught Williams told the inquest: 'That then left me in a very big moral dilemma. I didn't know what to do …
>
> 'The baby I had taken into a delivery suite, into what we call the clean-up area and because the baby was making noises, I could not just leave it like we do with some, in a kidney dish, and I put it into a warm rug and put a drape over the top of it so at least it was warm.
>
> 'During all this time, I'd been back and checked it about every 10, 15 minutes … I wasn't sure what to do. I was actually getting quite frustrated … I rang (the doctor who'd induced the abortion) and … I said: "Doctor Cho, the baby is alive".'

His response is quite chilling:

> He said to me, his exact words were, 'So? I will see her in the morning', and hung up.

That was in Darwin before the passing of the horrific abortion law in 2008 here in Victoria. But I challenge anybody to say that that sort of thing is not happening here in Victoria. I challenge Mr Tee or Ms Hartland to get up here and tell us that they know that none of the babies who were mentioned in this report were in exactly the same situation as baby Jessica Jane six years ago in the Northern Territory.

The fact of the matter is that under these laws that were introduced a little under two years ago, Melbourne has become the late-term abortion capital of Australia. That is the simple fact of the matter. The Royal Women's Hospital has told us that its late-term abortion rate has increased 600 per cent since the passing of the laws. I find it impossible to believe that with the increased numbers of late-term abortions, not just at the Women's but at a number of hospitals and at one particular clinic that finds itself in the news for all the wrong reasons at the moment, there are not more Jessica Janes and babies like her in Melbourne.

It defies logic to suggest that it is not happening here. Just because it is Melbourne, it could not happen here? Let me tell the house, if it is happening in Darwin and it is happening in Sydney, there is a fair chance it is happening here, because we have the greater numbers, and proportionality would make it almost certain that it would be happening here. That is why we need to have this matter referred to the Family and Community Development Committee. That is why we need to examine this matter a little bit further. That is why we

need to find out the truth. That is certainly why I will be supporting Mr Kavanagh's motion today.

I was staggered when I found out the government is opposing this motion. I thought, given that this is just a referral motion to the Family and Community Development Committee, the government would go along with and support this motion. I thought the government would say, 'Yes, that is a reasonable suggestion. We will find out a bit more about that'. You have to ask the question: why is the government opposing this? Why is the government turning its back on these tiny babies? Why is the government discarding the law as ruthlessly as these little babies are also being discarded?

With apologies to those few people in the ALP who care about these sorts of issues, the once great Australian Labor Party has been captured by an extremist element, an extremist left-wing feminist group called Emily's List. That group is prepared to pay any price to secure and retain its sacred right to abortion. That is the simple fact of the matter. That is why the government is opposed to this motion today. The fact is that former Premier Joan Kirner, Prime Minister Julia Gillard and Emily's List have all joined together to make the ALP, the once great Australian Labor Party, the party of death, and that should distress us all. It certainly distresses me.

This motion and this whole situation saddens me very deeply. It is a very sad day when this Parliament hears of tiny, innocent babies being literally thrown to one side and allowed to die — but not all of them. There are many babies that doctors and nurses do a marvellous job saving, and I know there are many babies, and I have seen it happen, who come into this world and do not stay with us for very long. But there are also babies who are aborted very deliberately but who are born alive and are then discarded, and they die from neglect. They are the ones this motion refers to today. It is not a motion which condemns the practice. It is a motion which purely asks for more information.

It is very sad when this Parliament sees that happening and will not only do nothing to protect these babies but does not even want to know. This Parliament says, 'Don't want to know. Leave it alone'. I now know how the Holocaust happened, because the Germans in the 1930s and the 1940s did exactly what we are doing now: they turned away and pretended that it was not happening. I am very sad indeed. If this motion is defeated, and it looks as if it will be, if this Parliament turns away and pretends that nothing is happening, today will be Victoria's saddest day.

Ms TIERNEY (Western Victoria) — I rise and indicate that I will be opposing Mr Kavanagh's motion. At the outset I also challenge Mr Kavanagh's assertion that those who oppose his motion this evening are people who reject knowledge and demand to be ignorant. That could not be further from the truth.

In terms of the particular issue that is before us tonight, it was brought to my attention by my husband when he read the article in the *Herald Sun* by Padraic Murphy. He told me there were a number of things in this article that were enough to stop you in your tracks, so to speak, because the claims seemed to be really out there and quite extreme. I undertook to investigate this matter further, because if this information is being promulgated in the popular press, then I think all of us are duty-bound to try to ascertain the source of that information and to rectify the situation as well.

In the meantime, as we now know, Mr Kavanagh has utilised a number of points in that article and formatted a motion that is before the chamber this afternoon. I have had the opportunity to read the report, and it did raise questions, not so much in terms of the data as such but I felt as if I needed more information on the stories — if I can use a colloquial term — behind the data in the report so I would better understand the full context of the statistics before me. I had that briefing last week, and I thank the people involved, because they certainly clarified and crystallised a number of points for me.

I have also had the opportunity to discuss this issue with a number of colleagues on this side of the chamber as well as on the crossbench and on the opposition side as well. The discussions were brought about by the fact that we recently had a very long and fulsome discussion on amendments to the Crimes Act, which generated a significant amount of knowledge in this chamber about how we handle information and pick through it to make sure we have the facts before us, regardless of the position we might take in that debate, so that we have an established set of core points we can agree to disagree with or try to influence.

After the contribution by the last speaker, it is probably worth going over again the points of fact that should be part of this debate. The motion refers to neonatal deaths occurring at around 26 to 28 weeks of gestation. As Mr Tee and Ms Hartland have already indicated, this is untrue. In almost all instances these deaths occurred before 24 weeks of gestation. Of the 52 babies referred to in the report as neonatal deaths, all were known to be suffering from — and I will be quite clear about this — what are considered to be serious congenital abnormalities, not a disability or disabilities. They are

identified in table 5 on pages 7 to 10 of the 2007 annual report of the Consultative Council on Obstetric and Paediatric Mortality and Morbidity. These abnormalities would result in either death in utero, death shortly after birth or a child born with extreme defects; the medical term is ‘permanent vegetative state’. We are talking about very serious situations which in medical terms are considered to be incompatible with life.

In instances where such extreme defects are detected in pregnancy there is an automatic referral to a tertiary centre, whether that be the Royal Women’s Hospital or the Monash Medical Centre. At this time a team of medical experts undertakes further assessment and evaluation of the baby in utero. It would be in a whole range of areas, so if there is a heart problem, heart specialists are consulted; if it concerns another part of the body, relevant specialists are consulted. Parents undertake extensive counselling, and, as highlighted by Mr Tee, that counselling can go on for some time because it is important that all the facts are laid out and that the parents feel comfortable in the decision they take, whether it be a decision not to proceed with the pregnancy and to have a chemical abortion, or the situation we are talking about here tonight, which is not about a late-term abortion but about an induced labour.

After the parents have been advised that there is a serious congenital abnormality they have full assessments and go through a whole round of discussions and further tests. As I just mentioned, they also have extensive counselling. Once the full extent of the baby’s congenital abnormality is understood, the parents are provided with all the necessary information and time to make the best decision for their baby. As Mr Tee and Ms Hartland have pointed out, all of these babies are most wanted babies. When the women in these relationships found themselves pregnant, every single one of them lived that moment that every mother has and were joyful about the prospect of having a full and healthy pregnancy and labour.

When parents confront the situation of a serious congenital abnormality in their unborn child they are offered choices. As I said, the three choices are continuation of the pregnancy, which will essentially result in a still birth; a chemical abortion; or induced labour. A lot of parents choose to have their baby induced because there is a significant chance they will have the opportunity to go through labour and the birth and be afforded the opportunity to hold their child and spend whatever time they can with them. They also provide that child with warmth, care, love and everything else they can possibly do in the short moments while the child continues to live.

Until I had the briefing the other day I had not experienced a situation where I had been affected by this personally. Unlike Ms Hartland I do not have friends who have been affected. It has been thought provoking and emotional trying to comprehend just what it must be like for a parent to, on the one hand, be joyful, only to later find out that they have a pregnancy where there are very serious congenital abnormalities, with the added pressure of needing to make a decision that is in the best interests of the child, going through the physical and mental journey of a birth and, finally, being a grieving parent. That that is the reality for the parents of these 52 babies is beyond comprehension.

The motion refers to instances where parents have elected to have the birth of their baby induced, resulting in a live born baby. As Ms Hartland and Mr Tee pointed out, the babies will often die shortly after birth, but at least they have been afforded the opportunity to be in the arms of their parents. These babies have been provided with palliative care, which means they are kept warm, well hydrated and pain free. In no way are they neglected or uncared for. I am quite affronted by the assertion that the reverse could be the case. These babies are not the result of failed abortions; rather, they are the known and intended outcomes of an induced labour.

Those 52 births are babies who are very much wanted, whose parents have known that their pre-born child would not be able to survive because the child’s condition was considered to be incompatible with life and in many cases in a highly vegetative state. That is a medical term, and not one that I necessarily warm to; however, it is a term that is recognised. Those parents have received specialist medical advice and have also been counselled through the issues. It is those parents who have chosen to go through labour so that they have the opportunity to hold their child and give that child as much comfort as they can before he or she passes away.

Giving birth to a child is an experience that is mostly one of elation and euphoria; that is the case for the vast majority of parents. I cannot imagine what it would be like to face a situation like the parents of those 52 babies. I cannot and will not speak on their behalf, but what I will say is that I cannot believe that we would contemplate putting those very parents who have had the unbearable experience of having a child die relive their grief through this proposed inquiry.

What we have here before us today is an outrageous proposition. I quote part 2 of the motion, where it says:

> … the death of every one of these babies in the period studied therefore suggests that they were neglected to death, if not deliberately killed.

These sorts of ill-founded and emotive words imply, amongst other things, that the parents of those children are callous and cruel and have also undertaken a criminal act, when the exact opposite is the case. Instead of trying to understand the situation and demonstrating real compassion, I believe this motion — in its construct, its inaccuracies and its deliberate false allegations — is a direct attack on grieving parents and the professional and caring conduct of our medical professionals.

This motion implies that our medical and health professionals — our doctors, nurses, counsellors, administrators and medical specialists — are neglectful in their duties and are also uncaring, insensitive and perform illegal acts. I am disappointed that Mr Kavanagh has chosen to sponsor this motion. Mr Kavanagh and I disagree on many issues, but I would have thought that he would have at least checked the basic facts prior to sponsoring this motion.

I can only assume that the motion before us, in its blatant disregard of the truth and characterisation of this situation, is more about fostering misleading media reports and prompting sensationalist headlines leading up to the federal and state elections. That is why I felt compelled to speak against this motion tonight. I believe our political landscape deserves better. It is the sort of desperate politics played out in this motion that I believe harms Mr Kavanagh's cause and, dare I say, dents his credibility.

I would like to quickly address a number of other comments that have been made by speakers who are supporting this motion. Firstly, I would like to reiterate that there is a difference between a late-term abortion and an induced birth due to serious birth defects, and that is what this motion is about. Secondly, these cases were not cases of the foetus, or the child, being disabled. These cases had major congenital abnormalities, most of which were inconsistent with life.

The report also provides two facts on these tragic cases. Referral for further investigation by the Parliament is just not necessary. These babies are not healthy newborn babies; they are very sick and are not expected to live.

In closing can I say that all the deaths recorded in the report have been overseen by the Consultative Council on Obstetric and Paediatric Mortality and Morbidity. We know that the medical staff, the parents or anyone else involved in any of the situations outlined in the report can refer any matter they believe is questionable or unexpected to the coroner. It is the proper approach to refer these matters. It is highly inappropriate for such matters to be dealt with by a parliamentary committee. Matters such as these should be dealt with in the medical domain. I urge all members of the chamber to reject this motion. I look forward to the further debate.

Mr DALLA-RIVA (Eastern Metropolitan) — I am also pleased to make a brief contribution on Mr Kavanagh's motion before the chamber. In the context of having listened to the contributions of Mr Kavanagh, Mr Finn, Ms Hartland and Ms Tierney, I look at this issue in terms of asking what is the rationale for having a motion such as this before the chamber. I note the depth of emotion that has come from people for and against abortion. My view on this is that a bill was introduced with much discussion back in October 2008. Much was debated in this chamber, and again the emotions flowed over. Specific issues in relation to the process that occurs with late-term abortion were raised at that time.

It is now getting close to two years since that bill was passed, and there has been no real oversight as to how it has been proceeding. The Parliament has a right to oversight of legislative changes in a manner that it sees fit, but we have not had that capacity. I take umbrage at the suggestion that we should leave it in the hands of the medical profession to tell us that everything is all right. It is like listening to a lawyer say, 'Trust me, all is in hand'. I raised earlier that, to be fair, the Coroner's Act was reviewed during the previous Parliament when I was on the Law Reform Committee. If that had not been undertaken, we would not have the new Coroner's Act. We specifically looked at and debated the issue of late-term abortions, but we never went any further because at the time the issue was too politically sensitive for a bipartisan committee. There was no review or oversight, but the one thing that did come out was evidence — and the transcripts are there for those who wish to go back to them — that people did not trust the medical profession to deal with issues around death, and the specific issue of abortion, including late-term abortion, came up.

The motion is reasonable, particularly paragraph (3), because it sets out what we are required to do. I understand the emotion, but you can take the emotion out if you look at paragraph (3), because it clearly seeks that this chamber have a parliamentary committee inquire into and consider the report in terms of what was referenced in the 2007 annual report. There is nothing wrong with that. Parliament should at some point have the capacity to review the legislation that has been passed.

On the issue of late-term abortion, I feel similarly to others: it is an issue that many of us do not like to deal with, but I recognise some of the issues involved when it happens. We also heard evidence about babies being taken away. For me the issues are how extensively the practice has been undertaken, what the methodologies are that are applied by the medical profession — we do not know — and what happens where there is a late-term abortion and the child is alive. In the context of a child being born alive and then being left to die, is that murder? I am just suggesting that we have not had that discussion. We have discussed the bill, and we have discussed the issue of abortion, but we have not discussed this specific issue in the context of the bill that was debated and passed a number of years ago.

Whilst I understand the emotion and that there are concerns, I do not think savaging the mover of the motion was necessary. I took offence at that being the case. Members may argue the merits of the motion or the merits around the issue, but to personally attack the mover of the motion, irrespective of one's emotional attachment to the issue, is a bit beyond what we as members of Parliament should expect in this chamber. Mr Kavanagh deserves respect, even if members disagree with the motion, because they can vote against it. Making a personal attack on a member, whom we know has an interest in and is passionate about this issue, is wrong. That needs to be on the record so Mr Kavanagh knows that I do not accept some of the attacks that were made on him. Having said that, I will be supporting his motion.

Mrs COOTE (Southern Metropolitan) — I commend Mr Kavanagh for moving this motion in this chamber, and I commend all speakers on the motion for the respect they have shown him for the thoughtfulness with which he has brought this issue to the chamber and for the passion he feels about this issue. All of us in this chamber, whether we agree or disagree with him, have to respect his position and depth of feeling on this issue. Likewise, Mr Finn in his contribution gave us an insight into some personal revelations and his deep-seated passion about this issue and the ramifications of this motion for the community at large.

I commend Colleen Hartland for bringing some factual evidence to this debate, explaining in detail some of the issues that we are dealing with here and giving an opposing view of some of the issues raised by Mr Kavanagh. Mr Tee gave a moving speech, which was enlightening, on his position as a father, as did Mr Finn. It is always pleasing to hear the male perspective on some of these issues because they involve family and partnership decisions. I also commend Ms Tierney for the comments she made.

This is basically a procedural motion, as Mr Dalla-Riva said. The reality is that this Parliament will be prorogued later this year, which will mean that anything that is on the table will be dismissed and any committees that are looking into issues will be cancelled. I believe we will be prorogued in October, and any work that the committees are doing will be adjourned, so presumably this motion will have to come back again at another stage if it goes to another committee of this Parliament.

Having said that, it is important that we as a Parliament recognise the democratic right of everyone in our community. In having brought this to the chamber Mr Kavanagh is exercising his democratic right in relation to the issue and the fact that he believes it needs to be looked at in further detail.

I will be opposing the motion. I would like to speak about some of the reasons for that. I do not want to reiterate the abortion debate; I think all of us would agree that we dealt with that debate with great thoroughness. Given the emotions that surrounded that bill, the emotions in this chamber and in the community at large, I believe this Parliament, this chamber, had a very dignified form of debate and dealt with what is a very difficult issue. I am pleased the Liberal Party has given each of us an opportunity to have a free vote on this issue, as we had with the abortion issue. I commend the Leader of the Opposition, Ted Baillieu, for allowing us that opportunity.

But there are some things I would like to correct about what has been said today. I have particular problems with the second part of Mr Kavanagh's motion, which is that this house:

> … further notes that babies born after around 22 weeks of gestation have a significant chance of survival which increases sharply with each further week of gestation to, at around 26 weeks, achieving a very high chance of survival if given … minimal care …

In this chamber we talk about disabilities and issues of abnormalities in babies. I would agree with the points Ms Tierney brought up about the fact that we are not talking about children who have disabilities but whose lives are viable and who can be great contributors to our community in many ways. We are talking about some statistics Mr Kavanagh spoke of in relation to some profoundly disabled children. Uncomfortable as it might be, I am going to put that on the record here tonight, because I think we have to even up this debate. We can talk about little babies and children who would have been viable, and I think each and every one of us would be heartbroken if we were faced with that sort of situation. But many of the 52 babies Mr Kavanagh

spoke about — and there is some dispute about whether it is 52 or 54 — had no chance of life. It is really important for us to understand that we are not dealing with children who have a disability such as Down syndrome or autism or a physical disability; we are talking about something quite different.

Mr Kavanagh spoke about all the statistics, and I believe Ms Hartland went through and refuted a lot of those things. In his contribution Mr Kavanagh used a lot of generic and very emotive terms. He spoke about babies being born alive. He spoke emotively about the story of Gianna. I, too, believe that is appalling, but in this debate we must remember that at the stage they tried to abort her, Gianna was a viable foetus. We are not talking about those types of children; we are talking about a very different circumstance.

I remind this chamber that in the debate in October 2008 we looked at some of the reasons behind these children's lives ceasing and what happens after 26 weeks. I will not go into the issue of incest and how absolutely agonising it must have been for some of the women we spoke of in that debate, who did not have the courage to speak to their mothers about the fact they were pregnant to their fathers, their uncles or their brothers. That is not what I want to speak about this afternoon.

I want to talk about the issues surrounding some of these babies. There is an organisation called the National Institute of Neurological Disorders and Stroke, which has information about different types of disorders. These are some of the disorders suffered by babies who are dying after they have been born — they have not been aborted; they are dying after they have been born — the very babies Mr Kavanagh spoke about and said would perhaps have lived. Some of these babies with the severe disabilities I am about to speak of do live, but not for very long. This is the reason. I apologise to the chamber for my pronunciation of some of these rather difficult medical terms, but I can assure Hansard that they are written down and they should not have trouble.

Here is one. It is called anencephaly. It is a neural tube defect that occurs when the head of the neural tube fails to close, usually between the 23rd and 26th days of pregnancy, resulting in the absence of a major portion of the brain, skull and scalp. Infants with this disorder are born without a forebrain, which is the largest part of the brain, consisting mainly of the cerebrum and responsible for thinking and coordination. The remaining brain tissue is often exposed; it is not covered by bone or skin.

Infants born with anencephaly are usually blind, deaf, unconscious and unable to feel pain. Although some individuals with anencephaly may be born with a rudimentary brain stem, the lack of a functioning cerebrum permanently rules out the possibility of their ever gaining consciousness. There are several babies born with this disorder each year. It affects females more often than males. There is no cure or standard treatment for anencephaly, and the prognosis for affected individuals is poor. Most infants do not survive infancy. If the infant is not stillborn, he or she will usually die within a few hours or days after birth. These babies have not been aborted. Anencephaly can often be diagnosed before birth through an ultrasound examination.

Another disorder is holoprosencephaly, a disorder characterised by the failure of the forebrain of the embryo to develop. During normal development the forebrain is formed and the face begins to develop in the fifth and sixth weeks of pregnancy. Holoprosencephaly is caused by a failure of the embryo's forebrain to divide to form bilateral cerebral hemispheres — the left and right halves of the brain — causing defects in the development of the face and in brain structure and function.

The most severe of the facial defects, or anomalies, is cyclopia, an abnormality characterised by the development of a single eye, located in the area normally occupied by the root of the nose, and a missing nose or a nose in the form of a tubular appendage located above the eye.

Then there is exencephaly, a condition in which the brain is located outside of the skull. This condition is usually found in embryos as an early stage of anencephaly. As an exencephalic pregnancy progresses, the neural tissue gradually degenerates. It is unusual to find an infant carried to term with this condition because the defect is incompatible with survival.

Imagine going to your ultrasound at 18 weeks. Your family, your friends, your neighbours, your peers — all of whom are having children or have had children — are excited and thrilled for you. Just imagine what those young parents would feel when being told that their baby has the sorts of facial deformities I have spoken of: no brain or a brain that is outside their body. I believe that has been left out of the equation in the discussion on this motion. The inference is that these babies are aborted. Most of these babies are wanted and expected with great anticipation, and it is absolutely horrifying.

We have spoken about people appearing before a committee of this Parliament. Sure, the usual suspects — all the people who made submissions and contacted us throughout the abortion debate — will have their say. But are we going to hear from the young families who have been traumatised by having to make a decision to terminate or whose babies have been terminated? Will they present to these committees? Will they want to revisit all this? I wonder.

I want to speak now about — and I once again beg the indulgence of this chamber — a book called *My Child, My Gift — A Positive Response to Serious Prenatal Diagnosis*. It is by a woman called Madeline Nugent. In the foreword it says:

> This book is a comprehensive guide for parents who are unfortunately given the 'bad news' regarding their pre-born child with either an ultrasound or laboratory diagnosis of a potential or real congenital problem. It explains to them both secular and religious faith-based strategies on how to emotionally, psychologically and spiritually prepare for and assimilate the multiple and various emotions they will have to reconcile, as well as how to deal with the mixed messages they will be receiving from family members, friends, physicians and their own inner conflicting feelings.

There are many parts to this book, and it has a lot of spirituality in it. For those who need spiritual comfort and for those in this chamber who in the last debate were particularly influenced by some of the concerns of Archbishop Hart, I suggest they have a look at this book, because it is dealing with an issue where none of these people would wish to have the lives of their children terminated, but they were.

There are many very poignant comments. This is one about a baby Alexander; it is Ben and Christine's story:

> Baby Alexander Robert was born 18 April — after an easy delivery — 5 pounds, 13 ounces. He passed into the arms of Our Lord three days later surrounded by his loving family.
>
> He had many defects — blindness, deafness, brain deformity and a heart defect, to name a few.
>
> Prayers were answered, however, in that the baby got to go home in hospice care and his parents and grandparents were there and got to love him and hold him every minute of his short life. It gave everyone time to bond with this dear little angel.

It is not all of these babies that are put into the kidney dish, never to be revived, never to be thought of. Behind each of these babies are families who love and care and are concerned and worried and sad and anxious and all of those things.

This is quite a long story, and I am going to read it because its poignancy is in its length. Once again it is from the book by Madeline Nugent. It is about a little baby called Joseph Michael Evers. He had the anencephaly that I was talking about before. It is a story by his mother. I apologise; it is two pages and I am going to read it all:

> I was 24 years old, had been married for three months and I became pregnant. Before I go on any farther, I'd like to say that both my husband and myself are Catholic. This is our story.
>
> My husband was working in the yard when I yelled out the front door for him to come into the house. He opened the door, I took his hand and pulled him inside, I placed a pregnancy test in his hands and he asked me what this was, I exclaimed to him that he was going to be a daddy. We embraced and hugged and were so happy, but our tears of joy soon become tears of sadness.
>
> Twenty weeks into the pregnancy, we attended a routine ultrasound. Despite our enthusiasm during the appointment, the ultrasound technician was less than thrilled with the images she was seeing on the monitor. I asked her if the baby had all 10 fingers and all 10 toes? The technician answered with a quiet yes. The technician wasn't willing to give us any of the ultrasound images. We had to beg the technician for the pictures and when she finally gave us two they were of the baby's spine. The confusion progressed for us as the technician immediately took us into an examination room. I thought it was strange because our appointment with the doctor wasn't for another hour.
>
> In that very room we learned the sombre news about our pregnancy. Our baby was diagnosed with anencephaly, a congenital absence of the brain, with the cerebral hemispheres completely missing or greatly reduced in size. The doctor explained it as a deformation of the head. We were in absolute shock. It was something that you would hear about happening to someone else or on TV, we just couldn't believe it was true, there had to be a mistake. Our obstetrician informed us that the baby was 'incompatible' with life and they should consider terminating the pregnancy …

I will not mention what she goes on to say about how difficult that was, because obviously with her Catholic faith it was very difficult for her to even think about termination. In fact she says:

> I was so angry with the doctor for even suggesting termination.

She had another diagnosis, another ultrasound which also confirmed the first one.

> Once the decision was made to carry to full term we endured four long months until the delivery of our baby.

Picture this:

> There were no baby showers, there was no crib to assemble, and the room that was intended to be a nursery remained a spare room. Instead of painting walls and hanging wallpaper for a baby's room, we made funeral arrangements for our baby. It was one of the hardest decisions I ever had to make, but I don't regret one single moment. Something we were not prepared for was the reaction we received from co-workers and friends …

They were very supportive.

> I prayed daily for a healthy baby, however, I realised that what I was asking for was a miracle.
>
> On January 8, 2002, our prayers were answered. After 11 hours of labour, Joseph Michael was born. When he came into this world the nurses immediately put a white cap with blue trim on his head and put him in my arms. When I held Joseph, once again I saw that little face from the ultrasound pictures. How could anyone have suggested terminating this precious child in my arms?
>
> When I noticed his breathing was getting shallow, I asked the nurse to take him so he could have his picture taken. I couldn't bear the thought of Joseph dying in my arms. After 2 hours and 34 minutes of living, Joseph died.

We are talking here, behind those 52 babies, of people of all faiths, of all walks of life having to make very difficult decisions. They are not aborting little babies. They want to have these treasured infants, and it is not always possible. We must make really sure in this debate that we are being objective and not generic and that we talk about the facts. In fact the reality is that after the abortion debate in 2008 the general consensus was that we in this chamber are not the experts; we are not trained medical operatives.

We do not have the power to deal with people such as baby Joseph's parents. I want us to keep the balance. I find abhorrent Mr Kavanagh's comment that a vote against this motion is evading our responsibility as legislators and as humans. I deeply object to having that aspersion cast against me. He said that the rejection of this motion demands us to be ignorant. I am not going to vote for this motion, but I am not ignorant and I am not evading my responsibility as a legislator and especially not as a human. I believe I am not qualified to make those decisions. The very difficult decisions that are made to terminate these types of pregnancies are best handled by the experts. As legislators we can give them the framework in which to operate, but we must be objective in our debate.

Mrs PEULICH (South Eastern Metropolitan) — I am going to make some brief remarks. I would like to strip away the emotion because I do not see this debate is one about the substance of the issue of abortion. I commend Mr Dalla-Riva for what I thought was an excellent contribution. This is a motion more about process. That is not to say that people on both sides of the house do not feel passionate about this issue. Although he is a dear friend of mine and I admire Mr Kavanagh's intellect and passion, I think it is a sloppy motion. Nonetheless, if you strip away the sloppiness of the motion and the emotion on both sides, it is not unreasonable that as people who lack the expertise — the technical and medical know-how, as Mrs Coote mentioned — we refer difficult questions of policy to all-party committees for specific and detailed investigation.

I served for 10 years on the all-party Family and Community Development Committee, formerly the Social Development Committee. It looked at many difficult issues, such as what to do with prisoners kept at the Governor's pleasure. I understand that in the past it looked at the issue of euthanasia. That is what we have all-party committees for; joint committees to do more detailed work, to tap into and access the expertise that we, as parliamentarians, do not have. I am not sure that there is a single medico in this chamber.

Whilst many of the stories and the emotions are understandable, they are just that. I am really interested in the facts. I thought Mr Dalla-Riva made this point very well. The coroner investigates individual deaths but does not necessarily look at the trends or the broader issues. When the abortion legislation was debated here people voted on both sides. I do not think it is extraordinarily bad — in fact it is very good — for a parliamentary committee to review, especially two years later, the operation of a bill that was passionately debated and narrowly passed.

As a result of that legislation, under particular conditions abortion is no longer illegal. Live births as a result of an abortion being handled badly ought not to happen; those practices ought to be addressed. If there are issues in relation to other induced births that merit an improvement in the way they are dealt with, or some sort of policy change, then that ought to occur as well. For me this is not an issue of emotion; it is one of process.

This issue merits investigation and a consideration of how those practices can be improved to understand and identify any trends. It is entirely appropriate that an all-party committee, often on complex issues of social policy, is tasked with that role. That is how you weld a society together; that is how you build cohesion and how you can move forward. Members might find this odd, but perhaps it should not be altogether surprising that when a party room is divided many political leaders, premiers and prime ministers will not necessarily force a vote. In order to achieve unity they will say, 'Take the issue away and work out the details'.

I do not feel at all emotional about this particular debate. I see it as one of process. It is entirely appropriate, notwithstanding Mr Kavanagh's sloppy motion or the things that have been said on both sides, that issues of this nature are referred to an all-party committee for expert review. Specific terms of

reference are given to the committee so that it can address certain issues and see whether practices need to improve or whether there are shortcomings in policy. With those few words, I intend to support the motion notwithstanding the fact that I think it is a poorly worded one.

Mr HALL (Eastern Victoria) — I just want to make a couple of comments in respect of this motion. In the 2008 debate in this chamber I was one of those who supported the removal of abortion from the Crimes Act, and I am going to support this motion here today. I do not believe that the two decisions I have come to are inconsistent. I will take a minute to explain why.

My decision in 2008 to support the removal of abortion from the Crimes Act was predicated on the fact that I believe we need to have more open debate about abortion in this state. We need better information on the number of abortions and also the circumstances which lead people to pursue that course of action. While abortion remained a criminal act in Victoria we were unable to fairly have that debate for fear of retribution — for fear of committing a crime. That was the basis of my decision to support the removal of abortion from the Crimes Act. It was in the hope that we would have better reporting and a better understanding of the circumstances relating to the number of abortions in this state.

This motion seeks to further public discussion about abortions and termination of late-term pregnancies, particularly where deaths have been involved. I have listened to the contributions to the debate. Andrea Coote, in an excellent contribution, made some valid points, including that an inquiry of this nature would open up wounds and prove to be traumatic for those people who have unfortunately lost a child. I agree with that.

Equally, there are many inquiries which people would find traumatic, particularly listening to some of the debates as they unfold. During the recent Victorian Bushfires Royal Commission many people who had suffered severe trauma when they lost loved ones as a result of the bushfires again felt the pain as the outcomes of the inquiry were reported on a daily basis in the media. That trauma was revived on a daily basis and they found it difficult. I agree with Mrs Coote that there will be people who will find such an inquiry by a parliamentary committee traumatic, but if we are going to provide long-term help, then there is merit in further consideration of the issues designated in Mr Kavanagh's motion.

Another point made by a number of speakers was that as parliamentarians we do not have the expertise to judge these matters, and I absolutely agree with that point. That is why parliamentary committees rely on expert evidence presented to them by people who are well qualified to do so. Parliamentary inquiries draw on that expertise so that they can make recommendations to the elected representatives of the people of Victoria — that is, us, as parliamentarians — through a process like this, and it will be true of this one if it is to proceed.

I tend to agree with the comments made by Mrs Peulich that in this regard it is really a matter of process. As I said in my opening comments, we can only advance this; we can only help people to cope with the circumstances in which they have lost children prior to or shortly after birth if we can have an open and frank conversation about the issues surrounding those circumstances. I, for one, do not place any blame, nor do I place any inference on medical practitioners or parents at all. I hope that a parliamentary committee inquiry would be free from fear, favour and bias in any regard, with no preset agendas. I would be disappointed if that were not the case.

As I said, I was one person in this chamber less than two years ago now who voted to remove abortion from the Crimes Act, and I do not see that as inconsistent with the way in which I will vote today to support this motion. If we are going to help young people and families, and if we are going to improve the life prospects of the unborn and born children in this state, then we need to have the conversations, and we need to do it in an open and transparent fashion. This recommendation will further advance that cause.

Mr GUY (Northern Metropolitan) — I make a few comments on this motion from Mr Kavanagh today, and in doing so I note a number of contributions from speakers before me that have been informative and well put. Some contributions take a different perspective from the one I intend to take, but others, such as the contributions from Mrs Peulich and Mr Hall, were succinct and to the point. It is exceedingly difficult for every member of this chamber to remove the emotion when making a value judgement about this motion and what we intend to do about it. We all respect that and come to our own conclusions. Once again I am, like Mrs Coote, proud that on these important issues of conscience, the coalition party room has offered its members a conscience vote. That is particularly important in the sense that there is obviously a big difference of opinion on the crux of this issue, although I will come to that in a minute, and on being able to define it here today.

From the very start I say that while all contributions, including mine, mentioned the issue of abortion and referred to the bill we debated in October 2008, the motion moved by Mr Kavanagh today, when we all remove the personal feelings we have about the issue, is a parliamentary motion. As Mrs Peulich put it, it is a motion for a reference to be given to a committee. It is a motion which asks a committee to inquire into, consider and report on a reference being presented to it. It is not a motion that presents a bias in seeking a certain finding; it is not a motion that seeks to pre-empt an outcome; it is not a motion that seeks to ask people to come to a conclusion. It is a motion that presents a committee of the Parliament with a reference concerning certain facts that have been reported and asks the committee to find out about the details behind those facts and report to the Parliament on the underlying situation.

It is difficult for all members, and certainly for me, to remove a lot of the emotion from the issue, but I would support giving the reference to a committee. I support it because I believe the Parliament has a right to ascertain certain facts, despite the difficulty for people to personally deal with the issue at hand. However, the Parliament has an obligation, through the 40 officials elected to this chamber by 5.5 million people, to inquire into and ascertain facts behind a certain circumstance. In my view that is a matter that we have to undertake whether we are comfortable or not with the issue at hand.

I say again that I understand that a number of speakers have put cases before — on one side or the other of the debate — about children who have been born alive, difficult decisions that have been made by parents or other facts that have been put before the Parliament. However, at the end of the day this motion makes no reference to those. Point (3) of the motion is the most important. I agree with Mrs Peulich that there are issues about the wording of some parts of that point, but that is probably subjective. It is something that all of us deal with and not something that we should be judging the point on because the substantive point of the motion is a reference to 'consider and report on the postnatal deaths of babies born alive in Victoria'. It is obviously a fact that that has occurred. Whether the reasons why that has occurred are those raised by one speaker or others is immaterial. We are asking a parliamentary committee simply to ascertain the facts behind that; we are not asking a parliamentary committee to make a judgement on anything else beyond that.

Considering that, I will support the motion. I hope other members of the chamber can see the substantive point of the motion that is before us today, whatever may be their personal point of view and whatever side of the issue they have debated for. I hope they will put that aside and see the substantive point of the motion, which is reference to a parliamentary committee of a matter which should be examined. With that, I intend to support the motion.

Mr KAVANAGH (Western Victoria) — It has been an emotional debate. Perhaps I have contributed to that emotion, and I should not have. Nevertheless I have to say I am disappointed by the provocative, blatantly insulting and factually wrong statements made by several speakers today. Several speakers puffed themselves up and said, 'I'll now tell you the truth', and then they said things that are blatantly factually and objectively false.

I do not mind too much if people make a mistake of fact. That is fair enough, and we all do that sometimes. But to then impugn motive I always consider to be the worst form of debate — to say, for example, about Mother Teresa, 'She only wanted her picture in the paper; she didn't like helping people'. We had that level of debate here today, with people saying things such as, 'You only want to make headlines', or something like that. I do not consider that to be rational debate at all.

I would like to refer to some of the speeches individually. Mr Tee spoke a lot about abortion. As I said, this motion is not about abortion; it is about children who are born alive and what happens to them. It is not about the abortion or attempted abortion that preceded their birth. I understand that to be a quite different issue. Mr Tee scolded me, saying, 'Mr Kavanagh doesn't know whether it is 54 or 52'. He obviously was not listening to my speech, because I noted explicitly that the *Herald Sun* article referred to 54. There may be two other cases that I did not see in the 140 pages in this Consultative Council on Obstetric and Paediatric Mortality and Morbidity report, which has long lists of tables and numbers, so I have given both figures, 52 and 54 — contrary to Mr Tee's assertions that I did not.

Mr Tee, and indeed several other speakers, kept saying that, of the 181 births, the 52 referred to were not abortions. I have here page 11 of the report, to which every speaker referred. What does it say beside 'Cause of death'? The column headed 'Neonatal death' has 52, and the column headed 'Stillbirths' has 129. They come under the category 'Termination for congenital abnormality'. What does 'termination' mean? It means abortion. The very document they were quoting from states 'termination', and yet the argument from several speakers was that this is not about termination of pregnancies.

I would like every member here to look at this table on page 11. The column on the left is headed 'Cause of death', and under that is 'Termination for congenital abnormality'. The next column is headed 'Stillbirths (Foetal death)' and the number is 129. The number in the next column, headed 'Neonatal death' — that is, death after birth — is 52. The total is shown as 181. Those 52 are in the category of terminations.

A lot of assertions were made by a lot of speakers, and many of those speakers were at once criticising me for not having the evidence while making statements that were unsupported by evidence. Mr Tee said I was insulting parents. I do not believe I referred to parents, and I would not insult the parents. What I did was make accusations of suspicion about medical personnel. As I have said, we have to be a bit careful. All the facts together suggest things. As I have also said, there is much about abortion and the practice of it in Victoria that we do not know.

Mr Tee also talked about my real reason for moving the motion. My real reason is to try to help to get some care for babies who are born alive after failed abortions and to get them some medical attention so that if they can live, they will. It is to try to get them some comfort at least. I think the evidence is that often they are treated with contempt and indifference. Indeed we heard that in Mr Finn's speech when he read the report of the Northern Territory coroner.

I believe it was Ms Hartland who said there is no evidence of the ages of babies at the time of termination. She referred to page 11. Perhaps she could have turned over to page 12, because on that page there is a table listing the ages of babies at termination. It is as plain as could be. In the last column it shows that at 20 to 22 weeks the numbers are 138 for congenital abnormalities and 80 for psychosocial reasons; at 23 to 27 weeks the number is 38 for congenital abnormalities and so on. They are there on page 12. Instead of accusing me of making up evidence, Ms Hartland should see the evidence there on the next page. Again, Ms Hartland talked about the 52 and 54. She should have listened to my speech.

Ms Hartland said also that an induced birth is not an abortion. That is not how members of the very committee she referred to describe it. They described it as a termination. What is a termination other than an abortion? That theme was repeated — wrongly — by several speakers.

Ms Hartland said, 'The evidence you've got is from the Northern Territory, New South Wales and the United States'. That is true. As I pointed out several times, the evidence from Victoria is weak. We do not know what really goes on at an abortion. There is no advocate for the unborn child at an abortion. Who is on the side of the baby at an abortion? Nobody. We do not know what happens, but there is very strong evidence from the Northern Territory, New South Wales and in America the case of Gianna Jessen that babies born alive after an abortion are treated with contempt.

Ms Hartland also expressed outrage at the motion, and Ms Tierney did the same thing. Ms Tierney said, 'I'm going to tell you the truth now. Mr Kavanagh has been saying false things; I'll tell you the truth'. Then Ms Tierney, like Ms Hartland, purportedly quoted from my motion 'babies born after 26 to 28 weeks'. Where does the motion say 'babies born after 26 to 28 weeks'? Ms Hartland, where does that motion say '28 weeks'? Ms Tierney, where does that motion say '28 weeks'? That motion does not say '28 weeks'. That is in the previous form of the motion that was ambiguous. The motion that is being debated today does not include those words.

The PRESIDENT — Order! I am sorry to interrupt Mr Kavanagh's summing up, but I make one point first. This is an extraordinarily emotive matter we are dealing with. I would prefer that all comments were addressed to me and not to any individual member, which could possibly lead to a more undignified debate than we have had to this time.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Mr KAVANAGH — As I stated before the dinner break, I was taking exception to a lot of the tone of the debate and content that largely came from the other side of the chamber and the crossbench. To me a lot of the arguments presented were provocative and resorted to the worse kind of insult — that is, the attribution of evil motives. I have always thought that is the worst form of insult. I have thought that since I was in form 2 at school when I was about 12 years old. I have always thought it is the lowest form of insult to attribute evil motives to what otherwise could well be noble actions or at least not necessarily evil.

A lot of the content of the contributions from the other side of the chamber revolved around the assertions that of the 181 babies who died from congenital abnormalities, 129 died before birth and the other 52 were the result of early induced labours, not abortions. However, it is perfectly clear from the very documents, particularly page 11 of the committee report, those speakers were reading from that they were the result of terminations which, to me, always means abortions.

Mr Tee said the babies are well cared for. He gave examples but no indication of where the evidence of those examples came from. That is not stated in the report. Like other speakers, Mr Tee questioned my motives and asked, 'Why would you do such a thing?'. I believe this Parliament exists to protect the weak; this Parliament exists to protect people who cannot protect themselves. It is entirely appropriate, right and proper that this Parliament seeks to do what it can to protect those who cannot protect or defend themselves. That is why I moved this motion. It was not, as alleged, for headlines or any evil motives on my part.

I talked about Mr Tee before the break. Ms Hartland in her contribution argued that the babies who had died had had no chance of survival. There is no evidence of that in the report at all. I am sure some had a slim chance of survival, but as to whether that were true for all of the babies involved I do not know and I cannot tell from the report because there is no evidence for that proposition one way or the other.

Like other speakers who are so angry about this motion, Ms Hartland asked why I moved it. It was to try to protect babies who are being neglected after their birth. They are being neglected in some cases because their birth followed a failed abortion. That is grossly unfair to those children; it is a gross injustice. I would like to do everything I can to prevent that happening in the future even if it means having my motivations impugned by guesswork and simple negativity.

Ms Hartland said I accused parents of neglecting their children to death. I did not do that. I accused medical staff, if anyone, not parents. Even in the case of accusing medical staff, I accused them quite tentatively because, as I kept saying, the evidence is not strong. But given what has happened in other states and in the United States, for example, it is clear this is a part of medical culture that is rather difficult to escape from — that is, the assumption that you are allowed to try to kill a child before birth through abortion but if the child is born alive, you retain that right even after the child is born.

Ms Hartland asked whether I had read the report before or after reading the *Herald Sun* article; the answer is both. I referred to the apparent inconsistency between 52 and 54 babies in my first speech. Ms Hartland, like Ms Tierney and Mr Tee, said the induced births of 52 babies were not abortions. The committee report from which they quoted begs to differ. It states at page 11 that it defines those deaths as death through termination — 'termination' being a synonym for abortion. A major part of those three arguments was based on the false premise that those deaths were not the results of abortions. They were, and that was admitted in the very report these members used to support their case.

Ms Hartland said the evidence I gave was from New South Wales, the Northern Territory and the United States. That is true. The basic evidence I gave — the cases I cited — was from those jurisdictions. However, what evidence is there that Victoria has a different medical culture from that of New South Wales, the Northern Territory or indeed the United States? There is no evidence at all that there is a difference, and I suspect there is none. Again I refer to suspicions; I do not have facts. What I am asking for is an investigation to establish the facts. The suspicions that exist at present well justify an investigation to determine the facts.

Ms Hartland also referred to the gestation period of 26 to 28 weeks, referring to a previous version of this motion, not to the motion that is before the house tonight, which has been amended to avoid ambiguities, as I indicated before. According to Ms Hartland, there is no evidence about the age of the foetuses at the time of termination, but on page 12 of the report there is a list precisely setting out the age of the foetuses at the time of termination for both categories of congenital abnormalities and psychosocial reasons in 2007. The total figure for congenital abnormalities is 181 — I have gone through the figures briefly before, so I will not do it again — and for psychosocial reasons it is 164, giving a total of 345. That is precisely the figure I gave earlier, and on page 12 it is broken down according to the age of the foetus at the time of termination or the foetus's death.

Mr Tee said all these babies could not live, and indeed some other speakers suggested the same thing, but Ms Hartland said something rather different. She said that of these 52 babies most of them were not compatible with life. That is a significant change, because it is an admission that some of them might have been. I am sure that many of them could not have lived no matter what treatment they were given, but I suspect that the lives of some of them could have been saved if the effort had been made.

Ms Hartland asked why the motion does not refer to young people who committed suicide, and I think that is a very good — —

Ms Hartland — Their lives aren't as valuable?

Mr KAVANAGH — Ms Hartland asks whether their lives are not as valuable. My view is that these suicides are terrible tragedies. It is the worst thing in the

world when a young person, especially a child, kills himself or herself. It is appalling and gut wrenching, and I would like something to be done about those deaths too. I would like to help you, Ms Hartland, if you could think of a way to do it. We might do it together — —

The ACTING PRESIDENT (**Mrs Peulich**) — Order! The member should address his remarks through the Chair.

Mr KAVANAGH — Ms Hartland said she might like to move a motion to investigate the suicide of children. I would fully support her if she did such a thing, because all young, innocent lives taken are tragedies that should be studied and avoided. That is also what this motion is about.

Ms Hartland made a good point in saying that this whole topic is distressing. It is distressing to me too. I do not like talking about it. I do not like thinking about it. I wish I had never had to think about it. I wish I had never heard of it. However, the fact is that I have. I think it is up to everyone to do what they can about it. When I say 'everyone', I mean every person in this chamber in particular. It is distressing, and in a way I am sorry to bring up something that is distressing. It is distressing for me too, but I would not feel less distressed if I just avoided it.

Ms Hartland asked me for an apology. I do not know if she was quite serious. However, if I have overstated the position of medical personnel — if I have suggested that they are all guilty of bad things — then I guess I should apologise to them. I am not trying to say they are all guilty of bad things. I am sure that most medical people are great people. They are obviously intelligent people, and many of them are devoted to doing the best they can for others — —

Honourable members interjecting.

The ACTING PRESIDENT (**Mrs Peulich**) — Order! There is a bit too much audible conversation given the serious nature of the topic.

Mr KAVANAGH — I would not like to suggest that all doctors are complicit in these kinds of acts. If I have, then to that extent I apologise.

I thank Mr Finn for his commendations and his assertion about courage. Frankly, until I got this barrage of abuse tonight I would not have said I was so courageous, but I guess it is not unexpected or surprising. If I have the virtue of courage, I am sure that I make up for it with lots of deficiencies. I am not suggesting that I am a wonderful person or that I am better than other people for moving this; no doubt in most respects I am worse than other people here. However, it does take courage to move a motion like this.

This motion is devoted to the truth, as Mr Finn said. I put it as a search for knowledge, but I think Mr Finn put it better. This motion is about seeking the truth and acting on it. Indeed I think all of us here should all be devoted to the truth. If we are not devoted to the truth, I do not know what we are doing in Parliament. Mr Finn said one thing that I think is wrong. He said the abortion act made Melbourne a capital of the world for abortion — —

Mr Finn — Capital of Australia.

Mr KAVANAGH — Capital of Australia — —

Mr Finn — Of late-term abortion.

Mr KAVANAGH — Of late-term abortion. No, it was that even before the passage of the abortion bill. As this other evidence shows, there are abortions being performed in Melbourne that would not be performed in other parts of the world. People are coming here to get abortions done, abortions which nobody else in the world would do. There is a surprisingly large number, not only from interstate but also from other countries. Even before the 600 per cent increase in late-term abortions that Mr Finn referred to — and I did not know the figure of 600 per cent but Mr Finn said there is a 600 per cent increase; I know they said there was a big increase, but I did not know it was that big — and even before passage of the abortion bill, Melbourne was the abortion capital of Australia.

Mr Finn talked about the once great Australian Labor Party and this reminded me of my members statement today. Earlier this month the former New South Wales Premier, Bob Carr, referred to what happened to the ALP after 1955, after the people who formed the Democratic Labor Party were expelled from the Australian Labor Party. He said basically that was disastrous for the ALP. It was disastrous in many forms and I will not go into this morning's contribution again. But I think it is disastrous in terms of the Australian government's attitude to life issues.

Ms Tierney said she felt she needed more information about this topic. That is what this motion is all about. This motion is designed to get more information and to use it. If Ms Tierney really wanted more information about this topic, she would vote for it. Again Ms Tierney purported to quote from my motion and used the term '26 to 28 weeks'. As I said before dinner, the number '28' is not in my motion. So Ms Tierney's

saying, 'I am going to now tell you the truth, Peter Kavanagh' and then referring to '26 to 28 weeks' in this motion does not hold weight because it does not even say '26 to 28 weeks' in the motion.

Ms Hartland — It does in the original motion, Mr Kavanagh.

Mr KAVANAGH — It does not say it in the motion before the house.

Ms Hartland — In the original motion.

Mr KAVANAGH — The original motion is not before the house.

The ACTING PRESIDENT (**Mrs Peulich**) — Order! Through the Chair!

Mr KAVANAGH — I think it would be wise if you are going to criticise a motion that you actually read it, which apparently Ms Tierney has not done today. In spite of lecturing people about truth and factual accuracy, she could not have been more factually, objectively wrong.

We heard contributions about serious congenital abnormalities. No doubt congenital abnormalities were a common feature among the 52 babies who died after birth. But as to how serious they were, that is another matter. It is quite likely that some of those babies could have been saved upon birth in spite of certain abnormalities they may have had. Ms Tierney said she was affronted by the notion that such babies could not be neglected. That is exactly why I have tried to have this motion passed, because I am affronted by the notion that babies could be neglected. Unlike Ms Tierney, however, I suspect that they are being neglected to death in some cases.

Ms Tierney says she cannot believe I would want to put parents through reliving their grief. It is not a pleasant thing, and I do not want to put people through grief either. But sometimes recounting your grief can be therapeutic. I do not imagine that if this motion were passed the Family and Community Development Committee would bring in parents. It would bring in medical staff, not parents. It would not be a process whereby parents would be required to relive their grief at all.

Ms Tierney said that I implied that parents have committed crimes. I have not. I have not talked about parents; I have talked about medical staff. Then Ms Tierney said I have made deliberate false claims. This is something I seriously object to, and I think it is probably unparliamentary to say that I have deliberately misled the house. We have seen that Ms Tierney did mislead the house, but I would not accuse her of doing it deliberately. That would be going too far. Nevertheless, even when I have not misled the house, that does not prevent Ms Tierney from saying not only that I have but that I have done it deliberately.

I think the words 'blatant disregard for the truth' were used. Ms Tierney did not speak the truth, but I accept that she was mistaken. I do not accept that she deliberately set out to state falsehoods, merely that she did so without intending to do so. Of course Ms Tierney also said that I was motivated by a desire for misleading headlines. That is really in the same category as suggesting that I have deliberately made false claims. It is simply the case that when you dislike somebody, you make up evil motives to attribute to their behaviour.

Mr Finn — It is despicable.

Mr KAVANAGH — It is not good debate anyway, Mr Finn.

Again we had this argument that the 52 babies were not aborted; their birth was induced prematurely. First, I do not see the difference between inducing birth prematurely when you know that will lead to the death of the baby upon birth. Second, the committee itself, in the report, does not see a difference either, because as I have said the 52 are categorised on page 12 as being the result of termination, which is another word for 'abortion'.

I thank Mr Dalla-Riva for his support for this motion. Mr Dalla-Riva did not really get into the content. Indeed a lot of the debate should not be about the content; it should be about whether we want to find the truth. It could possibly be that the matter could be investigated and the committee would report back and say, 'No, there is no evidence for suspicion. Everything is above board'. If that were based on sound evidence, I would be very pleased to see it because it would mean that babies are not being killed or neglected to death after their birth. That is something that I wish was not happening.

I appreciated the kind comments of Mrs Coote. Again Mrs Coote argued that these babies had no chance at life. That is probably true in many cases, but I do not know that it is true in all cases. Unless we know that it is not true in all cases, surely we should investigate the matter. Is that not the point? Indeed some babies are severely deformed and it is terrible, shocking and horrible for the parents, as Mrs Coote suggested. If a baby dies from their deformities that is a tragedy. We

can only have sympathy for all those affected by that death. I also thank Mrs Peulich for her contribution.

I will sum up with just a few words. This debate has become largely about abortion, but it should not be. It should be about babies who are born alive and what happens to them. As Mr Finn put it much better than me, it is about a search for the truth about what happens to those babies. I would like to know the truth and I think we owe it to the community generally to find out what is the truth.

I have talked quite a bit about motives for doing things, and I am tempted to talk about the ALP's motives in opposing this motion. It is not derived from my having a low opinion of ALP members, because I am not saying that I have a low opinion of ALP members. Rather it is from reports that I have been given that the ALP has decided to oppose this motion because it is concerned that it did not want anything to do with abortion raised close to the election. The ALP does not want the public to be thinking about this topic at the time of the election. If that is true, it is hardly a noble motive for opposing a quest for truth.

As I have said, our job here is to protect the weakest, protect those who cannot protect themselves. That is the whole idea of a legal system: contributing towards providing effective protection for the weakest is our whole purpose as legislators. As I have argued before, when you take away protection from one group of people, you weaken protection for every person. Not only is it a matter of justice to the newly born, it is a matter of protecting everybody else too. When you damage the awe in which human life is held, then you endanger every life.

We have had many debates in this chamber about the need to increase police numbers, as though that will lead to a safe society. A safe society is one where people have respect for the lives and rights of others — all others. If you deliberately take that away from one group, you weaken that premise. You weaken the society further if you take it away from other people. You weaken it when you take it away from the unborn and you weaken it further when you take it away from the newly born.

This motion is not about being nasty to parents who have had this horrible experience. I would not support making life difficult for them because it is too late for the victims in those cases anyway; apart from any other reason of justice for the parents themselves, it is too late for the babies. This motion is about babies who are going to be at risk in the future. That is what this motion is devoted to, not to those who unfortunately have already died and about whom unfortunately we can do nothing.

When the Northern Territory coroner, Greg Cavanagh, was investigating the death of baby Jessica in Darwin, people came to him with all sorts of reasons about why he should not do what he was doing. They said to him, 'Coroner, you shouldn't investigate the death of a baby born alive after a failed abortion because first, she was not expected to live and second, her death was inevitable'. Coroner Cavanagh answered: 'In the case of life being unexpected, that would apply to most of us. In the case of death being inevitable, that applies to all of us'.

House divided on motion:

Ayes, 9

Dalla-Riva, Mr
Drum, Mr
Finn, Mr (*Teller*)
Guy, Mr
Hall, Mr
Kavanagh, Mr (*Teller*)
Petrovich, Mrs
Peulich, Mrs
Vogels, Mr

Noes, 27

Atkinson, Mr
Broad, Ms (*Teller*)
Coote, Mrs
Darveniza, Ms
Davis, Mr D.
Davis, Mr P.
Eideh, Mr
Elasmar, Mr
Hartland, Ms
Huppert, Ms
Jennings, Mr
Leane, Mr
Lenders, Mr
Madden, Mr
Mikakos, Ms
Murphy, Mr
O'Donohue, Mr
Pakula, Mr
Pennicuik, Ms
Pulford, Ms
Rich-Phillips, Mr (*Teller*)
Scheffer, Mr
Smith, Mr
Somyurek, Mr
Tee, Mr
Tierney, Ms
Viney, Mr

Motion negatived.

PUBLIC TRANSPORT: PASSENGER SAFETY

Mr DALLA-RIVA (Eastern Metropolitan) — I move:

> That this house expresses its serious concern at the terrible series of incidents of unprovoked violence on, or in the vicinity of, Victorian public transport and believes that after 11 years in power the Brumby Labor government should have done more to prevent this violence and further believes that —
>
> (1) Victorian commuters have a right to travel on public transport in safety;
>
> (2) increased numbers of Victoria Police must be deployed to patrol public transport;

(3) increased numbers of Victoria Police protective services officers have a key role in ensuring the safety of commuters; and

(4) Victoria Police protective services officers should be on each and every metropolitan and major regional railway station from 6.00 p.m. until the last train at night, seven days a week.

Coincidentally this corresponds with a policy that, surprisingly, has not been stolen by this mob on the other side.

Mr Drum — Yet!

Mr DALLA-RIVA — Yet, Mr Drum. There are still a couple of months left before the state election. We have released 75 policies and this mob over here, the Labor government, should be in opposition because it has stolen 66 of our 75 policies. By default we are managing and governing the state of Victoria in opposition. It is wonderful to see that we had a policy that those opposite could not match.

An honourable member interjected.

Mr DALLA-RIVA — They did not understand it. As we know, they are finding it very difficult. Like most of their policies — their non-policies — —

Mr Drum — They try to ridicule.

Mr DALLA-RIVA — They ridicule first, criticise and then copy. We heard today the Minister for Police and Emergency Services in the other chamber, Bob Cameron, promoting the car crushing law and how wonderful it was — —

An honourable member interjected.

Mr DALLA-RIVA — He did. He said it was outrageous. I am very pleased to see the modern technology — —

An honourable member interjected.

Mr DALLA-RIVA — Mr Cameron announced that the Labor government's car crushing laws commence today. Can I quote what Mr Cameron said about this policy. He viewed any move to crush cars as short-sighted and populist. He is quoted as having said:

> The Liberals' call to crush cars is completely irresponsible considering the concern we have for the environment and the use of resources …

When was that? It was in the *Herald Sun*, July 2008. Yet today he announces that they are crushing cars. Isn't that wonderful?

I seem to recall another of our policies was to bring in 1600 additional police. At the time the government said, 'Irresponsible; you can't do it. You can't fund it.' The budget had already been set.

We have released 75 policies, and the government has stolen 66. It is obviously a sensitive spot. The whiteboard is probably going ballistic at the moment as the government tries to work out how it can copy our policies.

The ACTING PRESIDENT (Ms Pulford) — Order! For the benefit of the other members in the chamber and those in the gallery, if the member could get to the motion sooner rather than later, that would be great.

Mr DALLA-RIVA — Thank you for your guidance. I do not interfere with the Acting President's ruling, but I would suggest that as the lead speaker and as tradition would have — —

An honourable member — You are under 1 minute in.

Mr DALLA-RIVA — I am not even 1 minute in. I have not even started, so I think it is fair to say — —

An honourable member interjected.

Mr DALLA-RIVA — Four minutes? I think that is a bit unfair. I thought it was about 2 minutes and 20 seconds, but I digress. I would have thought it was less, but I will give members the benefit of the doubt, given that we have no time lines in this chamber. I have gone off Bob Cameron, as many people in Bendigo eventually will on 27 November.

Mr Koch — They already have.

Mr DALLA-RIVA — They already have. I thank Mr Koch for that interjection. He claims another quote. The issue is that our policies are very clear and very reasoned. We have thought them out, and the government has done the right thing in that it just continues to steal them. We will continue to release policies, and it will keep on taking them. The fact of the matter is that everyone in Victoria knows we are leading the government. In policy development we are leading the government. This is yet another policy.

We know for a fact that crime on our public transport system is at record levels. It is interesting to note that the government always says, 'The Kennett government was very bad' and 'How good are we?', so I thought it was important — —

Mr Rich-Phillips — It is the minister's fault, personally.

Mr DALLA-RIVA — It is the minister's fault personally; I agree. He gets another quote in *Hansard*! The background of this is that lawlessness and violence has forced Victorians to fear for their safety. I am glad the Minister for Public Transport, whom the *Herald Sun* reported was chauffeured in yesterday, is here. It is a shame we do not have Mrs Peulich here to talk about the champagne on ice, as she does.

Hon. M. P. Pakula — I think you would have drunk it all before anyone else did.

Mr DALLA-RIVA — That may not be the case if it is pink. According to the Australian Institute of Criminology fear of crime on public transport can lead to a reduction in the number of people travelling. This in turn reduces the effect of safety in numbers and contributes to an increase in the risk of a person becoming a victim of crime. Because there is crime on our public transport system and people say it is not safe, people get off the transport system and take a cab, if they can find one. If the cab driver knows where they are going — or if the member for Forest Hill in the other place is not interfering with the cab driver — then we have the issue of getting them home that way. The alternative is that they take the car, which increases the risk of injury if they have been drinking et cetera. There are some real issues about how that is being dealt with. That comes from 'The Promise of Crime Prevention' by Grabosky and James of the Australian Institute of Criminology. I tend to support that.

The statewide level of crime increased under Labor, but Labor is good at talking about how the incidence of crime has dropped. Given that the issue relates to violence it is important to put on the record that while the government says it is wonderful that bicycle thefts have dropped — I support that, and any person would support lowering the risk of bicycles being stolen — the real issue is that we have a series of violent crimes occurring under this government. This government is more interested in employing media spin doctors in Victoria Police and having a police force that we know from the information provided publicly by the Police Association secretary, Greg Davies, is the smallest per capita of any state in Australia. The government should hang its head in shame about the impact that has. Everyone knows that the more visible police we have the less chance of violence and crime being committed on our streets.

The end result after a number of years, as shown by Victoria Police crime statistics in August 2009, is that the total number of violent crimes against the person has gone up from 31 372 to 43 971 — up 40.2 per cent. That is amazing. The interesting point is that the assault level has gone up from 19 856 in 1999–2000 when the bad old Kennett government, as the government refers to it time and again, was in office to an amazing 33 668 — up nearly 70 per cent, at 69.6 per cent. It demonstrates why people are feeling unsafe on our streets.

We are serious about dealing with violence on our transport system. On 8 November 2009 we announced a clear policy to ensure that people will feel safe travelling our public transport. If they elect a Baillieu government, we will make sure that there are Victoria Police protective services officers, the same people who protect us in this chamber, on every metropolitan station after 6.00 p.m. The Minister for Public Transport would love to have this policy. He would love to take this policy and put it in place.

Hon. M. P. Pakula — Don't hold your breath!

Mr DALLA-RIVA — Don't hold our breath; so what is his solution? He is waiting. He does not have a policy, and that is the typical comment. Major regional stations will also be covered. We are clear about ensuring that we support the country. We know the members opposite do not like the country. They do not live in it. They represent it, but they do not even live in it. Why would they bother about country seats when they do not even live in them? They do not care; they just slot people into the lower house seats and the upper house seats, and then they say, 'You can go and live in Brighton, Kew and every other Liberal-held seat, because that is where we like to be. We like to live in those seats because they are nice and safe. We don't want to live in the Labor-held seats because they are dangerous and violent'. That is the notion. If Labor members were serious about living in the electorates they represent, they would be in those electorates and then they would understand exactly what the concerns are. But they do not, and that is a point that has been raised before and will indeed be raised again.

We have also committed to providing additional Victorian police officers to patrol the train, tram and bus networks. That was a good policy announcement. Another 100 Victorian police officers will join the transit safety division, bringing the total to 350 additional professional police officers who will be patrolling the entire train, tram and bus networks at all times. One would suspect that those travelling on our trains will have at least the additional support necessary during those times. We will see an extra 1000 police officers on the public transport system. The new

transport security force will have a zero tolerance approach to crime on public transport.

As our leader has observed, we will turn stations of fear into places of safety. After 11 years Victorians are sick and tired of a lazy, lumbering Labor government. They expect they will have to protect themselves, because nobody else will look after them. Time and again we hear about the concerns of Victorians travelling on our public transport system. As I mentioned in my motion, Victorian commuters have a right to travel on public transport in safety. They do not have a right to be bashed, they do not have a right to be assaulted, they do not have a right to be interfered with, to be raped or assaulted. What they deserve is a government that is going to stand up for their rights.

This is the government that brought in the charter of human rights and then ignored them. It says, 'Well, don't worry about it; just keep on catching public transport and don't worry about it. Keep on trying to use the myki system. Don't worry about it. We'll keep on spending your money. Just keep on driving on the congested roads. Keep on trying to deal with the health system. Keep on dealing with the smear of corruption in this state. Keep on dealing with the flawed planning policies. Keep on dealing with everything else. It will be all right'.

The Minister for Public Transport says, 'What we will do is steal your policies'. Seventy-five have been announced by the Liberal-Nationals coalition, and how many have been stolen so far? Sixty-six. Can you believe it? Since 2006, 66 of our policies have been stolen. I have said before that what we are doing is managing government from opposition. The people of Victoria have finally cottoned on to the fact that this is a tired, worn-out, lazy, arrogant government that needs to be voted out on 27 November. We look forward to actually doing something for Victorians. We look forward to dealing with the planning issues. We look forward to fixing up the rail infrastructure problems. We look forward to implementing proper project management processes. We look forward to dealing with law and order issues. We look forward to dealing with procurement issues.

There is a whole raft of issues, and after 11 years the government cannot in the remaining four months try to fix them up. It is stuffed. They have stuffed it up. After 11 years of spin, that is a good example of how a government that had no clear strategy when it came to power has now run out of puff. It is tired and worn out. It has second-class ministers, it has second-class administrators and people are sick and tired of it.

As my motion puts forward, people are sick and tired of a lame government that says, 'Keep on getting assaulted on the public transport system; we don't mind'. The government is not going to put more police on the transport system — but we are. The government says it is not going to worry about what occurs on the platforms — but we are. The government says it is not going to worry about what happens with rail infrastructure — but we are. We have a whole system and a whole plan, and we are ready to govern.

I look forward to the mob over there sitting on this side over here and having to spend the next 10, 15 or 20 years in opposition, because the government has stuffed it up and it continues to stuff it up. Every day after 27 November we are going to remind members of just how bad this government has been as an administrator.

This motion is a sensible motion. It is about saying that we are serious about fixing up a lot of problems. Bring on November — because you guys are gone!

Mr TEE (Eastern Metropolitan) — I welcome the opportunity to speak on the issues around public transport. I think this is Mr Dalla-Riva's third attempt at this motion. A number of motions drafted by Mr Dalla-Riva have used the same formula and taken the same approach. The problem with the approach is that it is not based on any factual reality. This is the opposition's attempt to try to get some mileage on an issue. It is opposition members saying, 'If we repeat something often enough and we keep bowling up the same motion, it might get a bit of traction'. But the difficulty the opposition faces is that it defies reality.

The reality is that police statistics show that the number of crimes committed on public transport has decreased — by 15 per cent over the last 10 years since the government was elected.

Mr Koch — And domestic violence?

Mr TEE — We are happy to talk about a whole range of issues, but this motion and my comments will be around crime.

Mr Dalla-Riva — Crime has gone down? Police stats say it has gone up.

Mr TEE — And crime has gone down. The reason crime has gone down is that when we promised extra police, Mr Dalla-Riva, we delivered.

Mr Dalla-Riva interjected.

Mr TEE — That is the difference. When we are in government, we deliver. When we promised extra police, we delivered. When you promised extra police, what did you do? You sacked them.

Mr Dalla-Riva — I was not in government, sorry.

Mr TEE — When Mr Baillieu was President of the Liberal Party — remember? — what did he promise?

Mr Dalla-Riva — Was that on the whiteboard?

Mr TEE — No, that is not on the whiteboard; that is on the public record. That is scarred on people's memory; they remember the promise of 800 new police. They remember what Mr Dalla-Riva's party did. They remember that Mr Dalla-Riva sacked those police, and they remember what happened when he sacked those police. They remember that when his party was in government, when Mr Baillieu was President of the Liberal Party, crime went up. Mr Dalla-Riva is asking the electorate to vote for a repeat of that. That is the proposition he is putting to the electorate.

In contrast, there are now more than 1220 front-line staff employed across the rail network — an increase of some 35 per cent since 1998. There is a coordinated effort to ensure that crime around our public transport system stays low and continues to decrease. That involves a range of efforts and a range of programs, including making sure that we have additional youth workers at our stations to engage with youth so that where possible we can turn behaviour around. It is about working with police so that police are able to identify hot spots, as it were, and so they are able to be around to make sure that we reduce crime where it occurs. It is about having a commitment from Metro Trains Melbourne, which has committed to provide a presence at 22 unstaffed stations to reduce crime by 10 per cent across the network. That is its commitment. It is about working with the Chief Commissioner of Police in an operation that involves 200 uniformed and plain-clothes police on problem lines — a program which started in July 2010.

It is about police, but it is also about engaging with disengaged youth. It is also about graffiti removal, which is a big part of the contract with Metro, to make sure that our stations are safer. At the end of the day our public transport stations are community assets. They should be accessible to the community and they should be friendly places where the community can go. That is increasingly the case under this government because of the raft of measures we have put in place.

The crime rate, which Mr Dalla-Riva raised earlier, across Victoria has fallen by 25 per cent, and Victoria is the safest state in Australia. Every year we have increased the budget, whereas the record of the opposition in government, when Mr Baillieu was President of the Liberal Party, was of slashing police funding.

The statistics for the public transport system are that the crime rate per million trips on public transport has fallen by 10.5 per cent in the last year. Notwithstanding the dramatic increase in patronage, the actual number of crimes has reduced.

Let us look at some of the statistics that might help Mr Dalla-Riva. The rate of assaults has fallen by 14 per cent; robberies by 5.2 per cent; overall crimes against the person by 11 per cent; theft from motor vehicles, 27 per cent; and overall crimes against property, 12 per cent. There has been a reduction in crime statistics across the board.

Mr Dalla-Riva bowls up these motions regularly. They fail for the same reasons: they do not provide an alternative, they do not provide a way forward, they do not tackle the underlying causes of crime and they do not face the reality that crime rates are coming down. I think that is great. We ought to promote and encourage public transport use, and making sure that public transport space is a safe space is the best way to do so. That is why the government is committed to delivering that outcome, and that is why we will not be supporting this motion.

Ms HARTLAND (Western Metropolitan) — I have to say this motion seems somewhat familiar. We have debated the issue of protective services officers several times now. I use public transport. I caught the 220 bus this morning; I catch trams and I catch trains. I catch trains at Footscray station, West Footscray station and Middle Footscray station. There are days when I feel like I am a trainspotter.

Hon. M. P. Pakula — There are days when I feel like you are a trainspotter, too.

Ms HARTLAND — Thank you very much. I will take that as a compliment, Mr Pakula. The things that would make me feel safer on the stations are lights, a 10-minute service and staff on stations who can do cleaning, open and close toilets, sell a ticket, give me advice on which service I am going to catch — not necessarily a protective services officer. I do not quite understand how they are going to make the station safer. The thing that really puzzles me about this policy is how many there are going to be at Southern Cross

station. Is there going to be one on the end of every platform? At South Kensington station, where only one in three trains stop, how many are going to be there? The amount of money that is going to spent on this policy could, I believe, literally staff every station across the state and give a much better service. For those basic reasons we are not going to support this motion.

Ms PULFORD (Western Victoria) — I am pleased to join the debate on Mr Dalla-Riva's motion. In doing so, I have to say that Mr Dalla-Riva's performance this evening, entertaining as it was, was impressive even by his standards.

Hon. M. P. Pakula — Quixotic!

Ms PULFORD — That is probably generous. A particular stand-out moment was when he used the expression 'interfered with' when talking about passengers' experiences on public transport. He talked about passengers being interfered with and raped. I just think there is a whole new level of hysteria in the Liberal Party's attempts to talk down confidence and talk down optimism.

There is always a groan and a sigh from the opposition benches if there is any good news in Victoria. I think Mr Dalla-Riva would be much happier man, would sleep better at night, if he thought that all commuters travelling on Victorian public transport system were absolutely terrified, because this is clearly a real race to the bottom at the end of the electoral cycle for the Liberal Party. There were his ridiculous assertions about policy thievery from the opposition. We know the opposition's record is that what it says in opposition and what it does in government are poles apart. In crime prevention, police numbers and transport we can find a few of the better examples.

In the 10 November 2009 edition of *mX* newspaper, which is frequently enjoyed by commuters — I myself pick it up in Southern Cross station from time to time — there was the following reference to 'slashing government advertising would free money for platform patrols'. This is in reference to Liberal Party policy. Then on 6 April this year there was the commitment to:

> … reduce the … spend on advertising, $35 million per year — or $140 million over the next four years — will be cut from the advertising budget to fund front-line police.

It is a little lacking in originality that every commitment from the opposition will be funded by cutting public information campaigns, but that is about as creative as the state opposition has got to date. These two commitments that the Liberal Party has made, add up, in a bit of back-of-envelope calculation, to around $85 million a year from a budget of $114 million.

If members were, like some 4 million other Australians, enjoying the grand finale of *MasterChef* on Monday night, they will have seen in one of the advertising breaks the new Transport Accident Commission commercial which tells in a particularly moving way the stories of the impact on the friends, family and workmates of a deceased driver. It is an incredibly moving commercial. It is a long commercial during what is the highest rating program, aside from a major sporting event, on the television watching calendar. This is an incredibly powerful way to send an important message to people. This is the type of thing that would be cut to meet promise upon promise from the opposition's magic pudding of slashing government advertising.

We know the Liberal Party cannot be believed in the things it says about police numbers. Its record when it was last in government was appalling. It undertook to employ an additional 1000 police and then cut the service by some 800. By contrast our government has committed and will deliver 1966 front-line police officers over five years from 2010–11. Of course we have delivered on commitments at numerous points during the life of this government and exceeded our own original intentions in this area.

In the recent state budget we have made commitments to increase staffing levels at railway stations, because we well know the benefit of additional and visible staff at railway stations. In addition resources are going into employing on-the-ground youth workers to work with young people to promote behavioural change.

There have been measures that have been debated in this Parliament that will also enhance safety and in fact we may get to debate one of these matters later in the week. Closed-circuit television has been installed at railway stations and upgraded where appropriate. These things assist in making our public transport system safer. We know that the number of crimes committed on public transport has decreased. The Auditor-General has very recently reported to the Parliament on this and has certainly confirmed that that is the case.
Mr Dalla-Riva's motion is one of his typical Wednesday evening efforts. The Liberal Party cannot be believed on public transport or public safety and this motion and Mr Dalla-Riva's contribution to this debate demonstrates to us all the lack of seriousness with which the opposition takes the important issue of community safety on public transport.

Mrs PEULICH (South Eastern Metropolitan) — I wish to join Mr Dalla-Riva in supporting his motion:

> That this house expresses its serious concern at the terrible series of incidents of unprovoked violence on, or in the vicinity of, Victorian public transport and believes that after 11 years in power the Brumby Labor government should have done more to prevent this violence and further believes that:
>
> (1) Victorian commuters have a right to travel on public transport in safety;
>
> (2) increased numbers of Victorian police must be deployed to patrol public transport;
>
> (3) increased numbers of Victoria Police protective services officers have a key role in ensuring the safety of commuters; and
>
> (4) Victoria Police protective services officers should be on each and every metropolitan and major regional railway station from 6.00 p.m. until the last train at night, seven days a week.

I am very perturbed that the lead speaker for the government has gone. She has left the chamber, dashed out, probably to have her dessert after dinner without even having the courtesy of listening to this debate after having pooh-poohed and arrogantly dismissed the issues that were raised about public safety concerns on public transport, in particular the experience of women. I would have thought as a young woman with a couple of small children that she would have been more sensitive to the issue and would at least be here to listen to it.

I am looking at the Victoria Police crime statistics for August 2009 relating to offences on public transport during 2008–09, which are the most recent statistics available. There is a total of 9412 offences committed during that year; that is a lot of offences considering how many other offences are unreported. I have personal knowledge of people who have been assaulted who do not bother to make a report, not only on the trains but also in car parks. The statistics for 2008–09 were: rape, 15; sex (non rape), 212; robbery, 349; assault, 1152; abduction/kidnap, 8; arson, 19; property damage, 1418; burglary (other), 40; deception, 227; handle stolen goods, 139; theft from motor vehicle, 1497; theft (shopsteal), 6; theft of motor vehicle, 956; theft of bicycle, 299; theft (other), 1372; drug, 24; drug (possess/use), 331; going equipped to steal, 15; justice procedures, 188; regulated public order, 114; weapons/explosives, 307; harassment, 21; behaviour in public, 213; and other, 490.

That is a lot of personal stories and trauma, and probably much underestimated because of the underreporting. I cannot believe the casual nature in which it was dismissed by the lead speaker for the government. The general approach taken by the lead speaker is very much reminiscent of the Attorney-General's cheese and mousetrap. There is nothing new. There are no new policies. There is a big whiteboard with only half a dozen lines and with the major tactic being 'just attack the opposition'. That is how they think they can get under the radar and steal another term of government here in Victoria.

Let me tell members that this concern about safety in the community is certainly very deep-seated and certainly very pervasive — for example, just last Friday I attended the graduation ceremony of my niece who joined the police force. We were in attendance and I was absolutely astonished at the poor reception, the smattering of applause — very light indeed — for the Minister for Police and Emergency Services amongst his new recruits. It was almost embarrassing. Clearly the force itself does not have much confidence in the man, let alone the community.

With more than 1000 incidents a month reported on Victoria's public transport network, including violent assaults, weapon offences, offensive behaviour and vandalism, the Premier and his very tired Labor government clearly have lost control of the law and order agenda, especially on public transport in Victoria. We have a chronic lack of police numbers locally; police stations are well undermanned and underresourced. In many instances they may have one car covering several suburbs, so if there are incidents at railway stations, in most instances they do not have an ability to attend. Recently there were a few rosters leaked — I think it was the weekend before last — and all the local police around the Mordialloc-Chelsea area were redeployed into the CBD as part of the strategy, leaving only one officer at any station. Not only is that in breach of the regulations, but clearly it is an inadequate enforcement of local community safety.

This chronic lack of police is not only endangering the community but it is also making public transport a much greater concern for commuters. Lack of police presence has led to dramatic increases in crime, violence and antisocial behaviour on our trains and railway station platforms, most recently observed in the 15-man brawl which occurred at Parliament station last month. There was also the shocking case of the good Samaritan who was hospitalised after intervening in an incident involving thugs wielding broken bottles at the McKinnon railway station. That person is just one of the 126 cases of violence against passengers on Victoria's train network reported in the last three months.

Assaults are up by a third in three years, but the Minister for Public Transport, Martin Pakula, says Melbourne's trains are getting safer even though the number of crimes on public transport has not fallen over the past four years. In 2008–09 there were 1190 assaults on the train system, compared with 887 in 2005–06. Last financial year there were 7055 offences.

In 2009 in the South Eastern Metropolitan Region nearly 500 offences were committed on the Frankston train line between Mentone and Frankston railway stations. This is a particularly worrying area and Frankston railway station, despite its supposed upgrade, has some serious problems which the government has ignored.

A confidential document leaked to the *Herald Sun* shows that Frankston, with 119 offences, Mentone, with 80 offences, and Mordialloc, with 63 offences, are the top three antisocial hotspots on the Frankston train network. Frankston had 119 offences, including production of weapons, 4; trespassing, 11; graffiti and criminal damage, 59; assault, 6; unruly behaviour, 35; and theft, 4.

Kananook station had 29 offences, including trespassing, 9; graffiti and criminal damage, 14; assault, 1; and unruly behaviour, 5. Seaford's tally was 58, including debris placed on track, 6; trespassing, 11; graffiti et cetera, 29; assault, 1; unruly behaviour, 10; and theft, 1. Carrum had 55 offences, including production of weapons, 2; debris on track, 3; trespassing, 9; graffiti, 22; unruly behaviour, 18; and theft, 1. Bonbeach had 10 offences, including trespassing, 2; graffiti, 4; assault, 1; and unruly behaviour, 3.

In 2009 nearly 580 offences were committed on the Cranbourne-Pakenham train lines in Greater Dandenong and Casey. These lines are very poorly serviced anyway. There are not too many public transport options and so obviously it is a great concern for those people living in that area. The same confidential document shows Dandenong with 198 offences; Clayton with 73 offences — and members will recall a person was recently stabbed at that station; and Noble Park with 63 offences, which make up the top three antisocial hotspots on the Cranbourne-Pakenham train lines.

The number of offences clearly shows that the Brumby government has lost control of law and order on public transport. To make it worse, these crimes do not include crimes committed in railway station car parks and many more crimes which go unreported daily because of the inability of local police officers to respond adequately, despite their best efforts. It is simply because the police are so dramatically underresourced.

The Victorian coalition, led by Ted Baillieu, understands that we need more police and has already promised 940 new protective service officers on all metropolitan train stations from 6.00 p.m. until the last train to tackle criminal behaviour. In addition, we will provide a further 100 police officers to patrol the Cranbourne-Pakenham train lines and bus networks throughout the South Eastern Metropolitan Region and provide a further 100 police officers to patrol the Frankston train line and bus networks throughout Kingston and Frankston.

Premier Brumby has waited more than 11 years to tackle community safety on public transport, and it is little surprise that this Labor government has decided to get its act into gear during an election year, but it is 11 years too late. The government is once again copying the coalition policy, this time that of manning all metropolitan railway stations after 6.00 p.m. in the hope that the failures of the past decade can yet again be fudged and Victorians can have the wool pulled over their eyes. Instead of actually doing something to fix the problem, the government's solution is to conduct more exercises in public relations, more spin, placing advertisements in local papers and trying to convince people who do not know any better that there really is not an issue, or if there is that we are moving forward. It is very much that Julia Gillard tactic of not thinking about what has happened over the last 11 years, but believe the spin, believe the promises and let us move forward without looking at the track record of this government.

In 1999, the then Bracks opposition outlined that 'Labor will work closely with the police and the community to make our streets safe'. In 1999 the then Bracks opposition in its No More Excuses on Crime policy said:

> The reality is that Victoria's police officers are underresourced and overworked, often they do not have adequate time to attend or report all crimes. To make matters worse many crimes committed in Victoria now go unreported. These failings, and the Kennett government's inability to address them, show how out of touch this government has become.

That was then. Now, 11 years later, there is no doubt this problem is getting worse. The facts show it, community sentiment supports it and this government has failed to deliver on its promises and deliver what the community needs. It is clear the government has failed and it is time to change direction. If the Brumby

government cannot fulfil promises from 1999, why would any Victorian believe it in 2010?

Whilst the Victorian coalition has taken a proactive approach, the Brumby government has simply resorted to copying coalition policy, but deriding it publicly. Taking out colourful and extravagant taxpayer-funded advertisements in local papers only further demonstrates that we have a government that is focused on spin rather than fixing the problem.

This government is more concerned with influencing perceptions rather than the reality of crime, violence and antisocial behaviour occurring daily on our train system, placing at risk women, children, families and people simply trying to get to and from work. Frankly, the community wants more police on the beat. It wants police with the resources to ensure the safety of its citizens. If the opposition wins government in November — and I believe that it is on track — it promises to employ 940 police protective service officers. Two would be stationed at every station from 6.00 p.m. until the last train each night, seven days a week, thereby guaranteeing the safety of all commuters, which is a feat that this government in its 11 years has failed to achieve.

With those few words, I have great pleasure in supporting Mr Dalla-Riva's motion to underscore the importance of this issue to the community and the failure of this government to respond in 11 years of government.

Debate adjourned on motion of Mr KOCH (Western Victoria).

Debate adjourned until Wednesday, 4 August.

PENINSULA LINK: ENVIRONMENTAL IMPACT

Ms PENNICUIK (Southern Metropolitan) — I move:

> That the Linking Melbourne Authority cease all work on the Peninsula Link project until such time as a final design for the road is publicly available and the preliminary design is altered so as to —
>
> (1) avoid encroaching on any part of the Westerfield property, with reference to the recommendations in the environment effects statement report;
>
> (2) avoid to the greatest extent possible the Pines Flora and Fauna Reserve, either by rerouting the roadway or tunnelling under the reserve;
>
> (3) minimise any impact on the other flora and fauna reserves; and
>
> (4) rehabilitate areas already 'accidentally' destroyed by the contractor, Abigroup.

Members will no doubt be aware of my longstanding interest in this particular project, which started as the Frankston bypass and is now called the Peninsula Link project. Members will be aware also that the Greens and I collectively have not supported the construction of Peninsula Link and that there has also been substantial community opposition to it. That opposition to the road includes individuals in the Frankston and Mornington Peninsula areas and members of a variety of groups in the area who are particularly involved in the preservation of flora and fauna and particular reserves in the Frankston area that are in the path of Peninsula Link. It includes also members of groups in the wider Victorian community who are also concerned about the impact of the government's continuing obsession with the building of roadways when we need to be moving away from building roadways and towards providing public transport. Ironically that is the subject, although in a slightly different context, of the motion on which debate has just been adjourned.

Late last year I gave notice of a motion which was debated earlier this year. The motion urged the government to abandon Peninsula Link and instead carry out works on the local roads. Unfortunately it was not carried. Those works would be of more benefit to the community by reducing the so-called congestion. On that, the level of congestion is somewhat overrated in comparison with congestion anywhere else in the Melbourne metropolitan area and it seems to be confined, as it is in most places, to particular times of the day and of the year.

I know and it is on the public record that the Mornington Peninsula Shire Council would prefer that Peninsula Link not be built but that the existing Moorooduc Highway, which follows basically the same direction as Peninsula Link would and is only a few kilometres to the east of the route of Peninsula Link, be upgraded, that some overpasses be constructed and that the verges and road be upgraded. If that, along with the installation of an overpass over Cranbourne Road where it meets the Frankston Freeway — which is something that the government had committed itself to doing, by the way — was done and the level crossing just south of that intersection with the Stony Point rail line were removed, it would pretty well deal with any problems and there would be no need for Peninsula Link.

I say there is no need for it anyway. No need has been demonstrated for it. Anybody who has read the documentation would have found that only two

justifications have been put forward. One is what I have just been talking about — that is that the government and the proponent, the builder of the road that is going to make money out of the road, have posited the idea that Peninsula Link will solve the so-called congestion problems in the area. The other justification is that every day some enormous number of cars, 60 000 is going to be travelling along Peninsula Link.

It has been implied that that will be an imminent occurrence. When you look into it further you realise that it is estimated that it will be some 20 or more years hence. First, that type of estimation that far out cannot be believed. Second, if that is the case, there is no urgency to build it. If this road were ever to be built it should be delayed. The money is coming from the Victorian taxpayer. We are told it will be $759 million and I have seen $859 million quoted since I spoke about this particular project earlier this year. If you add on inflation and the cost blow-outs that we always see with major projects, we can be very certain there will be no change from $1 billion for this 27 kilometres of road that we do not need.

What we do need in Victoria is more public transport, and we need that in the Frankston area. We could be constructing a railway station at Baxter, which I know the Frankston City Council supports, and we could be carrying out the simple roadworks on the Moorooduc Highway that I know that the Mornington Peninsula Shire Council supports. We could then do without this particular road.

I think the reason that we have Peninsula Link under construction is that it has been shown in *Melway* since the 1960s. The road reserve has been there so it is a really easy job to give the Southern and Eastern Integrated Transport Authority, now reborn and called the Linking Melbourne Authority under the Major Transport Projects Facilitation Act. It did not have anything to do after it had finished building EastLink, so the government has allowed it to continue as a statutory authority. It had to be given a job and here was an easy job to give the Linking Melbourne Authority. It is just a 'make work' project. It is bad enough that it is a make work project for an authority that we do not need, because we already have VicRoads. The government is spending $1 billion of taxpayers money on something that is not a priority in the area and not a transport priority in any way, shape or form. If you look at what is needed in the general transport context in the Melbourne metropolitan area and the satellite places such as Frankston and Dandenong and the growing outer suburbs in the north and west of Melbourne, you would realise that this so-called link is not needed.

All that would be bad enough, but what is even worse is that the Pines Flora and Fauna Reserve, which is the habitat of the endangered southern brown bandicoot, has grown over the last 40 years. It has been declared a reserve of state significance. It contains not only the southern brown bandicoot but other flora and fauna of state significance.

Other reserves along the Peninsula Link route include the Pobblebonk Wetland Reserve, the Willow Road Reserve and several others, and the property at Westerfield, which is at the southern end, is heritage listed by the National Trust. Those particular reserves along the Peninsula Link route have become a biodiversity link in the Frankston and Mornington Peninsula area. They are used by the birds and animals of that area. The link also includes the Frankston Reservoir, the Devilbend Reserve and other southern reserves near Point Nepean.

They are part of the broad suite of reasons against the construction of the Peninsula Link. That is the argument I put to the Council early this year. Because the government seems to be hell-bent on building freeways and not focusing its attention on public transport and because the coalition seems to be on the same bandwagon, that argument was not carried and agreed to by the Council.

Things have happened since we stood here in this chamber in February and debated my motion which proposed that the plans be abandoned. In April or May, or perhaps earlier, construction work commenced. Certain things happened in late May. I should say one of the things I have noticed about the attitude of the Linking Melbourne Authority and its contractors, who are now on various sites, is there seems to be an attitude of, 'There is an awful lot of land put aside there; we should occupy as much of it as we can; we will just drive the bulldozers through without much thought for preserving any pockets of biodiversity'.

In late May we saw the first example — that is, the clearing of the Willow Road Reserve and the Pobblebonk wetland. I went to look at the site after I had received phone calls from people from Wildlife Victoria, the Save the Pines group and other individuals in the area who alerted me as to what had happened.

The Minister for Environment and Climate Change, Mr Jennings, is in the chamber now. I raised with him the question why this work was even commencing without an environment management plan in place. Such a plan was required under two ministers' permits. We uncovered that that was the case. No environment

management plan has been submitted, and there was no environment management plan in sight at the time.

Part of the plan is that prior to the mowing down of the site by bulldozers, there should be attempts to go on site and remove particular rare species of flora and fauna and rescue any animals. Wildlife Victoria rescuers who were there were horrified that that was not the case — that is, trees were bulldozed, including trees that had hollows in them that were obviously homes of arboreal mammals, such as sugar gliders. There was a colony of some 59 sugar gliders on that particular reserve. After the bulldozers from the Abigroup had been through the reserve, not one sugar glider was seen. We have to presume that that colony of sugar gliders was wiped out.

We know a species of rare orchid that was formerly present on the site was also wiped out. I went there on the weekend after this had happened, and I was pretty horrified at the sight of what I took to be the remains of sugar gliders — they could have been possums — which were fur remains mixed in with dirt and broken up tree branches. They were the remains of animals which had been killed during the previous couple of days by the terrible destruction that went on. There was no environment management plan in place even though there was meant to be one, even though there was meant to be a plan to rescue the animals and even though there was meant to be a plan to preserve the rare flora on that site. We know one particularly rare species of orchid seems to have completely disappeared. That was the only site on which it was located in that area. That is what happened during the contractor's first outing.

As was reported in the *Age* of 8 July, even though the article referred to what had happened in late May, the contractor, Abigroup, also admitted that it had accidentally bulldozed a 225-square metre chunk of Frankston's Willow Road Reserve, known as the Pobblebonk Wetland Reserve, which was supposed to be quarantined and not destroyed by the roadworks, but somehow or other it was accidentally bulldozed. Abigroup has now said it is going to rehabilitate the reserve, but once you have bulldozed a wetland it is not so easy to rehabilitate it or put it back, even though my motion requires that that be done. It is a difficult thing; you cannot put back what has been destroyed.

Since then and as a result of that, a rally was held outside a big conference held at the Crown Conference Centre in the city. People came from Frankston and from other parts of Melbourne where areas of biodiversity, reserves that have been put aside to preserve our flora and fauna, are under threat from other freeway projects, in the north and west of Melbourne in particular. To his credit Minister Pallas, who was attending the conference, came out to speak to the protesters. He conceded that perhaps the right thing had not been done by the contractor, and he gave an undertaking to the people there that he would ask the Linking Melbourne Authority to meet with them, hear their concerns and make sure that the contractor lifted its game in terms of consulting and working with the local community about wildlife rescue and preserving flora that could be taken off site and preserved in some way.

All of this is cold comfort to most of us who do not want the road at all and who do not want to see these precious places destroyed. I think if the Peninsula Link does come to pass, there will be a lasting regret that these places have been lost for a roadway that is not necessary and is too expensive, and for a roadway that is also going to cut off parts of the community from each other. You can see from where the four-lane highway is going to go that it will cut off the communities.

In March the Heritage Council granted a permit for the construction of part of the roadway through the heritage property at Westerfield on Robinsons Road in South Frankston. Most people in the community are concerned that we need to preserve our environment for ourselves and for future generations and think that under the Heritage Act a property declared a heritage property is afforded protection against destruction. I think if you were to go out to Spring Street and ask the first 10 people you came across, 'If a property has a heritage listing, does that mean you can destroy it and build a road right over the top of it?', most of them would be horrified to learn that you can.

However, under the Heritage Act it has been possible for the Heritage Council to issue a permit which basically destroys the most important part of the Westerfield property. The whole property is a heritage property for cultural and environmental reasons, but in terms of the environmental heritage values — the biodiversity values of the property — that is the part of the property that is going to be completely destroyed by the Peninsula Link. The permit basically allows that total destruction, with some minor conditions that require that a retaining wall be built on the western side, which would not amount to much. Most of the heritage dam, which is used as a water source by visiting waterbirds and other fauna and local birds that are not necessarily visiting waterbirds, will be lost, and there are not very many of them in the area. The Peninsula Link will go straight through there, and the Heritage Council permit has allowed that to happen.

I ask: what is the value of a heritage listing if it does not mean that the property is protected in any way, shape or form and that it can just be destroyed under a Heritage Council permit? The whole of the environmental values of the Westerfield property, which is listed as a heritage property because of those values, is going to be destroyed by a permit issued by the Heritage Council.

During the debate earlier this year I made the point that people who have been involved in the environment effects statement (EES) process under the Environment Effects Act over the last, say, 10 years but probably longer and particularly recently with projects such as the channel deepening project, the Frankston bypass or Peninsula Link and any number of other projects, have completely lost faith in the process. As it was envisaged in the 1970s and perhaps even as it was implemented then, the process probably did work, but it is not working now. I think the proponents of projects are so used to using the system to their own advantage that they completely get what they want, and the views of scientists who do not agree and the local community that is going to be affected are pretty well railroaded.

When you get to the environment effects process all you find there is the preferred option. The environment effects process does not look at a do-nothing option — the preferred option — or amendments to the preferred option or alternatives to the preferred option. It does not go through a whole rigorous process. What happens is the proponent decides whether the do-nothing option or alternatives to their preferred option are any good, and of course they decide that their preferred option is the best option. The alternative options or the do-nothing option do not get a look in in the process; only the preferred option goes forward. Who decides it goes forward? The proponent of the preferred option decides that. From the start the process is completely flawed. As I said, people who have been involved in that process have completely lost faith in it.

What I said at the time regarding the EES process I say now with regard to the so-called protection of heritage places under the Heritage Act, where the Heritage Council can issue a permit for the destruction of that heritage place. The permit issued in March this year by Heritage Victoria had five conditions, two of which do not go to the works but are more administrative conditions. The conditions of the permit include an environmental management plan prepared under clauses 5.1 and 5.3 of the Peninsula Link project with measures to:

> 3. … minimise and mitigate impacts on the surviving infrastructure on the western side of the … dam, including the dam edge, remnants of the jetty, irrigation piping, the depth gauge.
>
> 4. A copy of the relevant extracts of the environment management plan, (required to be prepared …), as it relates to the Westerfield property, shall be submitted to the executive director for information and records.
>
> 5. A copy of the final design of the road in relation to the Westerfield property, certified by the independent reviewer as ready for construction, shall be submitted to the executive director for information and records.

Part of my motion goes to the issue of the final design being made publicly available. I have here in the chamber — and I will not hold it up because we are not allowed to hold up props and I cannot read from it — the purported design of the road, which is really just a drafting drawing; it is not a final design of the road. People who have taken a great interest in this issue and who have been trying to get a copy of the final design of the road from the contractor have been unable to. There is no publicly available final design of this road. Nobody really knows what is going on. I have looked at the crude drafting drawing of where the road might go, and it fills me with horror because there is no finesse in it at all; it is just a straight line through the heritage property with huge, long on and off ramps. There is no attempt whatsoever to avoid the property, even though everybody knows it is a heritage property. Other alternatives in the environment effects statement that could have been employed to avoid Westerfield have not been used.

The owners of Westerfield, who are still part-owners of the property, even though it has been partly acquired by the Linking Melbourne Authority, appealed the conditions of the decision made by the Heritage Council. The owners of the property, Joyce and Simon Welsh, have been kind enough to send me a copy of their submission to Heritage Victoria. It makes for interesting reading. Joyce Welsh made a statement which was read at the hearing. It reads in part:

> Biosis research in the flora and fauna of the proposed Frankston bypass report (2008) found … that 'this patch (the Westerfield bushland) contains significant biodiversity and habitat connectivity values' and recommended that options to avoid impacts on these values … should be investigated. A tunnel would provide a solution to the heritage values of the dam, the ecological values of the bushland and be of great benefit to the health of the 400 children at Bayside Christian College, which abuts on Peninsula Link. This is the Year of Biodiversity.
>
> I note that my appeal is restricted to permit conditions but to my family the above matters are so vital in heritage and ecological terms that conditions of any permit must clearly address how the impact of the bypass on the heritage values of the bushland can be reduced to an absolute minimum. Due to the lack of specificity with the permit and its conditions we cannot be satisfied on this point.

On 26 May 2010 the Welsh's submitted an appeal against the conditions of the permit, but under the act they cannot appeal against the permit, which they should have been able to do. In late June it became apparent that even though there had been a debacle with the beginning of construction works north of Westerfield and the destruction of wildlife and flora on the Pobblebonk Wetland Reserve and the Willow Road Reserve, it was apparent that Abigroup was warming up bulldozers on the northern side of Robinsons Road and preparing to go through the property, even though an appeal by the Welshes against the conditions of the permit to allow the destruction of Westerfield was still in progress before the Heritage Council.

On 5 July 2010 local people who have opposed the road from the start and who are trying, hopefully not in vain, to protect these remnants of precious biodiversity in the Frankston area, decided to set up a community picket on the Robinsons Road edge of the heritage property near the dam and on the other side of the property as well. After a little bit of time and some negotiations with the contractor and the minister, the contractor agreed that it would not go onto the property with bulldozers while waiting for the result of the appeal.

The community picket has been running since 5 July, so it is now into its fourth week. Even though it has been very cold and wet, it has been a very successful picket. I went down to visit the picket on 13 July. I have been to the Westerfield property many times. Members might know that I have made a video of the property as well. It is up on YouTube if they want to have a look at it. I would encourage them to look at what is going to be lost due to this road.

More and more people have joined the picket. I would like to pay tribute to the people who have staffed the picket day after day and to the local people who have gone down there with hot soup, cakes, sandwiches and support. When I was there on 13 July there were a lot of cars driving past, the drivers beeping their horns in support of the picket on the Westerfield property. It has been a terrific effort by the local community as it takes a stand against this unnecessary road that is going to destroy this valuable heritage property. The property should be preserved for the animals and plants that live there and for the future generations who will live in the Frankston area.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The ACTING PRESIDENT (Mr Somyurek) — Order! The question is:

That the house do now adjourn.

Nagambie Preschool and Child Care: funding

Ms LOVELL (Northern Victoria) — The matter I wish to raise is for the urgent attention of the Minister for Children and Early Childhood Development and concerns the Nagambie Preschool and Child Care centre. The centre requires an additional room to give it capacity to accommodate the increasing demand for kindergarten and child-care services and to deliver 15 hours of kindergarten per week to children in the year before school by 2013.

My request is that the minister provide an urgent funding grant to Nagambie Preschool and Child Care centre to give the facility capacity to accommodate the increasing demand for kindergarten and child care and to provide 15 hours of four-year-old kindergarten by 2013 without cutting back on other vital services and programs, including occasional care and three-year-old kindergarten.

Nagambie Preschool and Child Care centre is the only preschool and child-care provider in the town — a town that has been identified by the Brumby government as a growth area. Nagambie families are already facing a waiting list for four-year-old kindergarten in 2011, with 35 enrolments but only 29 places available. The centre's three-year-old fun group and Friday occasional care session are currently full and enrolments for 2011 are close to capacity. Without an extension the centre is concerned it will be forced to cut back vital occasional care in 2011, and there is a risk that some children will miss out on four-year-old kindergarten. The loss of occasional care would devastate young working families in the Nagambie community. They would be forced to either forgo employment or travel up to 65 kilometres to access child care in other towns.

An additional room would enable the centre to significantly improve the provision of early childhood services in Nagambie by giving it the capacity to co-locate services, including maternal and child health and early intervention services, along with the preschool and the potential to provide much-needed long day care.

Unfortunately Strathbogie Shire Council is not in a financial position to upgrade infrastructure. The shire is cash-strapped and is proposing to increase rates by an incredible 15 per cent in 2010–11. This further

highlights the need for the Brumby government to support this vital preschool and occasional care centre so that it can expand and meet increasing demand for kindergarten without impacting on other vital services and programs. However, on 14 July the preschool was devastated to learn that its application for a renovation and refurbishment grant had not been approved by the state government. The government's failure to allocate a renovation and refurbishment grant to the centre under stage 2 of universal access to preschool education funding means that it will have to cut back on its provision of occasional care and potentially three-year-old kindergarten next year.

My request is for the minister to provide an urgent funding grant to Nagambie Preschool and Child Care to give the facility capacity to accommodate the increasing demand for kindergarten and child-care places and to provide 15 hours of four-year-old kindergarten per week to each child by 2013 without cutting back on other vital services and programs, including occasional care and three-year-old kindergarten.

Torquay Kindergarten: facility upgrade

Mr KOCH (Western Victoria) — Kindergartens are in trouble. My issue is for the Minister for Education and relates to the lack of facilities and support provided to parents with preschool-age children in one of the fastest growing areas of the state. Torquay Kindergarten currently provides services to 160 three-year-old and four-year-old children on a weekly basis. Staff at the kinder do a great job in providing children with interactive learning experiences, and their efforts have earnt them the respect and appreciation of parents.

Torquay has experienced rapid growth in recent years. The government has failed to plan for this, and as a result the town's kindergarten can no longer keep up with enrolments. I have been informed that due to the Brumby government's lack of foresight and the resulting capacity constraints it is unlikely that a three-year-old kinder program will be offered next year. This will obviously leave a gap in the development of children's social and learning skills.

The preschool community in Torquay is keen to have kindergarten services expanded and has applied to have the land behind the current shire offices allocated to allow an expansion at the current site. However, it has been told the land has been earmarked by the member for South Barwon in the Assembly, Michael Crutchfield, for an expanded secondary college. This is despite the government's failure to commit a single dollar to the expanded school proposal. Not allowing the kindergarten room for expansion has denied its committee the opportunity to apply for funding grants it might otherwise have received.

It is staggering that a regional area the size of Torquay has been left to languish with a limited capacity kindergarten to service the needs of its preschool children. The Torquay Kindergarten committee has been told a new kindergarten to cater for the growing needs of its community could, at best, be at least a decade away and located north of Torquay. There is a fear that this would see a facility located at Armstrong Creek, 10 kilometres away, rather than at Torquay itself.

From 2013 government requirements will demand all four-year-old children receive 15 hours of kindergarten per week. In Torquay current facilities will be stretched to meet this requirement. My request for the minister — and I indicate to the Minister for Environment and Climate Change that the matter should be addressed to the Minister for Children and Early Childhood Development, not the Minister for Education — is that she be more proactive and thoroughly examine the possibility of immediately expanding the current kindergarten to enable it to cope with the forthcoming government requirements and maintain three-year-old kindergarten services concurrently. The minister should guarantee a commitment to making resources and infrastructure available in Torquay to facilitate known demand at this centre, something she continues to espouse publicly but fails to deliver in growth areas like Torquay.

Local government: election donation returns

Mr HALL (Eastern Victoria) — Tonight I wish to raise a matter for the attention of the Minister for Local Government. It is a matter that has been raised with me by one of my constituents, Mr Merv Geddes of Morwell. It is in regard to some conflicting advice relating to a particular provision of the Local Government Act which he has received from the Local Government Inspectorate and the local government office. The matter concerns section 62 of the Local Government Act.

Mr Geddes was a candidate at the 2008 council elections, and as such on 16 December 2008 he received from Colin Morrison, the acting director, governance and legislation at Local Government Victoria, a reminder about section 62 of the act requiring him to lodge a campaign donation return with the chief executive officer of the council within 60 days after the election day. In a letter to Mr Geddes it was

pointed out to him that upon failing to do so a person could be found guilty of an offence and be fined up to 50 penalty units and ordered to pay costs.

On further inquiry in respect of a return by another candidate at the election Mr Geddes was informed in a letter from David Wolf, chief municipal director of the local government inspectorate, dated 28 June 2010, that 'there is no penalty attached to section 62(1) of the Local Government Act 1989'.

There appears to be conflicting advice from those two bodies with respect to this particular provision. I made it my business to have a look at the Local Government Act, and it seems to me that the advice from Local Government Victoria is the accurate advice because I noted that there is a penalty attached to that particular section of the Local Government Act. My request to the minister is for him to investigate this matter and consider the difference in views expressed by various people to my constituent Mr Geddes and provide me with clear advice as to exactly who is right in this particular instance. To help the minister with clarification of this matter I am happy to give to him the letters from the two people to whom I have referred in my contribution.

Fishing: conservation priority review

Mrs COOTE (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Environment and Climate Change, Gavin Jennings, and it relates to a constituent of mine, Neil Baker, who is a recreational fisherman. Mr Baker is particularly concerned about some of the issues that are being flagged by the Victorian National Parks Association and would like some clarification. He is concerned that the VNPA is suggesting that there is going to be a large extension of conservation priority areas. In fact the VNPA identifies 20 of them. Mr Baker has been fishing at Bemm River for a considerable time, and he is concerned that this will have to cease. In a poignant email to me he said:

> This issue does not affect just recreational fishing people but also the many Victorians whose livelihood totally or partly depend on recreational fishing. Without boring you with detail, I can think of 18 different businesses that we use for one fishing trip to Bemm River. Supplies, tackle, petrol, car and boat service, accommodation, food, drinks and licences, to mention a few needs.

His concern is that the government is thinking of taking this extension up and implementing it. I am aware that the government has said that it is not intending to do this, but if Labor is thinking of going into coalition with the Greens federally and the Greens have this as part of their platform, it is difficult to know whether the Labor Party in this state will be able to justify not doing that, and I ask that it advise what will be the ramifications in this state of the federal marriage that the Labor Party is about to enter into with the Greens — —

Ms Pennicuik — I don't believe in marriage.

Mrs COOTE — Partnership, Ms Pennicuik, not marriage. We do not have marriages any longer! I ask the minister to meet with my constituent as a matter of urgency to allay his fears and speak with the recreational fishers to assure them that the proposal of the VNPA will not be implemented in Victoria.

The DEPUTY PRESIDENT — Order! The minister and I are perplexed as to whether or not it was one long continuous fishing trip at Bemm River or whether he has been there on several occasions!

Gaming: Pink Hill Hotel

Mr O'DONOHUE (Eastern Victoria) — My matter this evening is for the Minister for Gaming. It relates to the decision by the Victorian Commission for Gambling Regulation on 23 July with regard to the Pink Hill Hotel development, specifically an application for approval for electronic gaming machines (EGMs) in the township of Beaconsfield. The issue of new gaming machine locations is obviously contentious in many communities, and it has been very contentious in the shire of Cardinia. In 2008 there was an application for three new gaming machine operators to come into the Berwick to Pakenham growth corridor, with two in Officer and one in Beaconsfield. At that time, after a strong community campaign and a survey of community attitudes by the Shire of Cardinia, the two applications in Officer did not proceed. The application in Beaconsfield has proceeded. Notwithstanding the fact that the proponent did not have regulatory approval, the proponent was able to buy EGMs at the recent auction and, as I said, gained approval for his premises at Beaconsfield.

What I am most concerned about is what has been widely reported in the media in the last couple of days. In paragraph 20 of the decision it states that the children's playroom will be fully enclosed with soundproofed glass so that children are visible to parents from the gaming room or bistro. This is a concerning scenario. The government is condoning a children's playroom being within eyesight of a gaming room but soundproofed so that parents cannot hear their children while they are playing the pokies. In my opinion that would lead to unhealthy gaming practices and encourage problem gamblers to leave their children

in the soundproofed playroom while they go away to play the pokies.

I note that it is reported on the *Herald Sun* website today that the state government is seeking a review of this decision. The action I seek from the minister is that he not only review this decision but also the process by which such an outrageous decision can be made. Surely it is not in the interests of the local community. It is against the wishes of the local council, and this sort of situation should not be allowed to happen again.

Consumer affairs: motor car traders

Ms DARVENIZA (Northern Victoria) — I wish to raise a matter for the attention of Tony Robinson, the Minister for Consumer Affairs. The matter I raise concerns consumers being ripped off by dodgy car dealers. According to reports by Consumer Affairs Victoria I understand that around 13 500 calls received by it are from people who are consuming cars and that this is the third most common inquiry. Maybe I have got that wrong.

Mr Jennings — Consuming cars? What were they doing with the cars?

Ms DARVENIZA — They are purchasing cars. The third most common inquiry made to Consumer Affairs Victoria is from people who are about to purchase a vehicle. In fact in the last financial year Consumer Affairs Victoria finalised more than 20 cases against dodgy car dealers for breaches of the Victorian car trading laws. The cases related to unlicensed motor car trading, odometer tampering and a number of other legislative breaches, failure to comply with legislative requirements and reviewing licensing decisions.

The specific action that I seek from the minister is that Consumer Affairs Victoria inspectors conduct surveillance of car sales through dealerships, advertising in newspapers and online to ensure compliance within the law in regional Victoria, because we know that fines, compensation orders and convictions send a very clear message to car dealers to abide by the law or risk severe penalties.

I also request that the minister and his department ensure that people in regional Victoria who are looking at buying a vehicle are made aware that they should purchase a car from a licensed motor car dealer and therefore get the significant protections that come from doing that — the three-day cooling-off period for most sales; the three-month/5000-kilometre statutory warranty for cars less than 10 years old; and a clear title to the car certifying the car has not been stolen, written off or have money owing on it — and that there is help available from Consumer Affairs Victoria for people in regional Victoria who are buying a car. This information needs to be made available so all those people in regional Victoria, including in my electorate of Northern Victoria, are made aware of some of the risks that are there and some of the safeguards that are provided.

The DEPUTY PRESIDENT — Order! Just before the minister responds, I will allow the minister to answer the second query that Ms Darveniza posed. Ms Darveniza would be aware that she is allowed only one request. I will allow it in the context of what I understand to be her request that the minister consider, I would suggest, conducting some sort of education program that encourages people to buy cars only through licensed motor car dealers. It is an extraordinary request, but I understand that is her request. The first part would be to ask the department to continue what it is already doing, and therefore that is not an action that I would accept as an adjournment item. The second part I will allow the minister to deal with.

Ms Darveniza — Thank you for that, Deputy President.

Responses

Mr JENNINGS (Minister for Environment and Climate Change) — I have eight responses to matters that have previously been raised on the adjournment, which range in date from 11 March 2009 to 10 June 2010.

Wendy Lovell raised a matter for the attention of the Minister for Children and Early Childhood Development relating to funding arrangements for the Nagambie preschool facility.

Mr Koch raised a similar concern for the same minister, but on this occasion it related to the provision of services in Torquay.

Mr Hall raised a matter for the Minister for Local Government. In fact there is more to this story, as I can tell from his letter, than in fact he intriguingly introduced. Mr Hall alerts the minister to a discrepancy in advice that relates to section 62(1) of the Local Government Act, where the different advice under different circumstances came to the same receiver of the correspondence. I am sure the receiver of the correspondence would like to know that there are fair and equitable, and legal, responses under the Local Government Act. I will get the minister to clarify that

matter, although I have a slight inkling and my instinct is telling me that Mr Hall's reading of the legislation may be correct.

Mrs Coote raised a matter for my attention. It is a matter that she knows has been resolved and determined. She knows this, and she confirmed it by the way she raised the adjournment matter. Last week on behalf of the Victorian government I clarified that during the course of the remainder of this term and the next term in office the Brumby government will not be introducing an extension to marine national parks. Mrs Coote and Mr Baker, and other people who pursue recreational or commercial fishing in the Victorian community, may have some degree of relaxed engagement with their recreational pursuit of leisure and enjoyment. In terms of the consideration of the Victorian National Parks Association report and other people in the Victorian community who may seek an extension of marine national parks, that work would not be considered in the foreseeable future or be implemented in the next term of government if we are elected.

Mrs Coote — Thank you.

Mr JENNINGS — This is a commitment that we make to the people. In fact even the contingency that was outlined in relation to the provocative notion of a coalition, I noticed, was predicated on the assumption that it may occur federally — an unlikely contingency, and I think an unlikely contingency in Victoria.

Mr O'Donohue raised a matter for the attention of the Minister for Gaming to confirm not only his determination to review the consideration of a planning approval for a gaming facility in Beaconsfield but also the process by which that decision had been made in the name of trying to ensure that such a configuration of a gaming facility and a child-care arrangement does not occur in a similar fashion in the future.

Kaye Darveniza, as was quite rightly indicated by the Deputy President, sought an education campaign to be orchestrated by the Minister for Consumer Affairs to provide timely and appropriate advice to members of the community about the benefits and safeguards that are obtained by purchasers of cars going through licensed car traders and to provide the appropriate advice so that people are better informed, as she so eloquently described at the beginning of her contribution, so those consumers will not be ripped off by dodgy car dealers — a quaint but oft-used phrase.

The DEPUTY PRESIDENT — Order! The house stands adjourned.

House adjourned 10:24 p.m.