PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SEVENTH PARLIAMENT

FIRST SESSION

Tuesday, 13 March 2012

(Extract from book 5)

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By authority of the Victorian Government Printer

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

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

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

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

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

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

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

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

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FIFTY-SEVENTH PARLIAMENT — FIRST SESSION

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Jennings, Mr Gavin Wayne	South Eastern Metropolitan	ALP	Tee, Mr Brian Lennox	Eastern Metropolitan	ALP
Koch, Mr David Frank	Western Victoria	LP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Kronberg, Mrs Janice Susan	Eastern Metropolitan	LP	Viney, Mr Matthew Shaw	Eastern Victoria	ALP

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TUESDAY, 13 MARCH 2012

Tuesday, 13 March 2012

The PRESIDENT (Hon. B. N. Atkinson) took the chair at 2.03 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent to:

1 March

Evidence (Miscellaneous Provisions) Amendment (Affidavits) Act 2012

6 March

Emergency Services Legislation Amendment Act 2012
Freedom of Information Amendment (Freedom of Information Commissioner) Act 2012
Parks and Crown Land Legislation Amendment Act 2012
Port Management Amendment (Port of Melbourne Corporation Licence Fee) Act 2012.

QUESTIONS WITHOUT NOTICE

Children: playgroup funding

Ms MIKAKOS (Northern Metropolitan) — My question is for the Minister for Children and Early Childhood Development. In light of the Protecting Victoria's Vulnerable Children Inquiry report, which highlights the importance of investing in, amongst other things, community playgroups, will the minister provide funding in this year's state budget for the implementation of those recommendations that relate to her portfolio or through discretionary funding available to her department?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — As I outlined in the last sitting week of the Parliament, the Protecting Victoria's Vulnerable Children Inquiry is an inquiry that is very important to this government. It is a damning report on the former government's handling — or mishandling — of the child protection system in this state. The Minister for Community Services, Mary Wooldridge, is the lead minister on this. There is a cabinet committee that has been formed to develop the government's response. There will be a whole-of-government response, and all of the recommendations will be considered as part of that cabinet response.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — Yet again it is very disappointing that the minister is failing to provide any response in relation to her portfolio responsibilities for this important report.

I again refer the minister to recommendation 7 of the Protecting Victoria's Vulnerable Children Inquiry report that refers to community playgroups for vulnerable children, and I specifically ask: will she continue funding to the 14 supported parents and playgroup initiative sites whose funding ends this financial year?

Hon. W. A. LOVELL (Minister for Children and Early Childhood Development) — The shadow minister correctly identifies that the playgroup funding is a lapsing program this year. It is a program that the former government only funded on a limited basis — another of its limited basis funding programs that require review because they are lapsing programs.

Honourable members interjecting.

Hon. W. A. LOVELL — No wonder Ms Mikakos was never promoted to the front bench in government. She clearly does not understand budget processes. This is a lapsing program. It is considered in the context of this year's budget, and we will make announcements about the budget on budget day.

Carbon tax: health sector

Mrs PEULICH (South Eastern Metropolitan) — My question without notice is directed to the Minister for Health, who is also the Minister for Ageing, and I ask: can the minister inform the house about the impact of the commonwealth's carbon tax on Victorian health services and whether he is aware of any plans for compensation?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for her question and for her interest in our public hospital system. She, like me and many in this chamber, is concerned about the impact on our health system of the commonwealth government's carbon tax. This carbon tax is a Labor-Greens initiative at a federal level, and the carbon tax will have a significant impact on Victorian public hospitals.

Honourable members interjecting.

Hon. D. M. DAVIS — I will tell you what will occur. This is a health tax. It is a tax on health services. I have to say that the government has had work done by Sinclair Knight Metz-McLennan Magasanik

Associates, the consultancy group, on the impact of carbon pricing on the Victorian health system, and it is an important impact because we know that it will be at least $13 million in the first year, $14 million in the second year and likely greater as time goes on.

The commonwealth government has not offered adequate compensation. It has not put in place a compensation package that means that growth in Victorian health services will not be slowed by this additional impost. The Minister for Climate Change and Energy Efficiency at a federal level, Mr Combet, who has carriage of this, appears not to understand the impact it will have on the private health system, on cemeteries — —

Mr Lenders interjected.

Hon. D. M. DAVIS — Yes, indeed. I have to say there needs to be a proper system of compensation.

Mr Lenders — You said it was a good outcome.

Hon. D. M. DAVIS — I did say there was a good outcome overall, but the carbon tax, as Mr Lenders knows, was not passed at the time the health-care agreements went through. The health-care agreements were passed before the carbon tax went through. Would Mr Lenders like me to give him a time line on this?

Mr Lenders interjected.

Hon. D. M. DAVIS — We might modify that motion and bring it up to date with the full impact. If you look elsewhere on the notice paper, you will find there is a more recent notice of motion that draws direct attention — —

Mr Lenders interjected.

Hon. D. M. DAVIS — I congratulate the Premier on the deal struck. But subsequent to that, the commonwealth government put up an unrequested and unpromised carbon tax. In fact, as I recall, the Prime Minister went to the election saying there would not be a carbon tax, and then later introduced a carbon tax which will directly hit Victorian health services.

In our electorate of Southern Metropolitan Region the Alfred hospital will be hit significantly. Monash Medical Centre will — —

Mr Lenders interjected.

Hon. D. M. DAVIS — I say to Mr Lenders, for his information, the carbon tax was passed after the health-care agreements were signed. Everyone would have thought — —

Mr Lenders interjected.

Hon. D. M. DAVIS — It is a very good deal in many respects, but that does not mean the additional impost will not have a significant outcome for Victorian hospitals. Does Mr Lenders support the additional impact? Is he in favour of slugging Victorian hospitals? Is he in favour of putting Victorian hospitals to greater cost? It is not just the public system; it is the private system, it is cemeteries, it is the ambulance service, it is the air ambulance — a whole series of public health services and private health services — —

Hon. M. P. Pakula — Are you going to release the modelling?

Hon. D. M. DAVIS — Mr Pakula might just have to wait a little while and he will see quite a lot more. The community will not want these additional imposts on health services. The point to be made here is that previously, when the GST was brought in, health was made exempt. That is not the case now.

Mr Lenders interjected.

Hon. D. M. DAVIS — Whether you are a climate change sceptic or in favour of a carbon tax, they are quite separate points as to whether there is proper compensation.

Mr Lenders — You congratulated the Premier on the deal.

Hon. D. M. DAVIS — But there was no carbon tax at that point, Mr Lenders. The carbon tax was passed after — —

The PRESIDENT — Order! I am aware that the football season is about to start, but I do not think it is necessary to practise the barracking in here. Members were far too noisy. I ask that members be a little more circumspect for the rest of question time.

Department of Human Services: director of housing

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Housing. I refer the minister to the recent organisational restructure of the Department of Human Services, and I ask: is it not the case that in the new structure the position of director of housing has no direct management nor line responsibility for the Office of Housing staff?

Hon. W. A. LOVELL (Minister for Housing) — I do not know how the shadow minister could have drawn that conclusion from the restructure. The director

of housing will still have all the responsibilities the director of housing now has.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — Clearly the minister is not familiar with her own document, which outlines the changes in the reporting requirements. The organisational restructure of the Department of Human Services has effectively diminished the status of the Office of Housing, which is a $20 billion-plus entity, to a generic line division within the broader Department of Human Services structure. I ask: what guarantees will the minister give the 78 000 public housing tenants and the 38 000-odd on the waiting list that their security of housing will be assured, given this restructure?

Hon. W. A. LOVELL (Minister for Housing) — This clearly shows that this shadow minister has no understanding of the restructure of the Department of Human Services. This does not diminish the role of the director of housing. The director of housing still has all its responsibilities and powers. What this does is deliver better services to our tenants, and to our other clients on the ground. This is about addressing the needs of Victorians through the Department of Human Services, unlike the Department of Human Suffering that operated under the Brumby government.

Automotive industry: achievements

Mr ELSBURY (Western Metropolitan) — My question is for the Minister for Manufacturing, Exports and Trade, the Honourable Richard Dalla-Riva. I ask: can the minister update the house on any new and exciting developments in Victoria's advanced automotive industry?

Hon. R. A. DALLA-RIVA (Minister for Manufacturing, Exports and Trade) — I thank the member for his question and his support of the automotive industry. I am pleased to inform the house that just last week I was out at Tomcar Australia to launch the first all-terrain vehicle to be made here in Australia. The announcement marks an exciting new chapter in Victoria's proud history as the heartland of advanced automotive manufacturing in Australia. Local production of the Tomcar will create 350 jobs in the automotive industry — 50 direct jobs in manufacturing and around 300 jobs in the important supply chain process. This is a fantastic story for Victoria because Tomcar is an Israeli manufacturer and distributor of small, all-terrain utility vehicles. The company relocated to Melbourne in mid-2011 after concluding that Victoria was best suited to the manufacture of the specialised vehicles.

Honourable members interjecting.

Hon. R. A. DALLA-RIVA — I note the interjections opposite. Somebody is saying it is only 50 jobs. It is interesting, because we on this side of the chamber are very supportive of companies wishing to relocate. Tomcar has entered into an agreement with MtM, an automotive supplier based in Oakleigh that specialises in products such as gearstick levers and door check links. This demonstrates that collaboration and partnerships can work together to produce new vehicles.

By choosing to set up in Melbourne, Tomcar Australia will strengthen Victoria's reputation for innovation in advanced vehicle manufacturing. The great news is that up to 5000 of these vehicles will be manufactured here in Victoria over the next five years. They will be used in areas such as the farming, mining, tourism, search and rescue, police, recreational and national park industries. This is a very durable and versatile off-road utility vehicle that is also suitable for commercial and private use. The other great announcement is that Tomcar plans to ensure that it sources almost 80 per cent of the vehicle components locally, and that is fantastic news. It makes it a truly Australian, and Victorian, vehicle.

It also gives me great pleasure to inform the house that we have another important opportunity on the near horizon in next-generation automotive manufacturing in Victoria. Whilst in India the Premier announced that the Victorian government will enter into a memorandum of understanding with Indian automotive pioneer Mahindra Reva vehicles to support a feasibility study into electric vehicle production in Victoria.

Despite the pressures from overseas and the incompetent policies of the federal government, we are doing all we can to ensure that we encourage manufacturing. Given our design, engineering and niche manufacturing expertise there is no doubt that Victoria is the home of advanced automotive capability, and the Victorian government will continue to work with companies such as Tomcar and Mahindra Reva to secure opportunities for a strong and successful future for the automotive manufacturing base in this state.

Department of Human Services: restructure

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Housing. I again refer the minister to the organisational restructure of the

Department of Human Services. Can the minister guarantee that no capital funds that are currently allocated to the housing budget will be diverted to other Department of Human Services activities?

Hon. W. A. LOVELL (Minister for Housing) — The DHS organisational structure is not about diverting funds anywhere; it is actually about delivering better services to Victorians. It is about going from 8 regions to 17 areas that will deliver much better, locally based services to Victorians. As I said before, the Brumby government ran the Department of Human Suffering. People were lost in a system that did not work. This is an important restructure that will deliver better services to Victoria. All front-line staff service roles will be retained, and the people of Victoria will benefit.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — There was no guarantee in that answer, despite the rhetoric the minister gave in response. I ask her, by way of supplementary question, what arrangements she is putting in place to ensure in a transparent way that housing funds will not be diverted to other Department of Human Services activities.

Hon. W. A. LOVELL (Minister for Housing) — At the moment we actually have in place a number of arrangements that are investigating the mismanagement of housing funds under the former government. Now we will be delivering better services to Victorians. The funds that are there for housing will be delivered in the housing portfolio.

Skills training: housing tenants

Mr ONDARCHIE (Northern Metropolitan) — My question is for the Minister for Housing, the Honourable Wendy Lovell, and I ask: can the minister provide details to the house of recent initiatives to improve trade skills and employment opportunities for public housing tenants in north and west metropolitan region?

Hon. W. A. LOVELL (Minister for Housing) — I thank Mr Ondarchie for his question and for his interest in the welfare of public housing tenants and their opportunities to get involved in employment and training.

Last Thursday I attended the Flemington housing estate to celebrate the Trade Taster project. This project has given a number of public housing tenants the opportunity to gain experience in carpentry. It is an opportunity for them to give a trade a go. It is truly a great example of how the government is working with local governments to deliver opportunities for disadvantaged Victorians and to assist them to gain skills, participate in the economy and to build better lives for themselves.

Between March and August last year 15 tenants began the training program, with 9 going on to complete the certificate II in carpentry. As part of the training the participants constructed a cubbyhouse which will be used in the local playground for young children, and we had the opportunity to open that last week. It is a magnificent cubbyhouse for the children living on the Flemington estate. The coalition government provided over $9000 for the Trade Taster project, which was administered in partnership with Victoria University.

In October last year I also announced the allocation of $80 000 to Moonee Valley City Council to extend its work with disadvantaged public housing tenants through the sustainable employment and economic development, or SEED, project. This funding will support another 20 public housing tenants into employment. The SEED project, of which the Trade Taster project is part, is an example of the effects that better partnerships can have locally on disadvantaged Victorians in enabling them to gain employment and skills.

Minister for Housing: staff conduct

Ms MIKAKOS (Northern Metropolitan) — My question is to the Minister for Housing. I refer the minister to the Premier's code of conduct for ministers and ministerial staff. I specifically refer to section 2.2(3), which says a minister 'must accept responsibility for the exercise of the powers and functions of their office'. It goes on further to say, 'the conduct, representations and decisions of those who act as their delegates or on their behalf are consistent with the particular responsibilities of their office'. I ask the minister if she is aware of reports that staff in her private office have systematically and maliciously bullied and humiliated Office of Housing staff?

Hon. W. A. LOVELL (Minister for Housing) — What a ridiculous claim that is. I refer the shadow minister to the fact that we do have a code of conduct for our ministers, which is something that the Brumby government never implemented.

Supplementary question

Ms MIKAKOS (Northern Metropolitan) — I note that the minister did not actually address my question. I ask the minister if she is aware that complaints have been made about inappropriate behaviour and bullying

by her own chief of staff, Anna Cronin, towards the acting director of housing?

Hon. W. A. LOVELL (Minister for Housing) — That is an absolutely ridiculous claim. There have been no reports to me of any such matters.

Planning: swimming pool safety

Mrs KRONBERG (Eastern Metropolitan) — My question is for the Minister for Planning, the Honourable Matthew Guy, and I ask: can the minister advise the house what action the Baillieu government has taken to strengthen safety around swimming pools through Victoria's planning system?

Mr Tee — What about the wind farms?

Hon. M. J. GUY (Minister for Planning) — I remind Mr Tee that this is actually a serious question, and he might want to listen to it rather than making gratuitous remarks. Drowning is the no. 1 cause of death for children aged under five. I was about to say that a number of governments in this state have made great leaps forward over the last 20 years in looking towards the safety around swimming pools and putting in place better regulations for safety around swimming pools. On that fairly graceful note I say to all members of the chamber, as I said before, it is a very serious issue and it is one the government is taking very seriously.

Towards the end of last year I wrote to the Minister for Consumer Affairs, Michael O'Brien, about issues in relation to swimming pools which, through the planning system, must have a pool fence if they have 30 centimetres or more of water. I asked him to review those fines and to consider a national approach to this issue so that we increase safety around swimming pools in Victoria. I understand that Mr O'Brien has written to the federal government and a national approach is being considered.

I inform the chamber today about another move the Baillieu government has taken, no doubt with support from all members in this chamber, to increase safety in and around swimming pools. I have instructed the Building Commission to go on a blitz over the next few weeks covering around 400 swimming pools across Victoria to check safety around swimming pools with a depth of 30 centimetres or more to ensure that we are getting the message out there and that Victorians are heeding the important messages of child safety around swimming pools.

It is not a normal issue that I would speak about in the chamber, but it is a very serious and important issue. As I said, a lot of good work has been done by numerous governments, particularly over the last 20 years, to ensure that swimming pool safety is paramount in people's minds when they are purchasing a swimming pool with a depth of water of 30 centimetres or more. That is why I have instructed the Building Commission to work positively to identify swimming pools that are not considered safe under the planning regime in Victoria. We need to ensure that the next generation of Victorians, our littlest and most precious Victorians, are well protected and that planning regulations are in place to protect them in and around swimming pools, whether it is at their home, a home they visit or the home of a relative.

As I said, it is an issue of paramount importance, particularly to future generations of Victorians. It is one that all members of this house would support considering the good work done by many governments over time. I am very proud to ensure that the Baillieu government instructs the Building Commission to get on with the job and to follow up the work that has been done in the past to protect our most vulnerable Victorians.

Carbon tax: health sector

Mr BARBER (Northern Metropolitan) — My question is for the Minister for Health, and it refers to his earlier answer about the purported cost to the health system of carbon pricing. I presume his answer was based on a Sinclair Knight Merz report that he strategically released to the *Herald Sun* on 8 March. Would the minister be willing to commit to tabling that report in the Parliament this sitting week?

Hon. D. M. DAVIS (Minister for Health) — I thank the member for his question, and I did have in mind releasing this report — —

Mr Barber — So that is a yes?

Hon. D. M. DAVIS — No. It is a yes, but you will have to stay tuned. I did intend to release the report at the time we further debated the motion concerning — —

Mr Barber — You gave it to the *Herald Sun.*

Hon. D. M. DAVIS — I did give it to the *Herald Sun,* but I thought it would be something to release at the time, so I will release it at the time we finish the debate on the motion on carbon pricing.

Supplementary question

Mr BARBER (Northern Metropolitan) — Clearly there is something in the detail of this report, which was funded at taxpayers expense, that the minister wants to keep hidden. He got good propaganda value using taxpayer dollars when he got himself the front page of the *Herald Sun*. The minister can run, but he cannot hide. Will he not then — —

The PRESIDENT — Order! I advise Mr Barber that questions do not allow for an editorial comment.

Mr BARBER — Can I take it from the minister's answer then that notice of motion 6 standing in his name will not be brought forward for debate until such time as the minister has tabled that report for the benefit of all members?

Hon. D. M. DAVIS (Minister for Health) — I thought there may have been an opportunity later this week to continue that motion depending on the progress of business through the chamber. We may well — —

Mr Barber — Bring it on!

Hon. D. M. DAVIS — There is some legislation that needs to be passed, but there may well be an opportunity. What I will do is indicate clearly to Mr Barber that I am prepared to release that prior to that time for the benefit of Mr Barber and others in the chamber, but it is my intention that it be released at a time when we have an opportunity to do so.

Ordered that answer be considered next day on motion of Mr LENDERS (Southern Metropolitan).

Information and communications technology: cloud computing

Mr O'BRIEN (Western Victoria) — My question is for the Minister for Technology, Mr Rich-Phillips, and I ask: can the minister inform the house of any recent cloud computing developments in Victoria?

Hon. G. K. RICH-PHILLIPS (Minister for Technology) — I thank Mr O'Brien for his question and his interest in developments in cloud computing. Cloud computing creates a great opportunity for Victorian companies. Software as a service is the new growth area for ICT, not only in Victoria and Australia but around the world. It is an area that Victoria is achieving great results in.

Two weeks ago I was pleased to inform the house of the sod turning for the Digital Realty facility in Deer Park. I was joined by my colleague Mr Elsbury, a member for Western Metropolitan Region, at the launch of that facility, which is a substantial investment that will lead to the creation of 33 full-time jobs in Deer Park.

Last week I was pleased to join the Premier in Port Melbourne for another great announcement in cloud computing for Victoria. This was also a ground-breaking ceremony for the new Interactive data centre in Port Melbourne. Interactive already has a substantial facility in Port Melbourne, employing around 150 Victorians, providing cloud computing services and servicing around 1900 clients, including some of Australia's largest companies. The new facility, adjoining the existing facility in Port Melbourne, is an investment of the order of $30 million by the company and will lead to the creation of 300 ongoing jobs and a further 150 jobs during the construction phase. This is a substantial increase in employment at Interactive in Port Melbourne. When the facility is opened it will allow Interactive to substantially increase its customer base of blue-chip companies throughout Victoria and around Australia.

This reinforces Victoria's strength as a home for data centres and cloud computing facilities in Australia. We obviously have a very reliable electricity supply, we have good land supply for these facilities outside the CBD and we also have a good climate, which reduces the energy requirements of these facilities. We have some good competitive strengths for cloud computing. This announcement and the start of this project by Interactive further contributes to the more than 800 new jobs announced this year in the technology space in Victoria and reinforces Victoria as the home of ICT in Australia.

QUESTIONS ON NOTICE

Answers

Hon. D. M. DAVIS (Minister for Health) — I have answers to the following questions on notice: 336–7, 346, 354, 363, 366, 376, 383–4, 390, 392, 401, 410, 413, 429, 489, 635, 643, 4061, 4064, 4066, 4724, 8136, 8180, 8182–7, 8198.

Mr Tee — On a point of order, President, I think it was 14 days ago that I asked the Minister for Planning whether he had spoken to the Premier in relation to the Ventnor matter. It seemed like an easy question. The minister still has not provided me with an answer, and I am wondering if he can give us an indication as to what the delay is in providing a response.

The PRESIDENT — Order! I will allow the minister to answer on this occasion, but the member would be aware that under the sessional orders questions from members of the opposition in respect of delayed answers ought to be canvassed on a Wednesday. On this occasion, given that it is a direct matter and that it was a matter raised in the house, I ask the minister if he can provide us with any guidance on this matter.

Hon. M. J. GUY (Minister for Planning) — I know Mr Tee has a matter regarding an outstanding question on notice, and I apologise for the delay; I will make sure he gets that fairly soon. I know there is also an outstanding question from Mr Pakula on which I gave an undertaking last week but which has not yet been forthcoming. Again I apologise for that. I will ensure that those two matters are dealt with fairly promptly.

Hon. W. A. Lovell — On a point of order, President, Ms Mikakos may wish to withdraw her accusations about the acting director of housing making complaints about my staff. I have been advised by the acting director of housing that he has made no complaints of any harassment, bullying or other behaviour by my staff, nor have any complaints of bullying or harassment by my staff of other members of staff in the Office of Housing been made to him.

The PRESIDENT — Order! That is not a point of order. Nonetheless I think that where a serious accusation is made in this house and that information is deemed to be incorrect, it is important that it be corrected at the earliest opportunity. I would see Ms Lovell's contribution as more of a personal explanation.

PETITIONS

Following petition presented to house:

Water: Minyip supply

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the undrinkable water being supplied to the township of Minyip by GWMWater and which has been declared as a regulated water supply and therefore unfit for human consumption by the state government of Victoria.

The petitioners therefore request the Legislative Council of Victoria bring to the attention of the state government of Victoria that a filtration plant must be installed in Minyip, or the water supply be connected to the Murtoa filtration plant, as a matter of urgency.

Furthermore the petitioners respectfully request the state government of Victoria to fully fund this project to guarantee and ensure Minyip is supplied with drinking water quality (filtered), and to ensure users and customers of GWMWater do not incur any direct or indirect cost to pay for this correction to the Wimmera–Mallee pipeline water supply to Minyip.

By Mr LENDERS (Southern Metropolitan) (40 signatures).

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 4

Mr O'DONOHUE (Eastern Victoria Region) presented Alert Digest No. 4 of 2012, including appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Education and Training Reform Act 2006 — Declarations of 15 December 2011 of Beneficiary Schools for the purpose of the Mildura schools land.

Gambling Regulation Act 2003 — Tabcorp Wagering (Vic) Pty Ltd Wagering and Betting Licence and Related Agreement, December 2011.

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3)(a)(iii) in relation to Statutory Rule No. 158/2011.

Planning and Environment Act 1987 —

Cardinia Planning Scheme Amendment C146.

Notices of Approval of the following amendments to planning schemes:

Bass Coast Planning Scheme — Amendment C120.

Corangamite Planning Scheme — Amendment C21.

East Gippsland Planning Scheme — Amendment C99.

Frankston Planning Scheme — Amendment C46 Part 1.

Golden Plains Planning Scheme — Amendment C55.

Hume Planning Scheme — Amendment C130.

Knox Planning Scheme — Amendment C108.

Mansfield Planning Scheme — Amendment C23.

Maroondah Planning Scheme — Amendment C83.

Monash Planning Scheme — Amendment C104.

South Gippsland Planning Scheme — Amendment C63.

Strathbogie Planning Scheme — Amendment C28 Part 1.

Surf Coast Planning Scheme — Amendment C59.

Whitehorse Planning Scheme — Amendment C133.

Wodonga Planning Scheme — Amendment C73.

Yarra Ranges Planning Scheme — Amendments C113 and C120.

Statutory Rules under the following Acts of Parliament:

Accident Compensation Act 1985 — Accident Compensation (WorkCover Insurance) Act 1993 — No. 11.

Guardianship and Administration Act 1986 — No. 12.

Residential Tenancies Act 1997 — No. 17.

Subdivision Act 1988 — No. 15.

Subdivision Act 1988 — Transfer of Land Act 1958 — No. 16.

Subordinate Legislation Act 1994 — No. 13.

Victorian Energy Efficiency Target Act 2007 — No. 14.

Subordinate Legislation Act 1994 —

Documents under section 15 in respect of Statutory Rule Nos. 8, 10 to 12 and 15 to 17.

Victorian Environmental Assessment Council Act 2001 — Government Response to the Victorian Environmental Assessment Council's Metropolitan Melbourne Investigation Final Report.

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

Criminal Procedure Amendment (Double Jeopardy and Other Matters) Act 2011 — Remaining provisions — 18 March 2012 *(Gazette No. S66, 6 March 2012)*.

Public Prosecutions Amendment Act 2012 — 6 March 2012 *(Gazette No. S54, 28 February 2012)*.

Sex Work and Other Acts Amendment Act 2011 — Remaining provisions — 1 March 2012 *(Gazette No. S54, 28 February 2012)*.

BUSINESS OF THE HOUSE

General business

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

That precedence be given to the following general business on Wednesday, 14 March 2012:

(1) notice of motion 275, standing in the name of Mr Tee, relating to the provision of the Ports and Environs Advisory Committee report;

(2) notice of motion given this day by Mr Barber relating to the provision of certain wildlife permits;

(3) notice of motion given this day by Mr Pakula referring a matter to the Privileges Committee relating to a draft code of conduct for ministers and others;

(4) notice of motion 254, standing in the name of Ms Pennicuik, to take note of documents relating to the Australian Grand Prix Corporation;

(5) order of the day 19, consideration of minister's answer to a question without notice relating to WorkCover premiums;

(6) notice of motion 251, standing in the name of Mr Barber, relating to the provision of the 2012 *Network Revenue Protection Plan*;

(7) notice of motion 237, standing in the name of Mr Lenders, relating to the banning of Dorothy Dix questions; and

(8) notice of motion 257, standing in the name of Mr Barber, to introduce the Transport (Compliance and Miscellaneous) Amendment (Fares) Bill 2012.

Motion agreed to.

MEMBERS STATEMENTS

Croydon Community School: achievements

Mr LEANE (Eastern Metropolitan) — Recently there was an article in a newspaper regarding Croydon Community School being ranked in a certain way. I want to put on record today that schools like Croydon Community School cannot be rated highly enough. I have said it before in this chamber: this school saves young people's lives. Young people arrive at this school after not being able to function in the mainstream system. They are shown patience and given a program for their individual needs. Some of these children arrive at the school after being expelled from other schools, but I put on record that the Croydon Community School has never expelled a child. This is because of the patience of its staff members and their ability to work with these young people.

In one example, a 12-year-old boy who enrolled at Croydon Community School this year had not attended school since, I think, grade 4. He has been attending every day and his behaviour has been exemplary. Another example is three boys with serious youth justice issues prior to last year who had no issues at all during the year they spent at Croydon Community School. They are completing work experience and doing everything that is asked of them, and their attendance has been exemplary. We need more schools like Croydon Community School, and it should not matter where they are ranked.

Happy Valley hall: community reunion

Mr RAMSAY (Western Victoria) — I attended the annual reunion of Piggoreet, Golden Lake, Grand Trunk and Happy Valley communities at the Happy Valley hall last Sunday. It was great to be amongst those communities for lunch and to relive memories of the hall and the school that preceded it. I congratulate Ian Getsom, who invited me, given that he and I spent many long hours in 2004 helping to rebuild fences after the north-eastern fires. Ian continues to provide support to the community he lives in, putting in many volunteer hours, and I congratulate him for his efforts. I also congratulate the committee and Golden Plains Shire Council for providing grants to upgrade the hall and support Ian in his endeavours to access funding for solar power so that the Happy Valley hall can become the first solar-powered hall in the shire. It gave me great pleasure also to be in attendance at the opening of the barbecue area, which from design to brickwork was constructed by volunteers.

Golden Plains festival

Mr RAMSAY — I would also like to congratulate the organisers of the Golden Plains music festival, which I ran into on the way to Piggoreet. Over 9000 music lovers attended over the two days of the weekend, and it was interesting to note that the Meredith Community Tucker Tent made $90 000 over that two days, which will go back into the community. It was a wonderful effort.

I also strongly encourage members to attend the two-day Meredith Music Festival in December.

Australian Council of Trade Unions: secretary

Mr SCHEFFER (Eastern Victoria) — While the union movement cops some flak from reactionaries in business and politics and from some media commentators, most Australians want to see strong unions because they know that in the end unions advocate for workers' pay and conditions. Australians know that unions argue the case for ordinary men and women whose high-level skills and expertise keep this country running.

The leadership of the Australian union movement is talented, articulate, passionate and brave, and none more so than Dave Oliver, the incoming secretary of the Australian Council of Trade Unions, whose interview with Barrie Cassidy on *Insiders* last Sunday morning was refreshing. Dave Oliver showed the Australian union movement at its best, focusing on the movement's support for positive policies that can attract and stimulate investment.

Oliver cited the current challenge confronting the automotive industry, setting out its significant contribution to the economy through the employment of 200 000 employees and its contribution to training and skills development, management practices, research and development, and technological innovation. Oliver rejected the description of government investment or co-investment in the automotive industries as 'propping up' those industries. He put the case that the government's role is to create an environment that contributes to keeping people employed.

Dave Oliver and the union movement call upon all political parties, businesses and industries to cooperate in working through the structural changes before us. Rather than taking Victoria back to the past, establishing a Victorian construction industry watchdog, attacking nurses, sacking public servants, failing to invest in infrastructure, slashing the education budget and refusing to develop a jobs plan, this government should — —

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

Australian Council of Trade Unions: secretary

Mrs PEULICH (South Eastern Metropolitan) — It is fortuitous that I have the opportunity to speak after Mr Scheffer, given what he has said. I would also like to talk about the new secretary of the Australian Council of Trade Unions, Dave Oliver, who has already announced that he is going to take on the federal Leader of the Opposition, Tony Abbott. We know that he comes from the Socialist Left, that he is the incoming ACTU secretary and that he plans to pursue increased union bargaining rights, but most importantly he says that his job is to mobilise unions in a campaign offensive aimed at stopping Tony Abbott winning power in next year's federal election. He also plans to

make the ACTU a high-profile campaign organisation. In view of this, he also plans to use the community.

I would urge all Labor MPs and all members of the Australian Manufacturing Workers Union, of which Mr Oliver was the former national secretary, to contact the ACTU boss not only to congratulate him but also to call upon him to mobilise a campaign against the carbon tax, which is detrimental to our economy and also to jobs, especially in Australia's manufacturing sector but particularly in Victoria's manufacturing sector. This could potentially be a very strong campaign that Mr Oliver could use to convince Prime Minister Julia Gillard to at least defer, if not ditch totally, what is essentially a rip-off tax that is going to be the last nail in the coffin of the Victorian economy and Victorian jobs. I congratulate him, but urge him to step up to the plate and not simply use his office as a political tool.

Rail: Altona loop service

Ms HARTLAND (Western Metropolitan) — On Saturday I went to the Altona Beach Festival, which was a lovely celebration of the sky, the sea and the community. I congratulate the Hobsons Bay City Council on the festival's success. The festival was a great way to showcase that beautiful beach. The range of stalls and entertainment was clearly a hit with the residents. I would also like to thank whoever brought the sunshine.

The most popular item on my stall was a postcard addressed to the Premier asking for the Altona loop train track to be duplicated. The Premier had better get ready, because he is going to receive thousands of these postcards, and he will have to respond to each one of them. The Premier should get some good advice before he answers those postcards, so he can use this opportunity to make an announcement.

Duplicating the loop would be cost effective. The land has already been set aside. The line duplication would allow Metro Trains Melbourne to double the frequency of trains, which would take thousands of cars off the roads and ease the squeeze on the overcrowded Werribee line. It could even turn the least satisfied train commuters into the most satisfied. After all, they already have the beach, a fabulous community and a stunner of a festival; give them a decent train service and what more could they want?

Employment: government performance

Ms MIKAKOS (Northern Metropolitan) — Victoria is in the midst of a jobs crisis and this government is doing nothing to turn it around. From Treasurer Kim Wells's very first budget speech last year, it was clear that the Baillieu government did not have an agenda to create jobs. It did not have it then and it certainly does not have it now. This government has slashed funding to the health and education departments, it has cut 3600 public service jobs and it has lost hundreds, if not thousands, of manufacturing jobs to overseas counterparts.

This is a government that has brought forward no new ideas of its own. It has made no new investment in major infrastructure. After being chastised, it submitted a proposal to Infrastructure Australia requesting funding for projects initiated by the previous Labor government. The latest Australian Bureau of Statistics jobs data for February shows Victoria's unemployment rate has increased again to 5.4 per cent. This is significantly higher than even the national rate of 5.2 per cent. The Minister for Youth Affairs, Minister Smith, would be well aware that Victoria's youth unemployment rate has now risen to 23.1 per cent.

Cuts to the very programs designed to support young people getting into jobs are not helping. I refer to programs like the Victorian certificate of applied learning and apprenticeship traineeships. The ABS data shows that so far there are 12 600 fewer jobs in Victoria. These are staggering figures. While the rest of Australia has created almost 50 000 new full-time jobs since the last Victorian election, Victoria has lost well over 21 000.

It has now got to the point where the *Herald Sun*, usually the coalition's champion, published an editorial on Friday entitled 'Wake up Ted, we need you'. It is time for the Premier to stop playing the blame game and start playing the real game, that of governing for Victorians. Treasurer Wells stated in Parliament that he would create 55 000 jobs each year. What has become of that pledge now?

Wimmera Machinery Field Days

Mr KOCH (Western Victoria) — Along with my colleagues from across regional Victoria, I again enjoyed attending this year's Wimmera Machinery Field Days at Dooen. Since 1963 the field days have grown into the Wimmera's biggest event and one of Australia's largest agricultural and agribusiness trade shows. Local, national and even international exhibitors showcased the latest in products and services for a diverse range of farm enterprises and offered an opportunity for exhibitors to interact directly with farmers. There was also an extensive program of events and attractions designed to appeal to anyone who has an interest in country living. Over the three days in excess

of 30 000 visitors from across Victoria, southern New South Wales and the south-east of South Australia descended on the Longerenong field day site.

The prospect of an excellent growing season after years of drought and last year's devastating floods means that many farmers are now planning for new equipment purchases and are looking at ways of improving their productivity. As the first broadacre field days for the year, the Wimmera Machinery Field Days were abuzz with activity as millions of dollars were injected into the local economy through machinery sales and the provision of accommodation and hospitality.

My congratulations go to committee president Bryan Matuschka, committee members and the army of volunteers who generously gave their time and effort to make the Wimmera Machinery Field Days such a successful event for Horsham and district — the heart of the Wimmera.

Australia Lebanon Chamber of Commerce and Industry: establishment

Mr ELASMAR (Northern Metropolitan) — I rise to speak about a very special event I attended on 25 February. I was proud to be a part of the celebration of the establishment of the Australia Lebanon Chamber of Commerce and Industry (ALCCI). Mr Faddy Zouky, a well-known Victorian businessman, has been elected the inaugural president of the new board. All of the new board members are well known to me, and I am sure they will do a magnificent job of coordinating and fostering strong economic ties between Lebanon and Australia.

This commercial initiative is the culmination of a strategic plan by leading Australian-Lebanese businesspeople who have a passionate desire to see trade and commerce flourish between our two nations. In particular I congratulate and thank the Consul General of Lebanon, Mr Henri Castoun, on his initiation, development and encouragement of this bold venture, together with the Honorary President, Mr Louis Fleyfel.

There were many VIPs and state and federal parliamentary colleagues in attendance, and the whole event was televised by Lebanese media crews. It is their wish and mine that ALCCI will foster worthwhile and lasting friendships that will result in future business trade and in particular jobs to stimulate the Victorian economy.

Water: Murray-Darling Basin plan

Mr DRUM (Northern Victoria) — As I travel around northern Victoria and talk to many councils and major employers, it is becoming increasingly clear how important the Murray-Darling Basin plan is. It seems that all these councils and major employers now fully understand how reliant the whole region is on productivity that is driven by water. Major employers situated throughout the basin understand it is going to be critical that the maximum amount of water be maintained in the basin for productive use.

Currently the Australian government is in the process of buying up large amounts of productive water and effectively flushing it down the river to make up a predetermined quantity of water to the tune of around 3000 gigalitres. This is not linked to any environmental outcome. I urge environmentalists to look at environmental outcomes that we can all work towards achieving.

Simply taking water away from productive use and pushing it mindlessly down the river without having a priority set of objectives is economic and social vandalism and will cause enormous damage to a whole range of communities throughout the Murray-Darling Basin. If we set out a range of objectives towards which everyone can work, I am sure we can maintain a lot of water for productive use as well as meeting the environmental outcomes that we all want to achieve.

Gas: Wandong-Heathcote Junction supply

Ms BROAD (Northern Victoria) — In November 2011 I called on the Premier to tell the people of Wandong-Heathcote Junction when he expects to deliver on his election promise of providing them with natural gas. My request followed a statement by the local Liberal MP, Ms McLeish, in the *North Central Review* in which she said she was not able to provide a time line because one does not exist. Mr Baillieu's response to me, dated 31 January 2012 and delivered to me in Parliament on 28 February, does not provide a time line either.

The people of Wandong-Heathcote Junction will be bitterly disappointed to learn that Mr Baillieu's response fails not only to provide a time line but also to commit to delivering on the promise at all. In short, Mr Baillieu's response refers to his government's Energy for the Regions program and states that:

> All towns, including the communities of Wandong-Heathcote Junction, will have the opportunity to be considered under the program, subject to a supporting bid from one of the private gas distribution businesses.

The people of Wandong-Heathcote Junction know that that statement does not even come close to guaranteeing delivery of natural gas, as promised by Mr Baillieu in person during a visit to Wandong before the last election. The Liberal MP for Seymour, Ms McLeish, needs to explain what she is doing to convince Mr Baillieu to deliver his election promise. Ms McLeish should give Mr Baillieu a time line, and that time line should be the May state budget this year.

Bellarine Agricultural Show

Ms TIERNEY (Western Victoria) — On Sunday I had the pleasure of attending the 2012 Bellarine Agricultural Show. Unlike the past few years, the rain held off and a good time was had by all. Livestock and horse competitions were fiercely fought, only to be matched by the high quality of horticultural and cooking exhibits. Traditional handicrafts were displayed and demonstrated in an effort to keep the skills of knitting, crochet and embroidery alive. One can only hope it inspired the youngsters in attendance to learn more about how to make beautiful pieces in a variety of ways.

I take this opportunity to congratulate the Bellarine Agricultural Society on a well-planned and interesting 2012 show that really catered for all age groups. I wish to particularly thank the president, Graeme Brown, for taking time out to show us the many highlights. I also thank all the stewards who provided us with so much information and many important tips at each activity point. Well done to them!

Victorian Honour Roll of Women: inductees

Ms TIERNEY — I also take this opportunity to mention the significant number of women from Western Victoria Region who were recently inducted into the Victorian Honour Roll of Women. I congratulate them as they join the ranks of other important women from the region such as Vida Goldstein, Henrietta Dugdale, Fanny Brownbill, Josie Black and Jill Smith.

Government: media policy

Mr ELSBURY (Western Metropolitan) — A free media is a key element in sustaining an active and stable democracy. A proposal that chills me to the bone is the establishment of a news media council with coercive powers to regulate quality, accuracy — I do not know how this is quantifiable — fairness and balance of views.

I am sure that everyone has at times read an article that has stirred strong emotions and that disagreement has surged through them. For me, it is any time I read anything written by Jill Singer. However, I believe a broad range of opinions is good for a healthy democracy, even if I disagree with those opinions. Control of the media by the government, either directly or by proxy, is dangerous. A concentration of what constitutes free speech as determined by the beliefs of 20 people, no matter how that group is comprised, is not free. Voltaire said, 'It is dangerous to be right in matters where established men are wrong'. I sincerely hope this centralisation of thought is quashed, lest questioning of government becomes an act only permissible by application.

Brimbank Park and Jacks Magazine: ministerial visit

Mr ELSBURY — I would also like to take this opportunity to thank the Minister for Environment and Climate Change for coming to Brimbank Park and Jacks Magazine last week to see the fantastic work being done and the opportunities that those two Parks Victoria establishments offer.

Murray Goulburn Co-operative: job losses

Ms DARVENIZA (Northern Victoria) — Along with the rest of the community, I was very disappointed to hear that 64 jobs will be cut from the Murray Goulburn Co-operative in Rochester. The co-op is the biggest employer in this close-knit community. Minister Dalla-Riva may not be aware of just how devastating these job losses are going to be in this small town. It is very difficult to find new work opportunities in the area, particularly given the number of other industries that have been hit hard lately with job losses, exemplified by losses at the Heinz plant at Girgarre and SPC in Mooroopna.

The last Australian Bureau of Statistics jobs data for February shows that Victoria's unemployment rate has increased to 5.4 per cent and that 12 600 jobs have been lost across Victoria. The Baillieu government needs to stop playing the blame game and direct its attention to creating jobs in rural and regional Victoria. It needs to develop a plan to secure jobs and attract investment not only to the state but, more importantly, specifically to rural and regional Victoria.

It would seem that once again the Liberal-Nationals coalition does not really care. It is dithering and doing nothing about developing and implementing a much-needed jobs plan not only for the state but particularly for rural and regional Victoria.

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION AMENDMENT (INVESTIGATIVE FUNCTIONS) BILL 2011

Second reading

Debate resumed from 9 February; motion of Hon. D. M. DAVIS (Minister for Health).

Hon. M. P. PAKULA (Western Metropolitan) — I rise to speak on the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011. I am pleased it is the first order of business today; this is a pleasant change and one I hope the government continues to implement as the year goes on.

I indicate that the opposition will not be opposing the bill, nor will it be seeking to amend the bill. I am aware that Ms Pennicuik may have some amendments in regard to the bill, and the opposition will express its view on those amendments when they are moved during the committee stage of the bill.

The fact that the opposition is not opposing the bill should not be read by anyone to suggest that it does not continue to have serious and ongoing concerns about it — primarily the fact that the bill does not deliver on the government's pre-election IBAC (independent broadbased anticorruption commission) promises. At most, this is yet another piece of legislation in a framework that is still not complete, and we still do not know the totality of the IBAC framework. We still have not seen the totality of the legislation that will be required to fully and properly implement an IBAC, and we know that the IBAC was originally slated to be in place by 1 July 2011. The Premier is now saying it will be up and running sometime around the middle of this year, but I note that is only a few months away and there are still further pieces of legislation that will be required before this thing can operate. If the Premier is serious about having an IBAC up and running in July or perhaps shortly thereafter, the government had better get its skates on with the rest of its legislative framework.

The IBAC is supposed to be an organisation that creates greater confidence in public institutions. That was the stated purpose of it when the opposition, as it then was, called for it in 2009 and 2010, but what is probably chipping away at confidence in public institutions more than the absence of an IBAC has been the government's performance on a whole range of accountability and transparency matters since it was elected in November 2010. As I have said on many occasions, the government was elected with a very long shopping list of accountability and transparency reforms that it was going to implement, but frankly it has fallen short on almost each and every one of them.

In the last sitting week I commented on the freedom of information commissioner bill — the FOI commissioner who will not have authority over cabinet documents or over the decisions of ministers or agency heads and who will not draft the enforceable standards for departmental officers. That power has been given to Minister McIntosh.

We also have the government advertising review panel which the government promised it would have in place, which the Premier at last year's budget estimates hearing said would be up and running by the end of 2011 and which now, if the comments of Mr Price are to be believed, may not happen at all. Then there is the fundraising code, which I think last week's $10 000-a-head event at Raheen shows is a fundraising code which makes very little, if any, difference to the way that any minister conducts him or herself in regard to fundraising.

During question time Ms Lovell talked about the ministerial code of conduct, as if that were going to be some kind of panacea. One would struggle to find a thinner or less serious ministerial code of conduct anywhere.

Hon. G. K. Rich-Phillips — Ms Mikakos raised it.

Hon. M. P. PAKULA — Ms Mikakos raised it; Ms Lovell responded to it with the comment, 'At least we've got one'. I note that we are going to debate it tomorrow, Minister, but quite seriously if anyone from this government has given that document even the scantest attention, I would be surprised. Frankly, there is nothing in it. There is absolutely nothing in it that is new. All these accountability and transparency promises that were made have fundamentally not been delivered on.

We also have the more recent revelation that important independent agencies of government can speak to members of Parliament, particularly those who might be associated with the opposition or the Greens, only with staff from ministers' offices listening in. I am referring to so-called independent agencies like the Victorian Commission for Gambling and Liquor Regulation, the Environment Protection Authority and others.

The government's rhetoric on openness, transparency and accountability has not been matched by its actions in any way, shape or form. I do not think this bill is going to do very much at all to lift public confidence in the government being able to do any more than talk, either, because the way the powers of IBAC are set out in the bill means that investigations of corrupt conduct might never be known by the public, even if they do take place. We will not know about any private recommendations the IBAC makes to a public officer or to a minister or to the Premier if they are not included in a report. We still do not know whether hearings under this legislation are going to be held in public, and there are a whole host of other questions — —

Mr Barber — It's coming.

Ms Pennicuik — Perhaps it's had to catch the next train.

Hon. M. P. PAKULA — I take up the interjections from Ms Pennicuik and Mr Barber of the Greens, that it is coming; it might be in the next bill. Well it might, but the problem it creates for all of us — —

Mr Barber interjected.

Hon. M. P. PAKULA — It does indeed build the suspense, Mr Barber. But the problem it creates for us today is that we are debating an IBAC framework without the whole picture in front of us. We are being asked to support legislation to bring an IBAC into effect bit by bit. It is a case of, 'Once you support this bit, we will reveal the next bit. If you support that bit, then we will reveal a little bit more to you'. It is like legislative pass the parcel; each time it goes around, we get to see a little bit more. What would have been far more respectful to the Parliament and far more transparent, to use that word, would have been legislation that gave us the whole picture up-front rather than little bit by little bit. It is like the old adage of how you cook a frog: you put it in the water and just turn up the temperature bit by bit so it does not realise what is going on until it is too late.

Whether it is the question of public hearings, the question of reports being made public or the question of investigations being held in public or not, there are a whole range of questions about the way the IBAC is going to work that remain unanswered. We do not know if that is because the government does not know how to implement its promises or because the government is fundamentally unwilling to implement its promises.

It is also very useful for the government that some of the matters that have created issues about confidence — let us be diplomatic — for the government since it came to office, such as *Crossing the Line*, the report about the Weston-Tilley-Overland affair, look like they do not fall within the jurisdiction of the IBAC. We cannot be 100 per cent clear on that, but it looks very likely that those matters would not be within the purview of the IBAC — but that might be a matter that we can explore further during the committee stage.

What we have in the bill is a jurisdiction. Along with that jurisdiction we have some powers of investigation which, apart from being late, are incomplete and which very conveniently are apparently limited to a quite specific range of matters. As I said, I think it would have been advisable for the government to enact this legislative framework in one go. It would have also been appropriate, given that this is an entirely new beast, for the IBAC's operations and powers to be somewhat independently reviewed after it has been in operation for an appropriate period of time. I do not think that is particularly onerous. It is a recognition and a reflection of the fact that we are creating something very new and something that we have not seen — —

Mr P. Davis interjected.

Hon. M. P. PAKULA — Mr Davis interjects and says, 'Don't you think that will occur as a matter of course?'. I say to Mr Davis: I do not know. Mr Davis is a member of the government and I am not. If the government's current approach to these things is continued, then I imagine that the way such a review would occur is that the government would conduct it privately, it would receive a report privately and it would not release that report — it may even bring a legislative change to the Parliament or make a drop to the *Herald Sun*. Either way, I am not sure. Given that the government is refusing to release the report on the IBAC that has already been done, I do not know why Mr Davis would have any confidence that the government would release any future report into the way the IBAC operates.

Mr P. Davis — You were such an open government, weren't you? You were so open! You were always coming in here and tabling reports!

The ACTING PRESIDENT (**Mr Tarlamis**) — Order!

Hon. M. P. PAKULA — Acting President, rather than Mr Davis and me treating this like a meeting of the Public Accounts and Estimates Committee — —

Mr P. Davis — They are very good meetings indeed.

Hon. M. P. PAKULA — They are very good meetings indeed, but it might be better at this stage if I go to some of the background and some of the powers contained in the bill. I do not intend to go on and on in slavish detail about them, because I am mindful of the fact that some of that detail has been provided both in the second-reading speech and in the opposition's response given by the member for Altona in the other place. Having said that, it would be disrespectful to this place to not at least provide some of that detail.

The bill creates the investigative powers of the IBAC. It defines corruption and corrupt conduct. It prescribes processes for the investigation, hearing and reporting of matters within the IBAC's jurisdiction. The powers that have been provided include the ability to conduct own-motion inquiries, to require members of the police force to give information or to produce documents or answer questions, to use entry, search and seizure powers in police premises, to apply to the Supreme Court for search warrants in regard to other premises — we will talk about that a little bit more later on — and to use defensive equipment and firearms.

Members would be aware that that has already attracted some significant comment given that, from my understanding, some of the weaponry contained within the definition includes bazookas. It is difficult to contemplate a circumstance in which the use of a bazooka would be necessary, but nevertheless it appears the power has been provided. I hope one is never provided to the Speaker.

It is also the case that this is the second of the IBAC bills, and I believe there will be a third and perhaps a fourth — —

Ms Pennicuik — Maybe a fifth.

Hon. M. P. PAKULA — As Ms Pennicuik says, perhaps a fifth.

Mr P. Davis — Improving all the time.

Hon. M. P. PAKULA — Mr Davis says, 'Improving all the time', but as I said earlier, the difficulty that creates for the parliamentary debate is that it is hard to see exactly how this bill fits with the government's overall vision for the IBAC. There are things that are not in this bill that may or may not be in future bills, and on that basis it is difficult to assert, for instance, that the government has failed to do this or failed to do that, because it may or may not be coming later. Perhaps that is exactly the way the government wants it.

I am reminded of the committee stage of the previous bill when I asked the minister at the table over and over again to the point of exhaustion whether certain powers that were not contained in that bill would be contained in the next bill, and I was unable to get an answer. It is not as if we can simply ask the government whether or not certain powers or certain missing ingredients will be included in future pieces of legislation, because if our experience of the last committee stage is anything to go by, the government is unlikely to tell us.

We need the entire framework to be codified before we can make an informed judgement about every element of the IBAC. We do not yet know what statutory powers, if any, the IBAC will have to compel witnesses or what processes will be used to commence matters. We do not know much about the nature of hearings, and as yet we do not know much about how the powers of the IBAC will intersect with the powers of the Ombudsman. We probably need to know more about the way the rules of evidence are going to be used. We need to know more about the nature of hearings, public or private, and whether or not the IBAC Commissioner will have immunity. There are a whole range of issues that are yet to be fleshed out, so to some extent we are debating this bill in the dark.

I have already indicated that the coalition's original commitment was to have an IBAC up and running by 1 July 2011 and that it would effectively be modelled on the New South Wales ICAC (Independent Commission Against Corruption).

Ms Pennicuik — There is a passing resemblance.

Hon. M. P. PAKULA — Yes, Ms Pennicuik, it has a passing resemblance — and little more than that. The first commitment has already gone by the wayside. The first bill did not come in until late last year, and we are now in March 2012. We know there is more legislation to come, so the commencement date has already passed us by.

What we know so far is that this bill and the last bill incompletely establish an IBAC model that is substantially different to the one that was promised by the coalition. We note that the definitions and the threshold test for investigations and findings of corruption are very different to those in New South Wales; that much we already know because primarily it seems the Victorian IBAC will only be empowered to investigate serious corruption that would, if proved, be an indictable offence. I will just pause there for a

moment: what that says in layman's terms is that the IBAC will be empowered to investigate a whole bunch of stuff that are already crimes and that are already covered by the criminal code in other regards. We also know that there are a range of exclusions and limitations to the IBAC jurisdiction's investigating and reporting process.

Other than the establishment of a body called the IBAC there really is no way that the government can claim that this bill implements what it promised, which was a model based on New South Wales model by 1 July last year. We missed the date and we missed the model, and there are still bits we do not know about.

It is also worth spending a bit of time on the question of the jurisdiction of the IBAC. There are investigative powers and processes in respect of alleged serious corruption of public officers created in the bill, but it is limited to serious corruption. That is an important point when you note that the bill effectively abolishes the Office of Police Integrity (OPI) and largely subsumes the functions of the Local Government Act 1989. In the repeal of the Police Integrity Act 2008 and the amendment of the Police Regulation Act 1958 we are still waiting to see exactly how those functions and powers which are currently undertaken by the OPI will be carried out by the IBAC, and as I said, we are also yet to really appreciate how the interaction between the IBAC and the Ombudsman is going to work.

We have heard some commentary in the last couple of days that would suggest that a lot of the work of the local government inspectorate will now be carried out by the Ombudsman. We note that last sitting week the Greens proposed an amendment, which the Labor Party supported, that would have retained some of the Ombudsman's powers over the Freedom of Information Act 1982. The government opposed that, so we know the Ombudsman's powers over FOI have been removed. It would appear that the bringing in of IBAC will further diminish the powers of the Ombudsman. Again we are being asked to support this legislation without having a full appreciation of exactly how that relationship is going to be carried out.

I think it is also right to say that for IBAC to investigate a matter of alleged corrupt conduct — other than police personnel conduct, which is looked after under a separate power — IBAC needs to be convinced before it even conducts the investigation that the alleged conduct would be an indictable offence or one of those three common-law offences — that is, perverting the course of justice, attempting to pervert the course of justice or bribery of a public official. What is interestingly not included in IBAC's remit is misconduct in public office, and that is where it very much departs from the New South Wales model. Either during the second-reading debate or the committee stage the government needs to properly explain how, if at all, matters of misconduct in public office which do not rise to the standard of a serious indictable offence will be dealt with. Are they going to be dealt with by the Ombudsman or by some other body, or are they not going to be dealt with at all?

When the then opposition made its commitment to the New South Wales ICAC being the model for this IBAC, it was very much suggesting to the Victorian people that it would be a body that could deal with the question of misconduct in public office, because it was matters of those types to which the then opposition sought to draw attention and which it was seeking to convince the Victorian population that it would deal with. In fact it is not dealing with matters that are not already crimes under this model at all.

It is also important to spend a bit of time on the nature and scope of IBAC's investigatory powers. In exercising its functions and powers IBAC will have the power to enter the premises of police personnel and the general public, to seize documents, to apply for and obtain general search warrants and to use covert investigative powers. As I said, IBAC staff can carry defensive equipment. Apart from grenade launchers and bazookas, we do not have a full picture of how these powers are going to be exercised by IBAC officials. For instance, we know that unless there are exceptional circumstances, complaints to IBAC have to be in writing and made within a year of the conduct occurring. There is an exception, which is that there has to be some kind of reasonable explanation for a delay beyond 12 months.

Given that process and given that the threshold for IBAC investigation is much higher than the thresholds for investigation by similar anticorruption bodies in other states, most notably in New South Wales, it is open for us to conclude that there will be fewer matters that fall within the jurisdiction of IBAC in the first instance. Moreover, it is open for us to conclude that those matters investigated by IBAC are those in which IBAC has formed a view that there is serious corrupt conduct occurring. I think that is a significant narrowing of the scope of IBAC.

It is also not clear why the government is proposing that search warrants under these provisions need to be issued by the Supreme Court and only by the Supreme Court, rather than, for example, by the Magistrates

Court, which routinely issues warrants of a similar nature to those that would be issued under this piece of legislation. The government needs to indicate what operational issues and what impact on court resources are going to occur, given the need for a superior court judge to be the one to issue a warrant, particularly in light of the cuts to Department of Justice staff as a result of the somewhat Orwellian-titled sustainable government initiative. Again, whether it is during the second-reading debate or during the committee stage, the government needs to indicate why it should be necessary for a Supreme Court judge to issue warrants under this bill.

With regard to reports and recommendations that will emanate from IBAC, the bill provides that IBAC can make a recommendation, can issue a special report, can advise a complainant of the results of an investigation or it can make no finding or take no action. In its annual report IBAC can make any recommendations for changes to the Victorian statute book which IBAC might consider necessary as a result of its investigations or its findings, but of more concern is that IBAC can at any time make a private recommendation about a matter arising out of an investigation. Those private recommendations can be made to any relevant principal officer — they can be made to the minister or to the Premier. There is no particular guidance provided as to when recommendations will be private rather than public, and I think in that regard the openness and transparency of this process is brought into very serious question.

I am sure the government will suggest that the use of private recommendations — which, by the way, cannot form any part of any report — is to protect reputations and ensure that people's names are not necessarily blackened by the process. That might be fine in the case of the innocent, where there is absolutely no finding and ultimately no suggestion of any wrongdoing, but it is not so confined. There might very well be circumstances where people are found to have behaved improperly but for whatever reason a decision is made to make those findings private and report them only to the Premier or to a minister. None of us will ever be any the wiser.

For a government that prides itself on transparency and openness to even leave open the opportunity for the opposition to suggest that one of its own might be investigated by IBAC and that the government might use a device to ensure that that investigation or any negative findings are never made public does this organisation no credit at all. For the IBAC to be effective and for the public to have full and proper confidence in it, the public cannot be allowed to believe that there might be things going on that we do not know about.

There might be adverse findings about people in power that we never hear about. That does not do the organisation any justice. It does not allow it to operate on the elevated platform that it should operate on, which is one where it is absolutely above reproach and where everybody can be confident that if a member of the executive or its staff were found to have misbehaved, we would find out. That is why IBACs are popular in the eyes of the public. It is what gives them their credibility. It is why they add value to the public discourse, because people know that if an adverse finding is made, it is made public. That does not necessarily appear to be the case in regard to this creation of the government.

It is also important to note that the IBAC is prevented from including any finding of corrupt conduct of a judicial officer or any other adverse finding relating to a judicial officer arising from an investigation in a special report or in an annual report. Again, that is at odds with the government's election policy, which said very clearly that all parts of the public sector would be subject to the same rules and investigatory powers. It could not be clearer: everyone was going to be treated the same, and that is not what is being delivered by this bill.

It is also worth noting that there is no express enabling power for the IBAC to refer matters to another body such as the Director of Public Prosecutions. I understand that at the departmental briefing it was said that there is nothing preventing that from occurring. That is all well and good, but I would have thought that there ought to be an express power enabling the IBAC to refer matters to the DPP.

I go back to the point that in practical terms, when you look at the sum total of all the elements I have described, it looks as though we would not have the same level of transparency or scrutiny if there were a matter such as the issues examined in *Crossing the Line*, unlike 2011, when all those matters found their way into an Office of Police Integrity report which found its way into the Parliament and which had a full public airing. Those types of matters would not necessarily be made public; they would not necessarily even be tabled. In fact we might never know that an investigation of that nature was occurring. There might be a private investigation, a private finding and a private report to the minister which is never made

public. How is that a step forward in openness, transparency and accountability?

It is right to say that the IBAC Commissioner retains a general power to report to the Parliament if they are unsatisfied with the way a relevant principal officer has acted in response to a report, but special reports that might be issued by the IBAC to the Parliament on its duties and functions cannot include findings or opinions that a person has committed an offence or a disciplinary offence and cannot contain a recommendation for criminal prosecution or disciplinary action. Again, no such restrictions apply today.

All in all, the government will no doubt crow about the fact that it is implementing an IBAC and it will no doubt crow that it is doing something that has not been done before, but the implementation of a bill like this is about more than simply creating a body that has the same initials as the initials of the body in your election promise. The implementation of a bill such as this, if you are really going to crow about it, should line up with what you committed to do.

What the government committed to do was to create an IBAC by last year that had serious powers to investigate not just crimes that are already crimes but also misconduct by public officials. What it promised in 2010 was an IBAC that would deliver greater openness, transparency and accountability — not an IBAC with all these provisions for secret reporting and private reporting, which creates the very real possibility that there will be things that the IBAC does and findings that the IBAC makes that we will never know about. Beyond that, what the government promised in 2010 was an IBAC that would have the same kinds of powers as the New South Wales Independent Commission Against Corruption, and it has not done that either.

Finally, what the government should have implemented was a piece of legislation in which all of us — the Victorian community along with members of Parliament, who are expected to analyse and make decisions about this legislation — could look at the whole picture when we were making that decision. It should have implemented a single piece of legislation that set out how the IBAC would run, what its powers would be, how it would investigate things, who would be subject to it and all of its definitions. Instead we have a salami-slice approach to legislation whereby we were asked to support an element of the IBAC framework in 2011 without knowing about today's bits and we are being asked to vote on today's bits without knowing about next month's bits.

All in all, I think that is a highly imperfect way to legislate. For a government that was elected on a principal promise — its no. 1 promise — of ensuring greater openness, transparency and accountability, the process for bringing in the bill, the matters contained with it and ultimately the functions of the IBAC all leave a lot to be desired.

Ms PENNICUIK (Southern Metropolitan) — The bill before us today, the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011, is the second tranche of the government's IBAC legislation. It is important to note that the bill rewrites and significantly expands the bare-boned principal act passed by this Parliament in December last year. The bill provides IBAC with the powers and functions to handle complaints, conduct investigations, make recommendations and issue reports.

I say it rewrites and significantly expands on the principal act because it is important to note that the act, passed in December last year, has not been implemented at all. No committee has been set up to oversee the IBAC and no commissioner has been appointed. We were told it was very important that the bill be rushed through in December last year to enable those things to happen, and they have not happened. Now this bill before us pretty much wipes the previous act — which has not even been an act for two months and has never been implemented — off the statute book and replaces it.

I make that point because the process by which the government is introducing the IBAC is not adequate. It is less than desirable. It is secretive and piecemeal, which means it is also confusing, not only for us as MPs trying to make sense of how the whole thing fits together — it is a little bit difficult to make sense of how the jigsaw puzzle fits together when you only have half the jigsaw pieces — but also for members of the public and indeed the media, who are also watching. It is also completely unnecessary.

We have tranche 2 in front of us. For all intents and purposes it does away with tranche 1 — —

Mr P. Davis interjected.

Ms PENNICUIK — A lot of the functions and powers that were introduced under tranche 1 are completely different under this bill. We have not seen tranche 3; it has not been introduced to the Parliament, so we do not know what it looks like. The government is asking us, as MPs, to support it through this process. I maintain that the process is not good and that there is

no reason why the government could not have waited until it had everything in place and then put before the people and the Parliament a complete bill that set up the IBAC and made it clear how that new body would interact with the other bodies that will still be in place, such as the Ombudsman, the Auditor-General, the Electoral Commissioner, the special investigations monitor, the Public Interest Monitor, the Victorian Inspectorate, the Local Government Investigations and Compliance Inspectorate and the public service administration. We can only speculate about these things, because no detail has been provided by the government. This is completely inadequate.

This process should have been publicly open and inclusive, and it has not been. I mentioned during the debate on the previous bill — and Mr Pakula mentioned it again today — that it is a great shame that the report that was prepared for the government has not been released. Even if the government has had the report prepared for itself, which it is saying is a cabinet-in-confidence document, my point is that this should not be the case. When we are setting up something that is about improving integrity, transparency and accountability across the public sector it should be done in an accountable and transparent way, and that is just not occurring. It is very disappointing.

I think I said by way of interjection earlier that the model before us has a passing resemblance to the New South Wales model. In fact it is not similar to the New South Wales model in many ways at all. The Victorian IBAC model will simply add to the different types of anticorruption commission models across the country. I have spent quite a lot of time looking at the Queensland model, the Western Australian model, the New South Wales model — I have looked at the New South Wales model in detail, because we have been told the Victorian model is based on it — and the Victorian model. We have four different models across Australia. This model only bears some resemblance to the New South Wales model.

If you look at the models in totality in terms of how different bodies in those states work together and what exists, and in particular if you compare this model to the New South Wales model, the striking differentiation is that this bill repeals the Police Integrity Act 2008, abolishes the Office of Police Integrity (OPI) and incorporates it into the IBAC model, which was not the case in New South Wales. New South Wales has an Independent Commission Against Corruption, a Police Integrity Commission and a crime commission to deal with organised crime. It also has an Ombudsman who has a different role and relationship to ICAC than is outlined in this IBAC bill.

The relationship between the Ombudsman and the ICAC in New South Wales is different from the relationship between the Ombudsman and the IBAC in Victoria. Of course there is an Auditor-General et cetera, but in their basic structure the two systems are very different. I will return to the issue of the Office of Police Integrity, or the Police Integrity Commission as it is called in New South Wales, a bit later.

Clauses 3 and 4 contain significant provisions of the bill and insert and amend various definitions, in particular the definition of 'corrupt conduct'. As Mr Pakula discussed, new section 3A, which is inserted by clause 4, talks about certain activities of a public official that would, if those activities were engaged in, result in an indictable offence or three common-law offences — attempting to pervert the course of justice, in fact perverting the course of justice and bribery.

This is very different from the definition of corrupt conduct found in section 8 of the New South Wales act, the Independent Commission Against Corruption Act 1988. Section 8 of the New South Wales act, headed 'General nature of corrupt conduct', is much broader and more inclusive in its definition of corrupt conduct. Section 8(1) outlines four examples of corrupt conduct. Section 8(2) lists matters from (a) through to (y) that could be regarded as corrupt conduct. It is much broader than the provision in the IBAC bill we have before us.

I should go back to clause 3, which does not give IBAC the ability to investigate MPs for misconduct in public office or breach of an MPs code of conduct. That is covered by one of the amendments I have drawn up and will be moving during the committee stage of the bill. I am happy to have my amendments circulated now.

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

Ms PENNICUIK — The bill at clause 3 is deficient in that it does not go to the corrupt conduct of MPs in terms of breaches of codes of conduct, as is the case in other jurisdictions.

Clause 4 goes to the new definitions of corrupt conduct of a public body or public officer, police personnel conduct, police personnel conduct complaint and police personnel misconduct. I have to say the definitions of police personnel conduct, police personnel conduct complaint and police personnel misconduct are

somewhat repetitious and confusing for a layperson to get their head around. I will certainly be asking about that in the committee stage. In the briefing with the minister's advisers and departmental officials I asked why it was done this way. Obviously it is a legalistic way to do it, but it seems quite a confusing and convoluted way to define those ways of behaving. In particular the definitions of conduct and misconduct seem to be almost the same.

Clause 5 of the bill updates the objects of the act by substituting a new section 4, and clause 6 rewrites the functions of the IBAC. The way the educative and preventive functions are expressed in the Independent Broad-based Anti-corruption Commission Act 2011 as it exists now and the way they are expressed in this bill are substantially different, which is why I think the introduction of the first bill in December last year was just so that the government could say, 'Well, we introduced a bill in 2011 as we promised'. That act has not really led to anything and is now completely subsumed by the bill we have in front of us.

The bill goes on to talk about the ability of the Commissioner to delegate or not delegate functions to the deputy commissioners and officers of IBAC. Clause 9 contains provisions that the bill virtually swings on and prevents the IBAC from investigating anything that is not considered serious corrupt conduct. This is very different from the situation in the other jurisdictions, where that is not a prescribed or definite limitation. Similar bodies in the other jurisdictions, the ICAC in particular, are required to focus on serious misconduct and corruption but are not limited or prevented from investigating conduct that is not considered serious corrupt conduct.

I should say that there is no definition of serious corrupt conduct in this bill, even though the bill limits the IBAC and prevents it from investigating anything that is not serious corrupt conduct. To that effect I have prepared another amendment, which replaces the limitation on the IBAC that it must not investigate something that is not serious corrupt misconduct with wording taken from the New South Wales ICAC legislation that does not put a distinct limitation on the ability of the IBAC to investigate a matter but steers the IBAC towards investigating serious corrupt conduct without limiting it.

I would also make the comment that, given that the purposes of the bill are to identify, expose and investigate serious corrupt conduct, it is almost a bit of a chicken-and-egg argument as to how the IBAC and its officers are to ascertain whether something is serious if they have not investigated it. It may be impossible to know if something is serious unless some investigation of the matter is undertaken. Then, as the bill provides, the IBAC could discontinue an investigation if it found that the matter was not serious enough for it to give its attention to. But in the first place it has to make an assessment that something is serious misconduct, and I am not quite sure how that assessment is going to be made .

Other parts of the bill talk about investigative powers, appointment of authorised officers, identity cards and entry, search and seizure powers. Certainly the IBAC will have the power to search 'police personnel premises' — which I think are more commonly known as police stations — with a warrant issued by the Commissioner, and those searches will be able to be conducted by a police officer or any IBAC officer. However, search warrants for the vehicles or homes of police personnel would require a search warrant to be issued by the Supreme Court. The Greens support that, because that is some sort of a curb on the powers of the IBAC in relation to ordinary citizens in their private lives.

I have a query about how that might happen if an emergency situation were to arise and there was no sitting of the Supreme Court and no judge available. That gap has not been addressed in this bill. However, as a general provision the Greens are supportive of the Supreme Court being involved and issuing search warrants in that particular way.

New part 5 of the bill provides that IBAC officers can be issued with defensive equipment and firearms. I have investigated the New South Wales act, and New South Wales ICAC officers are not issued with defensive equipment or weapons. I presume — and Mr Pakula talked about this — that this is because the Office of Police Integrity function does not exist in the ICAC in New South Wales as that state has a separate Police Integrity Commission. I presume that because the Victorian OPI will be abolished and the Police Integrity Act 2008 will be repealed those weapons functions that currently exist in the OPI are being transferred to the IBAC.

Mr P. Davis interjected.

Ms PENNICUIK — I am very happy to clarify it, Mr Davis. I will also clarify it by saying that during the debate on the Police Integrity Act 2008 I opposed the issue of this defensive equipment, particularly firearms and higher end weapons, being provided to Office of Police Integrity — —

Mr P. Davis interjected.

Ms PENNICUIK — I made the point at the time, and it was clarified, that any sort of operational activities that needed to be carried out by the Office of Police Integrity would be carried out by police officers, so there was no need for Office of Police Integrity officers to be armed. I thought it was a bad idea to have a situation involving Office of Police Integrity officers and police or other armed persons and some sort of altercation occurring between the two of them. I am very concerned that this is happening and that those firearms and defensive equipment provisions are being transferred into the IBAC legislation, particularly because we have no idea what the IBAC will look like in terms of an organisational chart.

I am presuming — and it is only speculation on my part — that there would be a separate part of the IBAC that deals with police personnel conduct, police personnel misconduct and police personnel complaints. There is a very big difference between police corruption and police misconduct when the police are armed. Under the Police Regulation Act 1958, police have different powers very different from those of ordinary public servants.

An honourable member interjected.

Ms PENNICUIK — I do not know; I presume there has to be a different function.

Before I go on I must thank the staff of the parliamentary library for the brief they prepared on this bill and for an extra piece of research they provided me on police oversight and the difference between having police misconduct or corruption issues within or without an independent broadbased anticorruption commission.

It is interesting to note that the original New South Wales Independent Commission Against Corruption Act 1988 police were included and that a recommendation of the Wood royal commission was that that should cease. In 1996 the New South Wales Police Integrity Commission Act 1996 was passed, and the Police Integrity Commission came into being. One of the Wood royal commission's recommendations was the establishment of a permanent commission to investigate serious police misconduct, and that was because of the failure of the Independent Commission Against Corruption to get on top of the serious amount of police corruption that was occurring in New South Wales. The ICAC had not done that. That is why the two were separated and the Police Integrity Commission continues. The Police Integrity Commission and ICAC have certain notification agreements where there are suspicions of certain kinds of misconduct.

I make the point again that police powers and corruption risks are substantially different from the issues in other public sector agencies, and it is appropriate that that distinction be recognised. I am very interested to know how that will be recognised under the model we have before us, which abolishes the Office of Police Integrity and subsumes its powers and functions into the IBAC.

Given the limitation of investigations to 'serious corrupt conduct', I am also concerned about the functions the OPI currently has and the types of investigations that the OPI has undertaken in the past that will not be undertaken under the IBAC legislation due to the limits on its investigative powers that are being set up under this bill. I share the concern that an issue such as the OPI investigation of Tristan Weston may not fall into one of the categories enabled by the limiting definitions in the bill before us.

I wonder how police personnel misconduct that is considered serious will be investigated and who will investigate it. It seems to me that the only means left to investigate those matters will be the ethical standards division of Victoria Police and internal police investigations. The reason we needed an Office of Police Integrity in the first place was because of the internal structures and functions of the police. Police investigating police is a problem. From what I can make out — although what is before me is of course not clear — we will have more of police investigating police.

This brings me to the issue we have before us now, and that is the glaring gap which occurs when police investigate deaths which have occurred as a result of police contact. The director, police integrity, suggested that we use that term when we refer to people who have died as a result of contact with police. In his report last year he recommended that the government get on with looking at an independent body to deal with deaths that are the result of police contact. This is a big gap. There is nothing before us and no announcement from the government that it is intending to go down that path. I want to keep raising this issue because it is of great concern to me.

Members may have seen on *Four Corners* last week a documentary about the police shooting of Mr Adam Salter in New South Wales. The show documented what was, to say the least, a disturbing internal

investigation. Police were obviously not telling the truth about what had happened, and their version of events was at great odds with that of the paramedics who attended that incident. In fact it completely contradicted the evidence of the paramedics. The coroner in that case was pretty scathing of the police investigation.

I also refer to a matter I brought up in support of my motion in the previous Parliament that the government establish an independent body to investigate deaths as a result of police contact, as happens in other jurisdictions — that is, the police shooting of Tyler Cassidy in December 2008. The coroner's report of the inquest is available on the coroner's website. Anyone who is interested in that very tragic issue and what we as a community can learn from it should read that report. The coroner made recommendations regarding the inadequacy of police training which led to the tragic death of Tyler, who was aged only 15. He lost his life at a time when he should have been protected by the police, because he was clearly an adolescent boy in need of assistance. In fact his mother had called the police to help him. That is all there for the public to see.

Of concern to me about the rest of the inquest findings is what happened immediately after that incident when Tyler lost his life, and I refer to the behaviour of police. The inquest report says there are conflicting pieces of evidence about whether the police were separated from each other after the incident, and there is also the fact that the police were taken to their own police station by police members they knew.

There was evidence presented at the inquest that the evidence of the four police who were involved in that shooting was not recorded. Their evidence was just taken down as a statement; there was no video or audio recording of their evidence, because they refused to have it recorded.

I do not believe they should have been in a position to do that, especially since a little later on Tyler Cassidy's family were covertly recorded by the police when the police visited them at their home, which is outrageous. There was also no immediate walk-through of the incident by the investigating police to establish whether distances, things that happened et cetera were recalled properly by the police. There were no bullets recovered from the site, which is unbelievable given that at least six were discharged. No proper search was done and there was no proper investigation as to what happened to Tyler in the lead-up to the incident.

There was a litany of failures by Victoria Police in this particular investigation, and it has concerned and worried me for a long time, particularly after reading the coroner's report of the inquest, to think that nothing will happen with regard to that. I do not know if the chief commissioner is going to take that matter further in terms of disciplinary action against the police who were undertaking the investigation or what changes will be made. One of the leading investigative officers admitted he was completely unaware of the various protocols that were in place, and he is a senior member of the police. It is all extremely concerning. It just seems that nothing will be done about it and that if the same thing were to happen again, the same incompetent police investigation would ensue. It was a compromised police investigation, in my view, and I defy anybody to read that report and not come to the same conclusion.

As I have said to the government before, it is making a song and dance about setting up IBAC. We do not really know what it looks like; it has a lot of gaps and problems. However, the government is not looking at setting up an independent body to investigate deaths as a result of police contact. That is something it should be doing at the same time as it is reordering the integrity bodies in this state.

I will return to the differences between this bill and the New South Wales ICAC act, which has the public interest as a guiding principle. Section 12, headed 'Public interest to be paramount', states:

> In exercising its functions, the Commission shall regard the protection of the public interest and the prevention of breaches of public trust as its paramount concerns.

Nothing like that exists in the IBAC bill, even though the government has purported to have followed the New South Wales model. It has not followed that model. In particular that overarching public interest is not referred to in this bill. I have prepared an amendment to make such a reference in this bill so that the IBAC act would have the protection of the public interest as its paramount concern. That would be important to setting the focus of the IBAC.

The opposition talked about reports to Parliament and the so-called private reports. It is interesting to note that there is such a power, or a way of reporting, under the New South Wales act. The ICAC can refer a matter to another authority to direct how or when it deals with a matter on which it is required to report back to ICAC. If ICAC is dissatisfied with the response, it can give the authority a second try and then write to the minister. If still dissatisfied, ICAC can table a report in Parliament.

I believe this is an important issue, because on the one hand you would want to protect the privacy of persons

and give departments or whoever else the chance to act on recommendations — and that is what I understand the private reports to be — and on the other hand you would want the activities, findings, reports and recommendations of the IBAC to be open and transparent. So there is a conflict of interests there that needs to be handled very carefully, but it is not correct to suggest that that is not seen in any other jurisdictions. It is pretty similar to a provision in the New South Wales ICAC act.

I turn now to the Ombudsman. It is not entirely clear what the role of the Ombudsman will be. We know that the Ombudsman will be covered by IBAC, but IBAC will not be covered by the Ombudsman. That is not the case in New South Wales. The Ombudsman of the New South Wales government does have some jurisdiction over the administrative functions of the ICAC. That is another difference between the New South Wales and Victorian models. I am not sure why the Victorian government has chosen to leave that out of the Ombudsman's role, when it is part of the role of the New South Wales Ombudsman.

I would have preferred to have seen the government retain the Office of Police Integrity, at least in the first instance. That would mirror the situation of New South Wales, and as the Wood royal commission pointed out, the ICAC there was incapable of dealing with police misconduct. There does not seem to be any move to change that in New South Wales, and the two organisations work cooperatively together. As I mentioned, because of the special position that the police have — the special powers that they have, the fact that they are armed and what they come into contact with in their daily work — their situation is somewhat different from the rest of the public sector.

It would have been better for the government to have allowed the Office of Police Integrity to continue, even though it would have had to have amended the Police Integrity Act 2008 to enable the OPI to investigate both sworn and unsworn officers, which is not the case at the moment. In New South Wales there is the ability for the Police Integrity Commission to include in its investigations other people if they are involved in the misconduct or corruption of police officers and vice versa. That would have been a better way to go, because what is happening in Victoria is a very big move. It is very unclear how it will operate. We do not have any understanding of how IBAC will look as an organisation. I am presuming that there would have to be a separate body.

I understand that there is disagreement and that many people think that it is best to have a one-stop shop, but certainly that is not the case in New South Wales. The Wood royal commission in its interim report stated that police functions should be separated from the ICAC and that the 'creation of a separate division of the ICAC is not the answer, and that a new purpose-built agency is needed'.

We do not really understand how IBAC is going to relate to the other oversight bodies and independent officers of Parliament et cetera, because that has not been outlined in any sort of comprehensive vision put forward by the government. It would have been helpful to have had that now so that we would know what we are dealing with in totality.

As Mr Pakula mentioned, we have heard rumour that the oversight of local councillors will be incorporated into the role of the Ombudsman. That may or may not be a good thing. Certainly the local government inspectorate is secretive. It is part of the executive, and it should not be. So it would be good to have that separated out of the control of the executive and placed under an independent body, be that the IBAC or the Ombudsman.

However, I am a bit confused as to how that would work, because the IBAC bill says that the commission will cover councils. The bill uses the word 'councils'; it does not use the words 'municipal councils'. I presume it is not referring to school councils, for example. What we have heard recently is that it will be the Ombudsman who takes over that role. That seems to clash with what this IBAC is going to cover, including local councillors and the staff of local councils. That is something that also needs to be clarified.

As I have mentioned, I have amendments and the amendments would ensure that MPs would be guilty of misconduct if they were in breach of an applicable code of conduct. I will also be attempting to change the definition of police personnel conduct and misconduct et cetera by adding the phrase that that conduct would be misconduct if, amongst other things, it 'does not meet the standard of conduct the community reasonably expects of a member of police personnel', which is taken from the Queensland definitions. That will broaden that out, because the current definitions of those types of conduct and misconduct are not strong enough.

The other amendment I have referred to aims not to limit the IBAC, not to say that it cannot or must not investigate a matter that is not serious corrupt conduct,

but rather to establish that the attention and focus of the IBAC should be on that serious conduct, without limiting it with the use of the word 'must'. That amendment would also insert the public interest as paramount.

At the end of the second-reading debate I will also be moving to refer the IBAC bill to the Legal and Social Issues Legislation Committee, because far from us being in a clearer position than we were in December last year when we passed the bill that has not been implemented and has largely been subsumed by this one, we are actually in a murkier position. We really do not know what this whole framework is going to look like. There are questions regarding definitions, regarding powers and functions, regarding legal privilege and regarding the abolition of the Office of Police Integrity and the transfer of all those powers and functions to the IBAC and what gaps that will leave and how they will be dealt with.

There are a lot more questions posed by this bill than answers provided, and it is very unfortunate that we are in a situation where we have not even sighted the third tranche of the legislation. We are expected to support this particular bill without knowing where it is leading to. I am presuming, as has happened in the case of the one preceding it, that the next bill will rewrite parts of this bill — that we will have a third bill that rewrites parts of the second bill. The second bill basically rewrote all of the first bill except the setting up of the committee and the appointment of a commissioner, neither of which have happened. We have not progressed very far at all.

I understand it is very complicated, and as I mentioned in the debate in December last year, I am not necessarily that fussed that it is taking longer than expected, because I think we need as a state to get this right, but I am still not convinced we have got it right. I will be looking forward to the committee stage, when I will perhaps get some answers to those outstanding questions and when I will move my amendments, which I think would improve the bill along the lines of what is best in the other states, in particular New South Wales.

Mr O'BRIEN (Western Victoria) — It is with great pleasure that I rise to make this contribution in support of the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011, and I note that the opposition is not opposing the bill.

This is the second instalment of the government's promised IBAC reforms, and whatever the opposition wishes to say about this independent, broadbased anticorruption commission, or IBAC, it is a far sight superior to the absence of any policy and the stubborn refusal and failure of the now opposition and previous government over the last 11 years of its failed administration to implement a broadbased anticorruption commission. The only thing that would be perhaps broadbased about the 11 years of the Labor government in Victoria was its economic mismanagement, its inability to deliver major projects on time and on budget and its pursuit of projects such as the desalination plant, myki and the north–south pipeline based on flimsy assumptions or no assumptions at all.

Mr Pakula in his contribution has referred to the government's very important accountability and transparency initiatives. The government did introduce an FOI commissioner last week. That is something Labor did not do. In relation to government advertising I need to look no further than a recent report by the Auditor-General, Des Pearson, which found that state departments and agencies spent $1 billion to fund a government advertising blitz during Labor's last four years in office.

That is something we have significantly reduced, and it is an absolute point of difference between us and the former government, which consistently put spin over substance. It failed to deliver on matters of substance. With this particular bill, this very important reform, the government is delivering a matter of substance, a matter of far-reaching consequence to the integrity systems in Victoria.

IBAC will sit at the peak of the integrity system in Victoria. In relation to the legislation already passed I remind the house that the previous act, the Independent Broad-based Anti-corruption Commission Act 2011, which was passed in late 2011, provided the legislative framework for the establishment of IBAC, including the establishment of the parliamentary accountability and oversight committee. That was delivered within one year of the coalition government being elected to office.

That act also gave IBAC its important educative and preventive functions. It was accompanied by other important integrity legislation, namely the Victorian Inspectorate Act 2011, which passed under a cognate debate, as well as the Public Interest Monitor Bill 2011. In relation to the office of the inspectorate there is a very important detailed relationship that has been

carefully considered and thought through by the minister. It is absolute hogwash to suggest that that important legislation will sit idle, as was implicit in the last contribution.

Last week we also saw the passage, as I have said, of the Freedom of Information Amendment (Freedom of Information Commissioner) Bill 2011. There will be further legislation in relation to referral powers and examination powers, together with technical and consequential amendments. Amendments will also be made to the Victorian Inspectorate Act 2011.

Turning to this bill, it will provide IBAC with investigative powers to enable it to carry out its investigative functions. The bill will amend the 2011 act to provide IBAC with functions and powers to identify, expose and investigate corrupt conduct as it relates to the public sector and to oversee police conduct both for members of the police force, otherwise known as sworn police officers, and other police personnel, including public servants employed by Victoria Police, or unsworn police officers. It is important to note that all public servants, employees and office-holders of all government departments, agencies and authorities will be subject to the IBAC jurisdiction.

There has been reference in the debate to the breadth of the IBAC's jurisdiction and a suggestion that the IBAC will be independent but it is hardly going to be broadbased. Nothing could be further from the truth. We need look no further than clause 4 of the bill, which lists the public officers whose actions will be subject to the Independent Broad-based Anti-corruption Commission. I will take a moment to refer to them in my contribution to this debate. Firstly, proposed section 3C states:

> (1) For the purposes of this Act —
>
> public body means, subject to this section —
>
> (a) a public sector body within the meaning of section 4(1) of the Public Administration Act 2004;
>
> (b) a body, whether corporate or unincorporated, established by or under an Act for a public purpose, including a university;
>
> (c) The Electoral Boundaries Commission constituted under the Electoral Boundaries Commission Act 1982;
>
> (d) a Council;
>
> (e) a body that is performing a public function on behalf of the State or a public body or public officer (whether under contract or otherwise);
>
> (f) any other body or entity for the purposes of this definition.

Then there is the definition of public officer, and there are some 27 paragraphs set out, ending with paragraph (za). I will quickly go through them because it is important to show the breadth of the Independent Broad-based Anti-corruption Commission's jurisdiction. Public officer means:

> (a) a person employed in any capacity or holding any office in the public sector within the meaning of section 4(1) of the Public Administration Act 2004;
>
> (b) a person to whom a provision of the Public Administration Act 2004 applies as a result of the application of Part 7 of that Act;
>
> (c) an ongoing employee or temporary employee in the teaching service under the Education and Training Reform Act 2006;
>
> (d) a judicial employee employed under Division 3 of Part 6 of the Public Administration Act 2004;
>
> (e) a Ministerial officer employed under Division 1 of Part 6 of the Public Administration Act 2004;
>
> (f) an electorate officer within the meaning of the Parliamentary Administration Act 2005;
>
> (g) a Parliamentary adviser employed under Division 2 of Part 6 of the Public Administration Act 2004;
>
> (h) a Parliamentary officer within the meaning of the Parliamentary Administration Act 2005;

that is, in a sense, a large body of the public sector. Paragraph (i) defines a member of police personnel, which is obviously considered as well. Then we have elected officials under (j) to (m):

> (j) a responsible Minister of the Crown;
>
> (k) a member of the Legislative Assembly or the Legislative Council;
>
> (l) a Councillor within the meaning of section 3(1) of the Local Government Act 1989;
>
> (m) a member of Council staff employed under the Local Government Act 1989;

then it turns to the judiciary:

> (n) a judge, a magistrate, a coroner or a member of VCAT;
>
> (o) an associate judge or a judicial registrar;

then it refers to the prosecutorial service:

> (p) a Crown Prosecutor;
>
> (q) the Chief Crown Prosecutor;

(r) the Director of Public Prosecutions;

it then turns to the vice-regal section:

(s) the Governor, the Lieutenant-Governor or the Administrator of the State;

it includes some of the other integrity, accountability and oversight bodies:

(t) the Auditor-General;

(u) the Ombudsman;

(v) the Electoral Commissioner;

(w) the holder of any other statutory office or any other prerogative office;

(x) any other person in the service of the Crown or a public body;

(y) a person that is performing a public function on behalf of the State or a public officer or public body (whether under contract or otherwise);

(z) a person who holds, or a person who is a member of a class of persons who hold, an office prescribed to be a public office for the purposes of this definition;

(za) an employee of, or any person otherwise engaged by, or acting on behalf of, or acting as a deputy or delegate of, a public body or a public officer;

public sector means the sector comprising all public bodies and public officers.

It is important to remember that this is an extremely broadbased jurisdiction. It will apply to all of us in the public service. The Independent Broad-based Anti-corruption Commission will appropriately oversight the exercise of public service. Some exceptions have been referred to in the second-reading speech relating to IBAC itself, as well as the special investigations monitor and the Victorian inspectorate. The reasons for those exceptions are set out in the second-reading speech.

In relation to the situation with judges, some suggestion has been made that in fact the breadth of the jurisdiction should not extend to the judiciary because of the need for the separation of powers. The government has considered this very carefully but has nevertheless included the judiciary in the jurisdiction of the commission. However, it has provided a slightly different treatment in certain respects, recognising the need to preserve the independence of the judiciary under the constitution. The provisions relating to judges are designed to ensure that the separation of powers remains paramount.

I refer by way of example to section 42, which notes under subsection (1):

An investigation by the IBAC in accordance with its corrupt conduct investigative functions into the conduct of a judicial officer must be conducted by a sworn IBAC Officer who is —

(a) a former judge or former magistrate —

(i) of a court of a higher level than the person whose conduct is being investigated; or

(ii) of the same level but not of the same court as the person whose conduct is being investigated; and

(b) not an Australian legal practitioner.

Importantly, under subsection (2) it also says that in relation to investigative functions judicial officers:

(a) must have proper regard for the preservation of the independence of judicial officers; and

(b) must notify, and may consult, the relevant head of jurisdiction unless doing so would prejudice an IBAC investigation.

The establishment of IBAC has been carefully considered. It is a broadbased commission and its jurisdiction will cover all sectors of the public service. In relation to its jurisdiction, the key provision which has been the subject of some criticism in the contributions from the opposition and the subject of some commentary, the definitions in the bill effectively clarify IBAC's functions. They enable IBAC to effectively receive complaints about corrupt conduct and police personnel conduct.

In broad terms, the jurisdiction of IBAC will be under two heads: there will be one jurisdiction in relation to corrupt conduct as it relates to the public sector, including police, and a separate head of jurisdiction providing for oversight of police personnel conduct generally. Essentially, that is the same as the present jurisdiction of the Office of Police Integrity. By way of response to Mr Pakula's suggestion that the circumstances outlined in relation to last year's OPI report could not be investigated by IBAC, that was inaccurate and in that respect could lead the house to a misleading impression of the jurisdiction of IBAC. These OPI powers in relation to investigations of the conduct of sworn police officers will essentially be picked up by IBAC, so if the circumstances that were the subject of that report arose again, they are capable of being investigated by IBAC. In that respect the opposition has inadvertently or otherwise misled the house, and that record should be corrected.

Another matter that ought to be corrected is Mr Pakula's statement that the issue of a private investigation cannot be the subject of public reporting. By way of response, I refer Mr Pakula to new clause 83(3) of new part 6, inserted by clause 9, which in relation to recommendations and reports says:

> (3) Subject to subsection (4), subsection (2) does not limit the power of the IBAC to make public a recommendation under section 86 or 89 if the IBAC considers there has been a failure to take appropriate action in relation to the recommendation.

In relation to the questions about clause 83, opposition members simply do not understand the parliamentary process as set out in the constitution. The provisions that will allow the Commissioner to provide a recommendation directly to the relevant senior person is a standard clause that exists for oversight and integrity bodies. That clause provides discretion for the IBAC Commissioner to make recommendations in relation to a matter arising out of an investigation to a principle government officer, a minister or the Premier. The Commissioner, should they so choose, can also make any recommendations or findings public and place them in a report to the Parliament, as I have outlined. The provision provides discretion in the event that the Commissioner determines during the course of an investigation that they have identified a minor disciplinary breach but not a serious act of corruption, that it can be best handled through an internal disciplinary process and that the full force of public reporting by IBAC is neither warranted nor appropriate.

Due to the serious nature of IBAC corruption investigations, integrity bodies that have these provisions are designed in such a way that public servants who may have committed a minor disciplinary breach do not have their careers or even their lives and reputations ruined. There are equivalent provisions in the legislation introduced by the previous Labor government governing the Ombudsman and the OPI. A similar provision also exists for the Independent Commission Against Corrupt (ICAC) in New South Wales, the Crime and Misconduct Commission in Queensland, the Corruption and Crime Commission in Western Australia and the Integrity Commissioner in Tasmania. Similar provisions also exist in other integrity bodies internationally, such as those in New Zealand and Canada.

What we have, again, is the opposition spinning away any issue that it thinks can get a headline when in reality it is the same provision that exists in all those other jurisdictions. It is an appropriate matter of discretion for the Commissioner to be able to make a private report as well as fulfilling public reporting functions.

In relation to the other matter of substance, the definition of 'corrupt conduct', the bill provides this definition in clause 4, which inserts new section 3A, headed 'Corrupt conduct'. I will not read it out; however, it is referred to in new section 3A. This definition of corrupt conduct is modelled on definitions used elsewhere. The government has sought to focus the IBAC on serious corrupt conduct. Serious corruption offences are usually the most sophisticated and difficult to detect and require the specialist skills and resources of this type of body. Lower level matters can still be investigated by other integrity bodies such as the Ombudsman.

Some speakers, including Mr Pakula and Ms Pennicuik, have raised the suggestion that IBAC should specifically be able to investigate misconduct in public office. The government has repeatedly said that IBAC is intended for the investigation of serious corruption, not for the purposes of investigating every minor breach or offence. In Victoria misconduct in public office is an old common-law offence involving lesser order matters. It is an amorphous, ill-defined concept that has been criticised, including by former director of the OPI Michael Strong. The correct body to investigate these matters is the Victorian Ombudsman or Victoria Police rather than IBAC.

In response to Ms Pennicuik's suggestion that in Victoria and other jurisdictions throughout Australia the experience of the integrity bodies has been that inappropriate access and poor outcomes occur when extraordinary and coercive powers designed for serious corruption are used to investigate minor and lesser order offences, I would like to read briefly from the 2007–08 annual report of the New South Wales Office of the Inspector of the Independent Commission Against Corruption, in which Graham Kelly is quoted as having said:

> I appreciate that the McClintock review looked at this issue and ultimately made no recommendation for change. Nevertheless, in my view, the facts speak for themselves: the current definition generates far too many trivial complaints which exhaust resources that could be better employed in the pursuit of more serious issues.

IBAC is not the place for the investigation of the sort of complaint that would otherwise be called office gossip or salacious politicking; it is for the sort of serious corruption of integrity that has led to the royal commissions in other jurisdictions that founded ICAC and other integrity bodies. Another reference was made

to this on pages 21 and 22 of the 2006–07 report in relation to the test of systemic and serious conduct. I will read a relevant part from page 22, which is an excerpt from a letter from the commissioner of ICAC to Mr Kelly:

> The effect of these provisions is that ICAC may investigate any matter that may involve corrupt conduct, although in most cases it would do so only where the conduct was either serious or systemic. In some cases, even serious corrupt conduct may not warrant investigation by the ICAC, either because it does not raise systemic issues or because it could be adequately dealt with by another agency. Similarly, systemic corrupt conduct that relates to relatively minor wrongdoing may not warrant the use of the ICAC's investigative resources.

The government has been careful to consider the appropriate level of oversight by the extensive definitions I took the time to read in. It is clear that this is a broadbased, independent anticorruption commission. Yes, IBAC will have the powers that are set out in the Firearms Act 1996 and warrants, which include, as has been said with mirth by the lead speaker for the opposition in the other place, the member for Altona, Ms Hennessy, the power to utilise a bazooka appropriately. Here again Labor is trying to have it both ways. On the one hand, it wants to say IBAC is a toothless tiger and a failure to implement a promise; on the other hand, it says it has too much power — it can use bazookas.

What the government has done is taken a careful, balanced approach to this very serious issue, and it has delivered on its promise both with the passage last year of the other integrity reforms I referred to and particularly with the passage of this very important bill. The government is focused on taking the necessary time to ensure that this is done properly, and that is what it has done. We did not want to find ourselves in a situation like Labor did with its previous defective legislation, to which multiple amendments were needed as a result of haste. We have done a lot more than Labor did in its 11 years of waste.

Before concluding I will answer one other point raised by Ms Pennicuik. The Supreme Court is in effect always open for justice, if that is necessary, in that there is a practice court and duty officers who are capable of assisting anyone needing to access their services. That is an important part of what that jurisdiction is.

The coalition was elected on a platform of openness and transparency. We are getting on with the job of turning the tide on the 11 long years of subterfuge and secrecy that pervaded while Labor was in government. Its spin has cost us a lot of money, and we are now sorting out that mess and will continue to do so. This government is rolling out a suite of comprehensive integrity measures — IBAC, the independent freedom of information commissioner, the Public Interest Monitor, the fundraising code of conduct and more. This government has nothing to hide.

I commend the bill to the house. I commend the minister, his department and its staff on bringing such an important landmark reform to Victoria's integrity system to this Parliament.

Ms MIKAKOS (Northern Metropolitan) — I rise to join the debate on the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011, a bill that, as the lead speaker for the opposition, Mr Pakula, has already indicated, the Labor opposition is not opposing. However, I wish to put on the record some concerns I have, particularly regarding unanswered questions. I do not propose to go into these in any great detail because we will be able to pursue these issues during the committee stage later on.

The coalition had promised Victorians an independent, broadbased anticorruption commission that would be up and running on 1 July last year. We are approaching 1 July 2012 and it is doubtful whether this body will be up and running by then. It was the coalition's flagship election promise; it trumpeted it quite a bit during the election campaign and made a great deal of it, yet this government, like in so many other areas of government administration, has been slow to get off the starting blocks.

We saw the government prompted into action last year, largely as a way to divert attention from the devastating Ombudsman's report *Crossing the Line*, which was tabled in Parliament in October. Who could forget that report which highlighted this government's secret culture of interference, inappropriate behaviour and gross misconduct in office? It made known to the Victorian public that the Baillieu government was prepared to do just about anything to get its way and to undermine the independent institutions we hold so dear, including the Chief Commissioner of Police. In recent times we have also seen a great deal of community concern expressed around the planning decisions made in this state, particularly the dodgy decisions which related to the rezoning of land on Phillip Island, as well as other issues to do with the planning portfolio.

One has to wonder how in such a short period of time this government has managed to acquire such a foul stench about it — a foul stench that is casting a very

dim light on this government at the moment. That is why the Premier's standing is falling and why the Victorian people are starting to ask questions about the performance — or lack of performance — of this government. This particular policy that was, as I said, the government's flagship election promise was effectively gutted in the course of this bill coming before the Parliament.

We have ended up with an Independent Broad-based Anti-corruption Commission (IBAC) that bears very little resemblance to what was promised by the coalition. We have seen a body that would be most unlikely even to be able investigate the matters that were investigated by the Ombudsman in *Crossing the Line*. I think the Victorian people would be very disappointed to learn the reality of what is in this bill, and some of this has already started to come to light over the last few days in the quite extensive reporting done by the *Age* newspaper.

People will begin to wonder whether this government is delivering a model to best deal with corrupt conduct or whether it is delivering a model to best prevent scrutiny of its own grimy political behaviour. We do not need to answer that rhetorical question because it is pretty apparent what is going on here. We have a coalition government which, in its policies and rhetoric during the election campaign, made a great deal of being committed to openness, transparency and accountability, but we have seen very little of that to date. We have seen a ministerial code of conduct that it promised would be drafted independently of the government, but this has not occurred. We have a code of conduct which is a wet lettuce in terms of impact as breaches of it will not be able to be investigated by the IBAC. You really have to wonder what impact it will have.

We have seen a government that has failed to deliver on its election promises in relation to FOI. We have a body, in the FOI commissioner, that has very limited powers. We talked about this quite extensively in the last sitting week, so I do not propose to go over that ground again.

We have a government that fails to answer questions. I will continue to get up and put questions to Minister Lovell during question time, but it would be nice for her to respond to some of them for a change. We have a government which when in opposition supported additional scrutiny of this house through the establishment of upper house committees, yet the upper house legislation committees are not doing anything. The committee of which I am a member is yet to scrutinise a piece of legislation — so much for openness and accountability.

In relation to the IBAC itself, this is now the second bill that has come before this house to establish this body. There is still more that needs to be done in relation to this because this bill does not deal with all the powers that this body would actually need to operate, and I imagine we will be seeing another lot of legislation come before the house shortly. I make that point only because I remember all too well that when Labor was in government and introduced a range of reforms in relation to the OPI (Office of Police Integrity) and the investigation of corrupt police conduct, the then opposition members would harangue and berate us as government members for introducing changes — as they said — incrementally; they made a big thing of this. And yet we have the government's flagship legislation coming before the Parliament in dribs and drabs and the Parliament not being able to consider this legislation in its totality and make a proper assessment of how the legislation will operate in practice.

The bill is actually a far cry from what the coalition promised when it was in opposition, and some of this has been picked up in media reporting in the last few days. On 12 March the *Age* reported that the Baillieu government had chosen to suppress a key report on the government's secret consultation process which considered various options for how the IBAC would operate. It has been very difficult to find out the details of this consultation process, because it was conducted in secret. There was very little opportunity for ordinary Victorians to participate.

A report produced for the government following this consultation is now being suppressed on the basis of cabinet confidentiality. It is very convenient for the government to hide the fact that this bill falls short of what was promised. This secrecy has led some of this country's top anticorruption individuals and accountability experts to express their concerns through the media, because that is their only way to address their concerns. I think members of the public have every right to see for themselves the views of these various stakeholders and their concerns about the bill currently before the house.

In particular it was interesting to read the serious concerns expressed by Douglas Meagher, QC, who is a very experienced anticorruption advocate, in a *Saturday Age* article of 10 March. He is quoted as saying:

> The government would be well advised to save its money and abandon the project.

It is a pretty damning indictment, if ever I have heard one, of this legislation or of any legislation, by someone who was a key adviser to the government around this legislation — that is, that they would basically conclude that it was a useless piece of legislation. That same article went on to quote a number of other experienced experts in the anticorruption field, including Peter Clark, SC, a former member of the National Crime Authority; Mr Joo-Cheong Tham, from the University of Melbourne government accountability area; and leading Melbourne QC Robert Richter, who believed that the bill's extremely narrow definition of corruption would limit its effectiveness as an anticorruption agency.

In the *Age* yesterday we heard from other experts in the field who expressed concern at the inability of the government to fill the position of the head of IBAC. That article expressed the view that essentially the position was a poisoned chalice and that the impediments put in place in terms of how the body would operate would act as a disincentive for anyone to want to take on that position. It remains to be seen how the government will be able to find someone and to put in place all the powers and resources required to get this body up and running by 1 July this year, as it is purporting it will do.

In relation to the coalition's failure to deliver on its promise, the key point to which people have pointed is its promise that it would set up a body similar in nature to the New South Wales ICAC (Independent Committee Against Corruption). However, there are key differences between them. There are several exclusions in Victoria's IBAC jurisdiction, investigation and reporting processes, and in particular the threshold test of corruption in the Victorian body is significantly higher than that of New South Wales.

The IBAC legislation enables the body to identify, expose, investigate and report on — either following a complaint or through its own motion — serious corrupt conduct and police personnel conduct, examine public sector systems, practices and legislation, and assess police personnel conduct and ethical and professional police standards.

However, the IBAC's jurisdiction does not extend to the common-law offence of misconduct in public office save for police misconduct. In other words, in order for IBAC to be able to investigate a matter of alleged corrupt conduct — that is, conduct other than police personnel conduct — the IBAC must be satisfied, before conducting the investigation, that the alleged conduct would, if the facts were made out beyond reasonable doubt at trial, be an indictable offence or one of three common-law offences, which are: perverting the course of justice, attempting to pervert the course of justice and bribery of a public official.

In contrast to the New South Wales ICAC body, misconduct in public office is not included in this bill. I referred earlier to the OPI report *Crossing the Line* and the fact that that report found that there were issues of misconduct relating to certain individuals. It is pretty clear, given the very limited threshold of this legislation, that that type of behaviour will not be able to be investigated by this IBAC body. I think that would come as a huge surprise to the Victorian people, because they would have anticipated that this body would in fact beef up investigatory powers rather than take them away.

I am particularly concerned about this provision given that there is also some uncertainty about the Ombudsman's continued role as an investigatory body once this legislation is in place. It will be important to explore this issue further when we get to the committee stage. I point out that there are other investigatory bodies, such as the Auditor-General, and it is very important that all of these bodies retain their scope to conduct inquiries; but given that this legislation seeks to subsume investigations in relation to police matters through — —

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

Mr RAMSAY (Western Victoria) — I rise to make a contribution to the debate on the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011. In doing so, I would like to congratulate my parliamentary colleague David O'Brien on his thorough and well-researched contribution. On that basis I was going to cut to the chase and identify some of the key points of the bill, but Ms Mikakos has made me deviate from that line because I wish to respond to some of her comments.

Firstly, I will respond to Ms Mikakos's opening remarks about there being a foul stench pervading this bill. I assume she means the success of the Baillieu government. I remind her of the foul stench which pervaded Victoria for 11 years under a Labor government. We see now that the very reason she is sitting on the opposition benches and not in government is the stench from the total mismanagement of the desalination plant, which is costing us over $1 million a day; the total breakdown of law and order, and we now see the coalition's policies trying to address that; the

mess in the public transport system, and particularly the myki card, which we have had to reinvigorate to a position where it is widely accepted by the community; and the Windsor Hotel affair. If there was ever a stench in Labor, that would have to be the biggest one. There was also a total lack of confidence in that government. That is why we have seen a change of government and that is when the stench ended.

The bill responds to Labor's failure over 11 years to provide a structure that has robust oversight and integrity. David Jones, Elizabeth Proust and even former Premier John Brumby said the Office of Police Integrity (OPI) was flawed in its lack of powers and performance, but still Labor lacked the courage and conviction to change the system. Finally, that is about to change.

The coalition government is committed to ensuring appropriate oversight, and by establishing the Victorian Inspectorate, together with the Independent Broad-based Anti-corruption Commission parliamentary committee, it will do just that. In just one year the coalition has passed historic legislation by establishing IBAC, the Victorian Inspectorate and the Public Interest Monitor, and there is more legislation to come as the coalition takes a measured approach to the rollout of Victoria's integrity reforms. The Baillieu government is delivering courage and commitment, something which was sadly lacking in the previous government.

The bill provides IBAC with investigatory powers to carry out its required functions. More importantly, the bill defines powers that are clearly recognisable and focused. Members will be very happy to know that I do not intend to go through the bill clause by clause, as my parliamentary colleague David O'Brien covered the more important points and I suspect in committee we will cover some of those clauses in more detail.

IBAC officers will have broad investigative powers to search for and seize documents, information and other evidence as required. They will also have powers to carry and use firearms and other defensive equipment required to investigate potential corrupt conduct. They will have powers to gather intelligence, including with the use of surveillance devices and telecommunication interception technology. I note that Ms Pennicuik brought up the issue of firearms. The classification in the Firearms Act 1996 will convert into the new IBAC legislation, so nothing much changes in relation to the classification of firearms in the old Firearms Act and now under the IBAC bill. The use of firearms by IBAC officers is at the discretion of the Commissioner.

Perhaps I can allay Ms Pennicuik's fears in relation to firearms. I also suggest that Mr Pakula's issue in relation to the fact that they may be able to use bazookas is more of a nonsense and spin for sensationalism than actual fact.

Let us not be under any illusion; this is a fundamental shift in the integrity regime in Victoria. The coalition has provided $170 million to establish and operate the Independent Broad-based Anti-corruption Commission; this is a serious commitment. The bill creates two heads of jurisdiction for IBAC: public sector corruption conduct and also an oversight of police personnel conduct generally. The bill clarifies the scope of IBAC's functions. This is in comparison to the patchwork of legislation that Labor introduced over the years, which never really hit the mark. It was more like a stranded farmer straddled on a barbed-wire fence and never knowing which way to move without causing serious damage to his or her person. It was a fence-sitter in effect but without the motivation to move.

I want to respond to a couple of other issues brought up by Mr Pakula. The coalition government has said repeatedly that IBAC is intended for the investigation of serious corruption and not for the purpose of investigating every minor breach or offence. In Victoria misconduct in a public office is an old common-law offence, and I think Ms Pennicuik referred to that involving lesser matters. It is an ill-defined concept that has been criticised, including by the former director of the Office of Police Integrity, Michael Strong.

In relation to the definition of corrupt conduct in the IBAC legislation and the ministerial code of conduct, as discussed previously they are not mutually exclusive. That means it may be the case that a breach of the ministerial code of conduct results in there being serious corrupt conduct within the meaning of the IBAC legislation. It means IBAC would investigate conduct which constituted a breach of the code.

There are a couple of issues I want to respond to in relation to Ms Pennicuik's contribution. She referred often to the New South Wales model, and I am not quite sure why anyone would want to refer to any presumed successes of the past Labor government in New South Wales or to the effected outcomes in some of its legislation. She also seemed to get somewhat confused between the Independent Commission Against Corruption and the Independent Broad-based Anti-corruption Commission; a considerable amount of her contribution referred to New South Wales.

However, in relation to the issue around New South Wales, ICAC and the separation there, Victoria Police does not have and has never had the sort of corruption that was seen in the New South Wales police force. Why would you compare what is happening in New South Wales in relation to the model there, which was clearly implemented on the basis that there were significant corruption problems within that police force, to what is happening in Victoria where our police — and I hardly want to use the word Mr Barber uses — are clean and green? Certainly Victoria Police does not have the level of corruption that New South Wales police had, and I do not see why Ms Pennicuik would refer continually to that particular structure in New South Wales being good for Victoria.

In relation to the Supreme Court warrants and access, again there seems to be a difference of opinion between Labor and the Greens. The Victorian public would certainly be supportive of the requirement for a Supreme Court warrant in relation to access.

In closing, as I said originally, I want to get down to the basics and talk about the important issues surrounding this legislation, and it has been well covered. I want to re-emphasise that this was an election commitment. It was a commitment that we made to the Victorian people before the election. It was a commitment we made in the face of an Office of Police Integrity that was not providing the powers and performance that were set out as its original function. This is a staged approach, which was carefully considered; it is strategic. It is being provided to the Parliament in that way to make sure that there is full consultation with stakeholders and that there is the opportunity for it to be debated well, certainly in this house. Obviously as it goes through committee we will go into more detail on some of the clauses.

This is what the Victorian people asked for before the election; this is what the Baillieu government has delivered. I commend the bill to the house.

Mr SCHEFFER (Eastern Victoria) — The introduction of an anticorruption commission was the key deliverable of the Baillieu government, and it formed the cornerstone of the coalition's law and order election bid in the lead-up to the 2010 election. This further instalment in what may be a raft of bills needs to be looked at in the light of the standards the coalition set itself.

It is not necessarily criticism to point out that this investigative functions bill is one of a number of pieces of anticorruption legislation that the government will be bringing forward, because when legislating in an area as complex as this we need to be circumspect to some extent until we see the whole picture. Nevertheless we have before us a weighty bill that needs to be assessed and critiqued in its own terms. We also need to form a view on whether this government, on the basis of its track record, is capable of pulling off a legislative task of this magnitude and on whether it can even implement it after its passage through this house.

The first issue is that the government announced it would have the new anticorruption commission operating by July 2011 — a date well passed. This eight-month overrun demonstrates that the government was unable to scope the dimensions of the job before it. It also reveals that in opposition — when the world was kinder and seemingly straightforward — the coalition had done precious little preparatory work. On the other hand, I guess the postponement of the commission's commencement date has the benefit for the government of putting off any potential investigation into its own conduct. As day follows day more and more is revealed that puts the integrity of this government in question, and this almost weekly spectacle increasingly unsettles Victorians.

In her contribution to the second-reading debate in the Legislative Assembly the member for Altona, Jill Hennessy, pointed out that even though the government appointed an advisory committee to inform its thinking on the legislation it has refused to release the report of that advice. The government has not even referred to the advice to explain, justify or bolster its case for aspects of the legislation. This suppression of the advisory committee's report is causing increasing public concern, with calls now raised by the Accountability Round Table for it to be made public. Professor David Yencken, a spokesperson for the organisation, is reported in yesterday's *Age* as saying the secrecy shrouding every aspect of the consultation is a matter of great concern.

Ms Hennessy in the Legislative Assembly and Mr Pakula in this house have provided a forensic analysis of this bill and the context in which it comes before the Parliament. They have taken apart the legislation and exposed the hand of the government, which has drafted the bill in its own interests rather than in the interests of Victorians.

The opposition challenges the government to speak up for its legislation rather than hide behind these delays. The delays, and now the failure of the bill to match the promises made in opposition, are a futile bid to protect the coalition from having to answer for its reckless

administration one inevitable day. What does 'speak up for its legislation' mean? It means to argue the case for the profound and far-reaching changes that the government purports to be introducing and to show how the legislation will put in place structures that will prevent miscarriages of justice.

Has the government identified examples of corrupt conduct that it knows have occurred in the judiciary, the public service, Victoria Police, the government or the legislature that the provisions in this bill will, for the first time in Victoria's history — to use the government's own words — address? How exactly will this legislation call to account members of the judiciary, public servants, police officers, cabinet ministers or members of Parliament in a way that was not previously available to the people of Victoria?

The second-reading speech is where we would normally expect to see this set out, but it is fair to say that the speech confines itself to technical matters, the 'what' question — what key clauses deliver — and gives no consideration to the reasoning, values and vision underpinning the bill, the 'why' question.

The second-reading speech ends with a quotation from the United Nations Secretary-General, Ban Ki-moon, calling upon members of the world community to pledge to crack down on corruption and shame the corrupt. and appealing to all of us to build a culture that values ethical behaviour. This is the only visionary statement in the entire second-reading speech — and it is borrowed. The second-reading speech makes no attempt to amplify this call to arms to interpret how that global aspiration translates to Victoria. Where is the coalition government's equivalent to Labor's Attorney-General's justice statements that stood as the foundation of Labor's reforms for the decade it was in office?

I respect the fact that the government does not agree with much that Labor included in the justice statements, but I ask: where is the government's vision, where is the government's plan and what is the role of the anticorruption commission in realising this vision? The second-reading speech narrowly and unimaginatively asserts that the bill has delivered the investigative framework for the anticorruption commission and that this is the first time that anticorruption functions will be under the jurisdiction of a single body. That is it: no vision, no aspiration, no leadership.

The opposition believes that ministers and members of Parliament play a critical role in modelling ethical behaviour. Ms Hennessy, the member for Altona in the other place and shadow minister for the anticorruption commission, pointed out in her contribution that the opposition believes that public confidence is undermined when ministers hunt down a Chief Commissioner of Police, claim to have the Ombudsman in their back pockets or leak private government material to the media. I suspect this is why the second-reading speech avoids any attempt at articulating a vision. Even this shameless government would cringe in the face of such blatant, barefaced hypocrisy. There we have it: the questionable conduct of this government in its first year in office has stripped it of moral authority. It is now bereft — incapable of authoritatively articulating any vision at all, even for one of its key legislative initiatives.

Ms Hennessy and Mr Pakula have dealt with the detailed provisions of this bill in considerable detail, but I add my voice to one glaring feature — that is, the definition of 'corrupt conduct' contained in clause 4. In his opening comments Mr Ramsay referred to a litany of so-called misdemeanours and failings of the previous Labor government. He mentioned the desal plant in Wonthaggi, the Windsor Hotel and various examples drawn from the law and order portfolio. I point out, Mr Ramsay, that not one of those so-called failings that you mentioned in your contribution would be able to be investigated by your anticorruption commission — not one! If they are the problems, you now have the challenge of standing up and changing this legislation so that those problems can be properly addressed. Do not just mouth platitudes about them; put your money where your mouth is — —

The ACTING PRESIDENT (**Mr Finn**) — Order! Mr Scheffer should address his comments through the Chair.

Mr SCHEFFER — The opposition has made it clear that, in our view, the test of corrupt conduct in this legislation is higher than it is for the New South Wales Independent Commission Against Corruption, upon which the government said it would model its legislation. The misconduct would need to be of sufficient seriousness that, if proved, would constitute an indictable offence — the most serious of offences and, as Mr Pakula said in his contribution, a whole bunch of things that are already crimes.

The concern we on this side have is that we suspect this has been carefully drafted to prevent the anticorruption commission from investigating matters similar to those contained in the Office of Police Integrity's *Crossing the Line* report and others tabled in the Parliament by the Ombudsman and the Auditor-General. There is a

rising tide of concern about the failure of the government to honour the commitments it made during its time in opposition that were the key elements of its law and order agenda.

Reports over the weekend indicated that Transparency International Australia, which, as everyone in this chamber would know, is a widely respected anticorruption body, is seeking urgent talks with the government over the watering down of the powers of the commission. However, the government cannot comply with Transparency International Australia's requests because to do so would eventually be its undoing — it would expose itself to its own legislation. The *Saturday Age* reported that a number of eminent people have expressed concern about the definition of 'corruption' in this bill.

The opposition has serious concerns about the provisions in the bill that permit the commission to make private recommendations directly to members of the government, prevent the commission from making a public report on corruption in the judiciary and prevent the commission from revealing in a special report whether or not a person it has investigated has committed a criminal offence or whether or not it recommends that a person should be criminally prosecuted.

There are many more issues with which the opposition has significant concerns, but Mr Pakula and Ms Hennessy have already dealt with the majority of those matters fairly thoroughly. Notwithstanding those criticisms, the opposition will not be opposing the bill. The government clearly has a mandate to introduce this legislation, as it formed a major plank of its 2010 Victorian election campaign promises.

Mr P. DAVIS (Eastern Victoria) — I am delighted to join the debate on the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011, although it is now 2012. What I want to do in my short contribution is respond to the debate that has preceded my contribution. That is what we generally like to do in the course of the debate. Rather than read a speech that may or may not have been written by one's own hand, my general view is that members are better to respond to the debate.

The terms of the debate have been set out by the opposition parties, being the Greens and the ALP. In terms of the commentary by the lead speaker for the opposition, Mr Pakula, I note that his substantive remarks related to the establishment of a framework for the Independent Broad-based Anti-corruption Commission (IBAC) by introducing a series of separate bills which progressively construct that framework. One could say that the debate we had last year when the initial bill was being considered led us to establish the form and framework of IBAC and that what this bill does is seek to extend the Parliament's approval of powers residing with the IBAC to undertake its duties in terms of the investigative function, as set out in the title of the bill.

The Minister responsible for the establishment of an anti-corruption commission, Mr McIntosh, has indicated clearly in his public utterances, as did the coalition as a policy prescription when in opposition, that a series of measures would be implemented. The second-reading speech, which all members have in front of them, clearly articulates that further legislation is coming.

I want to pick up the substantive point Mr Pakula seemed to belabour, which is that this legislation is but one iteration of a series of legislative proposals and which leaves the opposition wondering what the final form of the legislation may be. I should remind the house that it took 11 bills by Labor to establish the OPI (Office of Police Integrity) and provide all of its framework of operations. I make the point only that you cannot make a criticism of the current government without reflecting upon what has taken place before.

At this point I am not going to criticise the previous government in that sense — that criticism has been made elsewhere — for the failure of the OPI. The reason we are here is to move to a new regime that will be more effective, but the legislative process — the principle of legislating — is that the Parliament should be fully informed. I agree with the commentary that Ms Pennicuik ran that it would be nice to see the final form of the legislation, but the practical reality is that each iteration of legislation stands on its own and forms the framework that we are evolving, but the principles that each bill espouses were set out in the policy framework that we took to the election.

In his commentary Mr Pakula went on to talk about whether or not there was a capacity to deal with issues, because all of those powers were not included in the terms of the particular bill we are considering. What I say to that is that in the second-reading speech and the policy document there are further proposals in terms of referrals — for example, matters being referred to the Ombudsman. It is quite clear that IBAC will have the capacity to take on any matter referred to it by a member of the public, substantiate it and form its own

view about whether or not the matter should be investigated, and IBAC will subsequently have a clearly delegated capacity to refer those matters which it chooses not to investigate to other agencies, which is set out quite comprehensively in the policy document of 2010 and in the second-reading speech introduced with this bill.

Further in the course of debate Mr Pakula raised the question that surely there should be a mechanism for formal review of this legislation. Clearly it is the case that, in relation to the establishment of new bodies, governments as a matter of course take a look at what has been created, but importantly and specifically in relation to this bill there is a capacity in the framework of the IBAC for the Commissioner, in reporting through the parliamentary committee that is to be established for oversight purposes, to make recommendations and for that committee to consider any report of the commission.

Ms Pennicuik interjected.

Mr P. DAVIS — Ms Pennicuik wants to interject and say, 'Where is the committee?'. Clearly this is an evolving process, and the committee will be established as appropriate as part of the process of establishing the IBAC.

Mr Barber — Like a bird: you jump off the cliff — and then start building a glider.

Mr P. DAVIS — I love the view from the crossbenches, where anything can be done by waving a magic wand just like a fairy at the bottom of the garden. You can just wave a magic wand, and it can be done overnight without any intellectual investment at all. I suggest to the Greens that they stop carping and support the initiative, because the previous government was there for 11 years and, notwithstanding all the commentary that has been run by the Greens in the limited time they have had to run commentary in this place, I have not seen any effort by the previous government to make the major transformation which is being made by this framework. I congratulate the minister, the Premier and the cabinet for driving this initiative.

It is important to note one point raised by Ms Pennicuik, apart from her concern about not having the final form of this framework in front of her today — a framework which will appear. Ms Pennicuik noted the significant powers in the bill in relation to firearms. I noticed that Mr Pakula was highly focused on bazookas. I have to accept that Mr Pakula is fascinated by this, but I was delighted that Ms Pennicuik, because of her intelligent understanding of the OPI legislation, in which debate she participated fully in 2008, was able to make the point that those provisions are simply translated from the OPI legislation into the IBAC legislation.

There is nothing extraordinary about that, except that Ms Pennicuik would prefer that those powers did not exist. I suspect the reality is that it is unlikely that those powers would necessarily be invoked by the Commissioner. Nevertheless, I would have thought it useful for the Commissioner to have those powers, given the nature of the investigation and support for the investigatory function that may be required — although the extent to which those powers could be used is unimaginable.

I note that Ms Mikakos chose to essentially read the *Age* into *Hansard* today, or at least that was the impression I had, but I have to say I did not find that enlightening because I had read the papers myself. Perhaps in a future contribution Ms Mikakos could come with her own work.

I am interested in Mr Scheffer's remarks because his opening was good. I gave him 9 out of 10 for his opening remarks. There was no criticism about the government introducing a series of bills — but then he spent the rest of his speech trying to bag the bill before the house and the principal debate we had last year. I thought he was inferring there was some lack of content in this bill, whereas on the other hand other speakers in the debate have been criticising this bill for being substantial. I am not quite sure what the general line from the opposition is, but I will accept that in some way opposition members are trying to criticise what the government is doing, which unfortunately is the nature of this place.

Mr Scheffer eventually got to the point he was concerned about — that is, the notion of corruption and its definition. Without belabouring the point, I need to go through this very simply once again, even though it was effectively gone through by Mr O'Brien, the lead speaker for the government on this bill. Mr O'Brien made the point that it is about focusing on serious corruption. There are other mechanisms through which matters which I would describe as vexatious and more trivial may be dealt with. There is always recourse to the Ombudsman and to Victoria Police, and they have specific jurisdiction in regard to some matters. However, IBAC is about serious corrupt behaviour, and I note that the lead speaker for the opposition has made it absolutely clear that opposition members are neither

opposing the bill nor introducing their own amendments.

If it is the case that opposition speakers are so concerned about the nature and definition of corruption and the distinction between corruption and serious corruption, why do they not introduce their own amendments? They have failed to present any amendments and they have advised the house that they do not intend to introduce any amendments. Therefore it is a little bit hypocritical of them to come in and significantly criticise the bill. It may be because opposition members are quite pleased with the definition of 'corruption' because they understand, as the government does, that the resources of the IBAC should not be diverted by trivia and that the IBAC should remain focused on serious corruption.

In the context of serious corruption I thought it would be useful to refer to the Crimes Act 1958 so that we can get some context around that. When I refer to examples of serious corruption — and the minister has well advised the community of this by way of his public discourse — I remind the house that the examples that will be subject to IBAC's jurisdiction include bribery of a public official, perverting or attempting to pervert the course of justice, theft, fraud, undertaking secret commissions, misconduct, offering inducements, document destruction, improper and dishonest conduct, breaching public trust, conspiracy and misuse of information. I would have thought that even the hungry beast of an anticorruption commission will be able to be satisfied on that diet.

I do not think the opposition or the Greens truly in their hearts think otherwise than that it would be a shame for those issues of significant misuse of access to public confidence not to be properly examined because time is being absorbed by lesser matters. We will hear what — —

Mr Barber interjected.

Mr P. DAVIS — I note that the minister was in the public domain making it especially clear that local government matters will be referred to the Ombudsman for investigation as a general course of action. However, there are matters at a local government level that will be picked up by the IBAC, and it will be a matter for members of the IBAC to make that determination themselves. It is not for us to pontificate and require the IBAC to investigate every complaint made to it; that would be ludicrous. The IBAC will know what its resources are. It will know exactly what level of investigatory effort is required to pursue certain matters, and it will be seeking to pursue matters of serious corruption. It is inevitable that there will be a vast array of referrals to it, and it will need to delegate some of those referrals to other agencies. I support the bill.

Mr ELASMAR (Northern Metropolitan) — I rise to contribute to the debate on the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011. The bill before the house provides the Independent Broad-based Anti-corruption Commission with the investigative functions and powers to identify, expose and investigate serious corrupt conduct and to generally investigate police personnel conduct. No-one in their right mind would disagree with the proposition that such a mechanism for exposing and rooting out corruption in high places is a desirable objective for any government to advance — and the Brumby Labor government introduced this bill in the first place — but there are some very worrying aspects of the coalition government's proposed investigative powers for IBAC contained within the legislation that need scrutiny and explanation. I will attempt to itemise a few of those problems.

I know most of my colleagues on this side of the house have a lot of concerns. Those aspects of concern include the lack of direct reporting accountability to this Parliament by the IBAC; the capacity to raid police stations and seize documents and/or computer hard drives, laptops and anything else that contains information for the perusal of IBAC investigators; and the ability of Victoria Police to apply to the Supreme Court for the removal of confiscated material. I can see monumental legal tussles between these agencies that the Victorian taxpayer will ultimately pay for.

There is also the IBAC's power to determine who is liable to be publicly humiliated and who is not. I can see the potential for political interference before the legislation has even been proclaimed. There is also the fact that serial pests can waste the time of IBAC investigators by making untruthful allegations against all or any politicians or public servants whom they do not like or with whom they have had a disagreement. Other aspects include the fact that the rules of evidence do not apply and that anonymous accusations for political gain, unsubstantiated by facts, will make a mockery of this Victorian mechanism to expose corruption.

I want to say more, but I have said enough to make us all think twice about the negative implications of this bill and what it may come to mean in the future. I

sincerely hope that the IBAC will be an instrument of truth and not an instrument of fear or the oppression of innocent public figures.

Motion agreed to.

Read second time.

Referral to committee

Ms PENNICUIK (Southern Metropolitan) — I move:

> That the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011 be referred to the Legal and Social Issues Legislation Committee for inquiry, consideration and report by 17 April 2012.

I move this motion as I do in relation to any significant piece of legislation that comes before the Legislative Council. Members would know from the concerns that have been raised by me and by opposition speakers that there are quite a lot of issues raised by this bill, not the least of which is the fact that government speakers seem to be of the view that it is okay to present this, you would have to say, groundbreaking legislation — there has never been such a body established in Victoria, and it is a very serious and important act to do so — in a piecemeal way so that we do not have an idea of how it all fits together and how the Independent Broad-based Anti-corruption Commission fits in with the other agencies.

There is no overarching vision for the establishment of the IBAC, and quite significant issues have been raised with regard to the definition of corrupt conduct and the definition of serious corrupt conduct, for which there is in fact no definition. The process of transferring the powers and functions of the Office of Police Integrity to the IBAC is not well explained in the explanatory memorandum to the bill, the second-reading speech or indeed in the bill itself, which is quite sparse in that regard.

There are issues with the coverage of the bill, and in particular with a restriction that does not exist in other states that prevents IBAC from looking at matters unless it has already been established that those matters involve serious corrupt conduct. I have two issues with that; one is that that does not exist in any other jurisdiction, and the other is that I am not quite sure how IBAC is able to establish that without doing at least some preliminary investigation. That is a serious limitation that is completely unnecessary because it does not exist anywhere else. These issues need some investigation by the committee, and in particular members need to be able to speak to the minister and his advisers to get answers to these questions.

As I have said every time Mr Hall is in the chamber — he usually responds to my motions — significant pieces of legislation should go to the legislation committees as a matter of course, as they do in the Senate. I remind the house that when bills have been sent to Senate legislation committees, on many occasions they have come back to the chamber with amendments and improvements. That is the whole idea behind those committees in the first place. We are not utilising them, and we should be.

This is an important piece of legislation. As I mentioned in my speech, it almost completely rewrites the first piece of legislation pertaining to IBAC that came before this house in December last year. In fact really all that is left intact in that act, which is less than two months old, is the establishment of the IBAC Committee and the Commissioner. The functions about prevention and education have basically been rewritten. That bill really was not necessary at all, and it could have been incorporated into the bill before the chamber today if it were not for a timing issue the government had with it.

I urge the house to support my motion. I am only suggesting that the bill go for one month to the committee, which would report back on Tuesday, 17 April, which is not the next sitting week but the one after. There is only a week between this sitting week and the next, so that would not be enough time to gather witnesses and hold hearings. It is a short time. There is no particular date set on this bill, and we do not even have the whole thing in front of us anyway.

Hon. M. P. PAKULA (Western Metropolitan) — The opposition will be supporting Ms Pennicuik's motion, and it will do so for a couple of reasons. Firstly, the opposition has always indicated that as a default position it believes the upper house committees ought to be used for the purpose they were set up for, which is to provide bills with some further and better scrutiny. Secondly, in most cases the opposition would only have a different view where the report was backdated a long way into the future in such a way that it would delay the implementation of the subject matter of the bill.

As Ms Pennicuik has indicated, 17 April is really the earliest practicable date that the committee could report back, given that the next sitting week is only 14 days from now, with one week in between two sittings. Given that by its own best estimates the Independent Broad-based Anti-corruption Commission will not be

up and running for some months, having a report backdated to 17 April does not put the function of IBAC in any practical jeopardy.

It is also worth making the point that the upper house committees were not designed to only review bills that the government finds it convenient to review. Until now the government has only supported one reference to a standing committee, which was the motion moved by Mrs Peulich in regard to the Environment Protection Amendment (Beverage Container Deposit and Recovery Scheme) Bill 2011, and that reference was used by the government to effectively kick that legislation into touch forever. Today Mr Koch has indicated that the government will use the process to get itself out of a sticky spot in regard to Mr Barber's Road Safety Amendment (Car Doors) Bill 2012.

If the government is able to avail itself of this device when it suits it, the government also ought to be able to at least give due consideration to using the upper house committees when the opposition or the Greens collectively or individually take the view that certain bills require further scrutiny. As has been pointed out by a number of speakers on this side of the house, the IBAC legislation still has some major flaws and some major question marks around it. In these circumstances, and given that there is no jeopardy in implementing the legislation by a report date of 17 April, I would have thought that this was exactly the kind of bill for which these committees were created.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I have listened to the contributions of Ms Pennicuik and Mr Pakula. The Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Bill 2011 is the next stage in the major reform of Victoria's anticorruption system. As has been pointed out, Parliament has already passed historic legislation establishing the Independent Broad-based Anti-corruption Commission with important education and corruption prevention functions. This bill gives IBAC new functions to receive and investigate complaints about corrupt conduct and police personnel conduct. It also repeals the Police Integrity Act 2008. On that basis we do not see any need to support the proposed suggestion to refer the bill to the Legal and Social Issues Legislation Committee as proposed by Ms Pennicuik.

Ms PENNICUIK (Southern Metropolitan) — I am disappointed that the government has not taken the opportunity to make use of the committees that have been set up. They have been established to improve the operation of this house as a house of review and scrutiny. I note, as Mr Pakula has noted, that the only two bills that have been sent to these committees are in fact Greens private members bills. Government bills should be referred to these committees as well. It is very disappointing.

House divided on motion:

Ayes, 18

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

Noes, 20

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

Pair

Viney, Mr	Peulich, Mrs

Motion negatived.

Committed.

Committee

Clause 1

Ms PENNICUIK (Southern Metropolitan) — I have a few questions on the terminology in clause 1, which says that the purpose of the bill is to enable the Independent Broad-based Anti-corruption Commission (IBAC) to 'identify, expose and investigate serious corrupt conduct' and 'police personnel misconduct'. I wonder if the minister can explain why those particular terms are used, because in terms of identifying these, other provisions of the bill seem to rest on other people identifying and reporting them to IBAC. I also question the use of the term 'expose' when we know that some reports will not in fact be made public; they will be kept private. Why the use of those terms when they are not in fact the things IBAC will always be doing?

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

I seek leave for David O'Brien to share the table with me.

Leave granted.

Hon. R. A. DALLA-RIVA — As was indicated before, the bill obviously represents the next stage in the major reform of the anticorruption system within Victoria. As I indicated earlier in the debate, the Parliament has already passed legislation establishing the important education and corruption prevention functions of IBAC. What this bill now does is give IBAC the new functions of receiving and investigating complaints about corrupt conduct and police personnel misconduct. It also repeals the Police Integrity Act 2008.

Further legislation will be introduced to give IBAC its examination referral powers. As pointed out, clause 1 sets out the purpose of the bill, which is to provide IBAC with the functions and powers necessary to investigate serious corrupt conduct and police personnel misconduct. It also invests IBAC with functions to enable it to assess police personnel conduct and prevent corrupt conduct and police personnel misconduct. Another purpose of the bill is to outline the role, functions and duties of the IBAC committee in overseeing IBAC.

A further purpose of the bill is to amend the Police Regulation Act 1958 to provide for IBAC oversight of police personnel conduct matters and to amend the Surveillance Devices Act 1999 and the Telecommunications (Interception) (State Provisions) Act 1988 to provide for IBAC to be included as an agency under those acts. As I said before, the bill also has a purpose of providing for the repeal of the Police Integrity Act 2008. The IBAC bill identifies serious corrupt conduct through the receipt of complaints and through own-motion powers. It may expose the conduct by its reporting powers.

Ms PENNICUIK (Southern Metropolitan) — That is my point, that the use of the word 'expose' in the purpose clause of the bill implies, I would have thought, that that is what the commission would always be doing. In fact there are provisions for the commission to not expose serious corrupt conduct or police personnel misconduct by way of the use of private reports, so I am querying why that word is used when it is not always the function of the commission to do that.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The specific question is discussed at proposed section 83. I was moving ahead in terms of the presentation, but I am happy to take some advice as to where it may be. In terms of the member's specific question, I understand that it is a standard provision that exists for oversight and integrity bodies. This discretion exists not only for other anticorruption bodies in Australia, New Zealand and as far as Canada, but in Victoria it is also available to the Ombudsman and the director, police integrity. Where minor disciplinary breaches are detected, they should be addressed but should not ruin careers.

Ms PENNICUIK (Southern Metropolitan) — I do not think I am going to get the answer to that question, so I will move on to the next question, which is regarding subparagraph (iii) where the verb used is 'assess' police personnel conduct. That word implies that IBAC will be involved in comprehensively assessing police personnel conduct, and yet the bill restricts IBAC to investigating only serious misconduct. I am querying the use of that word, and my question goes to what level or crossover with police internal discipline procedures that envisages.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I think the issue is about who will investigate police personnel conduct, which is less serious than police personnel misconduct. The answer in effect is that IBAC can. The function under proposed section 9(2)(c) includes to assess police personnel conduct, and that includes investigation.

Ms PENNICUIK (Southern Metropolitan) — The point is that, as I pointed out in the second-reading debate, there seems to be a gap between what the Office of Police Integrity (OPI) currently can do, which is get involved in police personnel conduct, and what IBAC is restricted by this bill to do, which is only involve itself in serious corrupt conduct, and how the word 'assess' is used there as being different from 'identify, expose and investigate'. It implies that it is more day to day and more comprehensive.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The outline is covered in substituted section 9 of the principal act, contained in clause 6 of the bill, which talks about the functions of the IBAC, specifically:

> (3) Without limiting the generality of subsection (2), the IBAC has the following functions under subsection (2) —
>
> (a) to receive complaints and notifications to the IBAC in relation to corrupt conduct;
>
> (b) in relation to police personnel conduct —

(i) to receive police personnel conduct complaints and notifications to the IBAC;

(ii) to ensure that the highest ethical and professional standards are maintained by members of the police force;

(iii) to ensure that members of the police force have regard to the human rights set out in the Charter of Human Rights and Responsibilities Act 2006.

Hon. M. P. PAKULA (Western Metropolitan) — Just to follow that up, in terms of police misconduct, does the IBAC have the same remit as the OPI, a narrower remit than the OPI or a broader remit than the OPI?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have received is that the IBAC's jurisdiction in relation to police is broader than the OPI's present jurisdiction.

Hon. M. P. PAKULA (Western Metropolitan) — I thank the minister for that answer. This IBAC bill and the previous bill that we have already dealt with have in part come about as a result of the report of the advisory committee. Now that the legislation is before the house and will no doubt be dealt with by the end of today, can the report of the advisory committee be made public at that point?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Unlike those opposite, it is a team effort over here. To encourage free and frank participation, the consultation panel, headed by former Supreme Court judge Stephen Charles, QC, undertook its work on a confidential basis. The panel prepared a report for consideration by cabinet. Accordingly, normal cabinet-in-confidence confidentiality applies. Some stakeholders have chosen to release their submissions publicly — for example, by posting them online — and that is a matter for them.

Hon. M. P. PAKULA (Western Metropolitan) — Is that a no? The minister will not be making it public?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I said, this was a report for consideration by cabinet. Accordingly, normal cabinet-in-confidence confidentiality applies.

Hon. M. P. PAKULA (Western Metropolitan) — I will move on. I will take it as a no, whether or not the minister wants to say the word.

None of this will work without the IBAC budget being properly appropriated. Can the minister clear up a query I have? For the policy that the government implemented, it announced $170 million over four years. Last year's budget allocated $85 million, and we have three years of the term to go. The OPI had $20 million per year, and the government has indicated that will be carried over to the IBAC. So there are three lots of $20 million plus $85 million, which equals $145 million. Is the other $25 million not going to be provided, or will it be provided in this year's budget? Can the minister explain what will happen to it otherwise?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have received is that our commitment was $170 million over four years. That is the answer.

Hon. M. P. PAKULA (Western Metropolitan) — Yes, I know. I told the minister that. What I am wondering is where it is at the moment. As I indicated, we can only account for $145 million of the $170 million. Where will the missing $25 million come from and when?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Mr Pakula is trying to make a particular point. The point is that we have an allocation of $170 million over four years. The money allocated is to have, for the first time, a dedicated broadbased anticorruption body which will have special powers to investigate more than 250 000 public sector employees, including all members of Parliament, ministers, ministerial and parliamentary staff, councillors and council staff, judges, public prosecutors, the Auditor-General, the Governor, consultants to government and corporate contractors to government engaging in public functions. All public servants, employees and office-holders of all government departments, agencies and authorities will be subject to IBAC's jurisdiction.

In terms of the extent of the funding, it is significant in order to deal with the matters that it is proposed the IBAC will deal with, and obviously the budget allocation is appropriate.

Hon. M. P. PAKULA (Western Metropolitan) — Obviously the minister is not going to explain how the $170 million over four years will be arrived at. I would be satisfied if the minister would simply reconfirm that the initial commitment of $170 million over four years will be delivered.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The coalition government's commitment is to establish an IBAC, and

it proposes a fundamental shift in the integrity regime in Victoria. The coalition government has provided $170 million for the establishment and operation of the IBAC. This significant funding is demonstrative of the government's commitment to integrity.

Hon. M. P. PAKULA (Western Metropolitan) — I will be generous and say the minister is inadvertently misleading the house. The government has not provided $170 million for IBAC, as the minister says. The government has so far provided $85 million for IBAC. It made an election promise of $170 million for IBAC; it has not provided $170 million for IBAC. My question is: is the government committed to its original promise of providing $170 million over four years for the IBAC? The minister should not tell me the government has done it; it has not done it. The government has said it will do it, and I am asking if it will recommit to that now.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I indicated, the government has made a commitment of $170 million over four years for the establishment and operation of the IBAC.

Hon. M. P. PAKULA (Western Metropolitan) — Will that $170 million commitment be delivered in this four-year term? Is that what the minister is saying?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — There are only so many times that I can say the coalition government has provided $170 million for the establishment and operation of the IBAC.

Hon. M. P. PAKULA (Western Metropolitan) — I make the point that the next time the government bewails the lengthy committee stages we have to endure in this place, it should look in the mirror and be prepared to accept that if it just answered the questions the first time they were asked and answered them directly, we would not have to ask them over and over again. I am not going to persist with the question because the minister has made it quite clear that he is not prepared to reconfirm the government's commitment. Let me ask the minister whether he can explain the jurisdictional demarcation between the IBAC and the Local Government Investigations and Compliance Inspectorate.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — It is the government's intention for the Ombudsman to take over the role of the local government inspectorate, thereby streamlining oversight arrangements for local government. Under this reform the Ombudsman will be provided with new functions and an expanded jurisdiction in relation to the local government sector which are broadly equivalent to the functions and jurisdiction of the local government inspectorate.

Under the government's model IBAC will be responsible for investigating local government corrupt conduct that fits within its jurisdiction and the Ombudsman will be responsible for investigating all other conduct within its jurisdiction. This would result in the abolition of the local government inspectorate, with appropriate transition arrangements to ensure a smooth transition from the inspectorate to the Ombudsman.

Hon. M. P. PAKULA (Western Metropolitan) — I thank the minister. He has actually answered almost everything I wanted to know about that. The only query that his answer raises in my mind is: when he talks about the powers of the Ombudsman being broadly equivalent to those of the local government inspectorate, does that suggest that the Ombudsman will have fewer powers or the same powers? Will there be anything that the local government inspectorate can investigate today that the Ombudsman will not be able to investigate once this reform is carried out?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Again, in relation to the question Mr Pakula raised, under the government's model IBAC will be responsible for investigating local government corrupt conduct that fits within its jurisdiction. The Ombudsman will be responsible for investigating all other conduct within its jurisdiction, and the advice I have is there will be further legislation in relation to this important reform.

Clause agreed to; clause 2 agreed to.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Clause 3

Hon. M. P. PAKULA (Western Metropolitan) — We thought we might deal with questions before we move amendments. With regard to clause 3 I refer the minister at the table to page 10 of the bill, which has a definition of 'relevant principal officer', and I ask whether the definition of 'relevant principal officer' captures the Director of Public Prosecutions (DPP) or the heads of Victoria's private prisons and universities?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I can answer in the broadest sense, as I indicated before, that the

broadbased anticorruption body will have special powers to investigate more than 250 000 public sector employees. That will include all members of Parliament, ministers, ministerial and parliamentary staff, councillors and council staff, judges and public prosecutors; the Auditor-General; the Governor; consultants to government and corporate contractors to government engaged in public functions; and all public servants and employees of office-holders of all government departments, agencies and authorities. All will be the subject of IBAC's jurisdiction.

Hon. M. P. PAKULA (Western Metropolitan) — I think during that recitation I heard the minister make reference to the Director of Public Prosecutions, so am I right in saying that the DPP is clearly covered?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I mentioned judges and public prosecutors. For the sake of brevity, rather than the two of us going back and forth, I am advised that I will get an answer back to the member on that particular question.

Hon. M. P. PAKULA (Western Metropolitan) — While the minister is doing that, could he also get a definitive answer on the matter of whether or not the heads of private prisons and universities are covered?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am advised that we will get that answer for the member, but we will be here for a while yet.

Hon. M. P. PAKULA (Western Metropolitan) — I am mindful that at some point in the not-too-distant future we will vote that clause 3 stand part of the bill. Do we need to defer consideration of that motion until we get that answer, or should we not be so concerned?

The DEPUTY PRESIDENT — Order! By way of clarification, if the information the member seeks is not critical to his decision on the proposed amendment, then we could consider the amendment. If the committee wishes, we could defer the adoption of clause 3 until such time as the answer has been provided. Is the minister happy to consider the amendment and then defer a proposal to adopt clause 3 as part of the bill until Mr Pakula gets those answers?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — We will need to see how we progress, but we can keep going for now.

The DEPUTY PRESIDENT — Order! I propose that we deal with Ms Pennicuik's amendment. Then we will postpone further consideration of clause 3 until those answers are supplied.

Ms PENNICUIK (Southern Metropolitan) — I have a question on clause 3 that does not relate to my amendment. Given that so much of the bill depends on the concept of serious corrupt conduct and that a further provision of the bill is to prevent the Independent Broad-based Anti-corruption Commission from investigating a matter if it is not related to serious corrupt conduct, why is that not defined in the definitions section of the bill?

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

Ms PENNICUIK (Southern Metropolitan) — In effect is the minister saying it is up to the Commissioner to decide what constitutes serious corrupt conduct?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I indicated, determining whether something is serious corrupt conduct is ultimately a matter for the IBAC Commissioner.

Ms PENNICUIK (Southern Metropolitan) — I am happy to move amendment 1 standing in my name.

The DEPUTY PRESIDENT — Order! Just as a point of clarification, I believe Ms Pennicuik's proposed amendment 1 is a test for her amendments 2 to 4 to clause 4.

Ms PENNICUIK (Southern Metropolitan) — I concur. I move:

1. Clause 3, after line 9, insert —

"***applicable code of conduct*** means, in relation to —

(a) a responsible Minister of the Crown, a Ministerial code of conduct prescribed or adopted for the purposes of this definition or otherwise applying to a Minister of the Crown;

(b) a member of the Legislative Assembly or the Legislative Council, including a Minister of the Crown, a code of conduct prescribed or adopted for the purposes of this definition or otherwise applying to a member of the Legislative Assembly or the Legislative Council;".

This amendment inserts the definition of an applicable code of conduct into clause 3 after line 9 in relation to a responsible minister of the Crown, being a ministerial code of conduct prescribed or adopted for the purposes of this definition or otherwise applying to a minister of the Crown. The amendment also inserts in relation to a member of the Legislative Assembly or the Legislative Council, including a minister of the Crown, a code of conduct prescribed or adopted for the purposes of this definition or otherwise applying to a member of the Legislative Assembly or the Legislative Council.

As you rightly say, Deputy President, my amendment 2, which is an amendment to clause 4, would add another definition to new section 3A, headed 'Corrupt conduct', after line 27 on page 13 of the bill to state that corrupt conduct would include the conduct 'of a responsible minister of the Crown or a member of the Legislative Assembly or the Legislative Council that constitutes a substantial contravention of an applicable code of conduct'.

I move this amendment because I feel, as do others, that the bill is lacking in that it does not include breaches of a code of conduct — that is, instances of misconduct by members of Parliament or ministers that are discernible by a breach of a code of conduct that applies to those ministers or members of Parliament. This mirrors section 9(4) of the New South Wales Independent Commission Against Corruption Act 1988, which also refers to corrupt conduct, in this case in relation to ministers of the Crown, being a substantial breach of a code that would threaten the integrity of the office concerned or of Parliament. I think we should include this in the bill. The government has maintained that in relation to the investigative functions and the definition of corrupt conduct the bill mirrors the New South Wales ICAC act, but in this respect it does not. This provision exists in the ICAC act, but it is not present in this bill.

In support of my amendment I would also say that the definitions of corrupt conduct and relevant offence in new section 3A of the bill are very limited. The bill further restricts what the IBAC can look at. The bill is very restricted, particularly with regard to members of Parliament and ministers. We believe they should be included in terms of a code of conduct and substantial breaches thereto.

Hon. M. P. PAKULA (Western Metropolitan) — The opposition will be supporting the Greens' amendment 1.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In relation to amendments 1, 2, 3 and 4, which are the matters being dealt with, my understanding is that amendments 1 and 3 support amendment 2, so I will address the three together. The government does not support these amendments. They would not capture any additional conduct that the current definition of 'corrupt conduct' does not already capture. As the bill stands, IBAC is already provided with jurisdiction to investigate corrupt conduct by a responsible minister of the Crown or a member of the Legislative Assembly or Legislative Council. The elements of the definition of 'corrupt conduct' are substantially similar to those used by other Australian jurisdictions. The Victorian definition seeks to focus on serious corrupt conduct. For the reasons given the government does not support these amendments.

Ms PENNICUIK (Southern Metropolitan) — Just briefly, that is patently not correct. New section 3A, inserted by clause 4, defines 'corrupt conduct' as conduct that would constitute a relevant offence — that is, an indictable offence or a common-law offence. This does not capture a substantial breach of a code of conduct that applies to an MP or a minister.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The coalition has repeatedly said that the IBAC is intended for investigation of serious corruption, not for the purposes of investigating every minor breach or offence.

Ms Pennicuik interjected.

Hon. R. A. DALLA-RIVA — It is important to understand where we are heading. In Victoria misconduct in public office is a common-law offence involving lesser order matters. This concept has been the subject of much criticism. In Victoria and other

jurisdictions throughout Australia the experience of integrity bodies has been that inappropriate excesses or poor outcomes occur when extraordinary and coercive powers designed to deal with serious corruption are used to investigate minor and lesser order offences. The government is being careful to learn the lessons from other jurisdictions with the establishment of the new IBAC. It has taken the time to consider legislation in other jurisdictions. What we are delivering is a model that is right for Victoria. It focuses on the most serious matters, not trivialities, and avoids the failings of other jurisdictions.

Committee divided on amendment:

Ayes, 19

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

Noes, 21

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

Amendment negatived.

The DEPUTY PRESIDENT — Order! I am advised that the advice to Mr Pakula's previous question is about 2 to 3 minutes away, so I propose that the committee postpone clause 3.

Clause postponed.

Clause 4

The DEPUTY PRESIDENT — Order! Ms Pennicuik's amendments have been tested in relation to clause 4. Are there any further speakers?

Hon. M. P. PAKULA (Western Metropolitan) — It is my understanding that some but not necessarily all of Ms Pennicuik's amendments to clause 4 have been tested. As I understand it, amendments 5 through 8 also refer to clause 4.

The DEPUTY PRESIDENT — Order! That is correct.

Hon. M. P. PAKULA — I have a couple of questions on clause 4. The minister's previous answer went to the question of the threshold for IBAC and the fact that the government has reviewed other jurisdictions and does not want IBAC to be involved in trivialities, if you like. The test for an investigation of corruption is that the potential offence be indictable in nature. My question is, I suppose, rather broad, and I invite the minister to give a similarly broad reply if he can. How are matters that warrant being looked at but do not meet the test of being indictable to be dealt with in the state of Victoria post the implementation of IBAC?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that the Ombudsman and Victoria Police both have the capacity to investigate complaints that do not fall within the jurisdiction of IBAC.

Hon. M. P. PAKULA (Western Metropolitan) — I am rather satisfied with that answer. I have another question with regard to clause 4, and I went to this to some extent in the second-reading debate. Is it the government's intention to include special referral powers — whether that be in the next bill or through some other mechanism — to enable IBAC to refer matters to the Director of Public Prosecutions in the same way that can be done under the New South Wales Independent Commission Against Corruption (ICAC) legislation and also under bodies that exist in Queensland and Western Australia, or will it be via referral to the Ombudsman or some other organisation?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that further legislation will be introduced to give IBAC its examination and referral powers.

Ms PENNICUIK (Southern Metropolitan) — My first question is in regard to the definition of 'corrupt conduct' contained in new section 3A(1):

> … being conduct that would, if the facts were found proved beyond reasonable doubt at a trial, constitute a relevant offence.

Earlier, during debate on clause 3, we talked about what a 'relevant offence' is. How is the Commissioner able to know before any investigation takes place whether the conduct would constitute a relevant offence? Mr Pakula's question was about referring matters from IBAC to the DPP — or to the police for that matter. We

just heard in the seminar on the IBAC that many referrals to the DPP in other jurisdictions have not resulted in an indictable offence or a person being charged with an indictable offence, and that is after the DPP has looked at the full investigation and report. How is the Commissioner able to ascertain that at the beginning?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In developing the legislation the government has considered the definitions used elsewhere and has taken heed of experience in other jurisdictions. The government considers this to be an appropriate way to respond to the issues raised in relation to the definition in of the New South Wales Court of Appeal.

Ms PENNICUIK (Southern Metropolitan) — Yes, I understand what the government has decided to do. My question is: in deciding whether to investigate a matter, how is the Commissioner able to ascertain whether the conduct would be beyond reasonable doubt at a trial constituting a relevant offence? How is the Commissioner to know that?

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

As I have indicated, determining whether something is serious corrupt conduct is ultimately a matter for the IBAC. In terms of developing that legislation, as I said earlier, in relation to the consideration of the definition used elsewhere and taking heed of experience in other jurisdictions, the government considers this to be an appropriate way to respond to the issues in relation to the definition of the New South Wales Court of Appeal.

Ms PENNICUIK (Southern Metropolitan) — Even though I am of the view that the government has set up a bit of a chicken-and-egg scenario, I certainly do not want to go around and around it. Suffice it to say that it seems the IBAC Commissioner has to make up their mind about whether something is serious without investigating it and whether it is going to result in an indictable offence without knowing much about it at all. I think those are our concerns with the bill.

My next question is in regard to new section 3B and the meaning of 'police personnel conduct', 'police personnel conduct complaint' and 'police personnel misconduct'. Will those types of conduct apply whether the police personnel are on or off duty?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The answer is yes, those definitions of conduct will apply to on-duty and off-duty sworn police.

Ms PENNICUIK (Southern Metropolitan) — That is pertinent to my next amendment, amendment 5. You may have comments about that amendment, Deputy President.

The DEPUTY PRESIDENT — Order! Yes, I do. I am happy to call on Ms Pennicuik to move her amendment 5, which I believe is a test for her amendments 6 to 8.

Ms PENNICUIK (Southern Metropolitan) — I concur with that evaluation.

The DEPUTY PRESIDENT — Order! I do not really want to get into a debate about that. That is good.

Ms PENNICUIK (Southern Metropolitan) — I move:

5. Clause 4, page 14, line 28, after "which" insert "does not meet the standard of conduct the community reasonably expects of a member of police personnel or".

This definition exists in the Queensland legislation, and I believe it enhances the definitions of 'police personnel conduct', 'police personnel misconduct' and 'police personnel conduct complaint' — some very confusing definitions — to the extent in particular of conduct which does not meet the standard of conduct the community reasonably expects of a member of police personnel, particularly when that member is not on duty.

The other qualifiers with regard to offences punishable by imprisonment or bringing the force into disrepute are mainly to do with on-duty police. Bringing the force into disrepute would be about activities happening while the person is on duty. They are quite broad, and this particular amendment would home in on the behaviour of the police person rather than the organisation of the police per se. I commend my amendment to the house.

Hon. M. P. PAKULA (Western Metropolitan) — The opposition has indicated to Ms Pennicuik, and it indicates to the house, that it does not intend to support her amendment 5. We say that because, whilst this amendment in effect adds a standard of conduct for Victoria Police — being, as Ms Pennicuik describes, the failure to meet the standard of conduct the community expects — we find that definition to be somewhat vague. We think that when you are going to have the serious and reasonably onerous powers of a corruption investigation applied to you that ought to be based on something a little more definite than what we see as being a reasonably fuzzy definition and standard of conduct, which is not of a standard that the community would expect. In terms of applying IBAC-type sanctions or investigations upon the head of a police officer, we think that ought to be based on something reasonably concrete. It is our view that these amendments reduce certainty in that regard rather than increase it.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I note the amendments proposed by Ms Pennicuik and the comments of the opposition. The government has considered the proposed amendments to new section 3B of the bill. The government does not support these amendments for the following reasons. The definition of 'police personnel conduct' mirrors the definition of 'conduct' under the Police Regulation Act 1958. Including a new definition in this bill is unnecessary and would create parallel but inconsistent tests for the same conduct. These amendments would not broaden IBAC's jurisdiction over police personnel conduct or police personnel misconduct, therefore the government will not support the proposed amendments.

Amendment negatived; clause agreed to.

Clause 5

Ms PENNICUIK (Southern Metropolitan) — Clause 5, which substitutes section 4, 'Objects of Act', relates to investigating serious corrupt conduct and police personnel misconduct and assisting in the prevention of corrupt conduct and police personnel misconduct. In terms of police personnel misconduct and the transfer of powers from the Office of Police Integrity to the IBAC, can the minister tell me whether a separate division of IBAC will be set up to deal with police personnel misconduct?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am advised that staffing decisions will be a matter for the Commissioner.

Hon. M. P. PAKULA (Western Metropolitan) — I have only one question on clause 5. I hope it is only one; it depends on the minister's answer. During the second-reading debate on the bill he might have heard me assert that in my view the events that gave rise to the OPI's *Crossing the Line* report would not be able to be investigated by the IBAC as it will be constituted once this bill and any subsequent bills are carried out. Was I correct in that assertion or not? Would an IBAC, as set out in this bill, be able to investigate a situation such as that which gave rise to the OPI's *Crossing the Line* report?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I will get to the specific question, but in terms of an overview of clause 5, the objects of the IBAC act are to facilitate the education of the public sector about the effects of corrupt conduct on public administration and ways of preventing it. A further object is to assist in improving the capacity of the public sector to prevent corrupt conduct. In line with the IBAC's new investigative functions and powers, clause 5 also amends the IBAC act to provide that, in addition to its existing objects, it has the object of providing for the identification, investigation and exposure of serious corrupt conduct and police personnel misconduct. Clause 5 also amends the IBAC act to provide that the objects of the act accommodate the new definitions of corrupt conduct and police personnel misconduct.

The advice I have is that Mr Pakula is not correct. Serving police can be investigated by the IBAC in the same way they are by the OPI.

Hon. M. P. PAKULA (Western Metropolitan) — Mr Dalla-Riva in one fell swoop had the pleasure of asserting that I was not correct but also avoided answering the question. The question was not about whether or not serving police officers could be investigated; it was that if a similar scenario to that which gave rise to the OPI report entitled *Crossing the Line* were to occur in the future, would the IBAC have the authority to investigate that in the same way the OPI has the power to investigate it currently?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that serving police can be investigated by the IBAC in the same way that the OPI can currently investigate serving police.

Hon. M. P. PAKULA (Western Metropolitan) — I note the care the minister is taking in not answering the question directly, and I say for the record that the only conclusion I can draw from that is that if in the future there is a circumstance similar to that which was the subject of the OPI *Crossing the Line* report, there will be no mechanism in the state of Victoria for someone who has done what Mr Weston is alleged to have done or someone who has engaged in the conduct that is the subject of that report to be investigated once the government abolishes the Office of Police Integrity and replaces it with this IBAC that seems not to have the authority or the power to investigate such a matter in the same way. If I am wrong and if the circumstances which relate to *Crossing the Line* could be investigated by IBAC in the same way that the OPI investigated them, I would have thought it would be prudent for the minister to have said that explicitly.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I indicated very clearly, the serving police officers who gave rise to the OPI's jurisdiction to investigate the matters in that report could be investigated by the IBAC in the same way they can currently be investigated. In terms of Mr Pakula's question, the answer is yes. The IBAC can investigate serving police officers in the same way that the OPI can. Mr Pakula is wrong in his assertions, but in terms of what the IBAC can do in the investigations of serving police, it is the same as what the OPI can currently do.

Ms PENNICUIK (Southern Metropolitan) — This is one of the most important questions about this bill because the whole thing turns on the definition of what can be construed as corrupt conduct and what would then not be defined as serious corrupt conduct and whether the IBAC would not be allowed to investigate anything that is not serious corrupt conduct. With corrupt conduct it has to be a series of actions that are outlined in section 3A, and that has to result in a relevant offence as outlined in the definitions section. The relevant offence is an indictable offence for perverting or attempting to pervert the course of justice or for bribery of a public official. It seems to me that none of those conditions would obviously have applied in the *Crossing the Line* scenario. I am inviting the minister to prove me wrong, but I have not seen an indictable offence come out of that or anyone charged with a common-law offence.

I am also concerned as to how the Commissioner or commission would decide, if they were faced with a scenario like that on a turn of a coin, whether that is serious corrupt conduct or not and whether they should investigate it further, because I put it to the minister that the director, police integrity, uncovered that corrupt conduct or misconduct only after some investigation, and he did not come to his conclusion on day one. This is the problem or the big concern that I and many others have with the bill. I would like the minister, following on from Mr Pakula's questions and my scenario and concerns, to assure me or explain to me how that scenario could actually be investigated under the bill as it is written.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I thank Ms Pennicuik for her question. This bill creates two heads of jurisdiction for IBAC. One jurisdiction deals with corrupt conduct as it relates to the public sector, including the police, and a separate head of jurisdiction deals with the oversight of the conduct of police personnel generally. Investigations into police personnel under new section 3B do not have a serious corruption test.

Hon. M. P. PAKULA (Western Metropolitan) — We are getting to the bottom of this now. What the minister is saying is that the serious corruption test does not apply to serving police, and as we all know in the OPI *Crossing the Line* case we were talking about a serving police officer. In *Crossing the Line* the Office of Police Integrity characterised misconduct in various terms, but the characterisation included serious misconduct and improper conduct and may have involved the commission of the offence of misconduct in public office. I would suggest that they are all characterisations that fall short of serious corruption but constitute serious misconduct, improper conduct and misconduct in public office. Perhaps this could be cleared up.

Is the minister saying that because in this case we are referring to the police rather than to any other kind of public official and because offences such as serious misconduct, improper conduct or misconduct in public office relate to police personnel they are enough to incur the attention of IBAC, whereas that might not be the case for other public officials?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I said before that the bill creates two heads of jurisdiction for IBAC: one jurisdiction deals with corrupt conduct as it relates to the public sector, including the police, and provides a separate head of jurisdiction providing for oversight of the conduct of police personnel. The investigation of police conduct is an entirely separate jurisdiction. It is investigated under a different section of the IBAC act

and it does not need to involve consideration of corrupt conduct definitions, but in terms of corrupt conduct, in the first jurisdiction of IBAC, it does include police.

Hon. M. P. PAKULA (Western Metropolitan) — Can we just cut to the chase? I refer to the definition of 'serious misconduct' within the meaning of section 3 of the Police Integrity Act 2008 and the definition of 'improper conduct' within the meaning of section 69 of the Police Regulation Act 1958. Would offences that currently fall within those two definitions be covered by the powers given to the IBAC?

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

Clause agreed to.

Clause 6

Ms PENNICUIK (Southern Metropolitan) — Just before I move the amendment, I would like to say that the Greens are very pleased to see the introduction by clause 6 of new section 9 (3)(b)(iii), which indicates that members of the police force should have regard to the human rights set out in the Charter of Human Rights and Responsibilities Act 2006.

Clause agreed to.

New clause

Ms PENNICUIK (Southern Metropolitan) — I move:

9. Insert the following new clause to follow clause 6 —

'**A New sections 9A and 9B inserted**

After section 9 of the **Independent Broad-based Anti-corruption Act 2011 insert** —

"**9A Public interest is paramount**

In the exercise of its functions, the IBAC must regard the protection of the public interest and the prevention of breaches of the public trust as its paramount concerns.

9B Serious corrupt conduct and systemic corrupt conduct

In the exercise of its functions, the IBAC, as far as is practicable —

(a) is to direct its attention to serious corrupt conduct and systemic corrupt conduct; and

(b) is to take into account the responsibility and role of any other public authorities or any public officials have in the prevention of corrupt conduct.".'.

These new sections that I propose to insert into the bill come from the New South Wales ICAC legislation. The first one is about the overarching principle by which the IBAC would operate. I was listening to Mr Scheffer speaking on the bill earlier, and he talked about a lack of vision. There certainly is a lack of a story and a picture as to how all this fits together and a lack of vision for what is to be achieved. I think those are lacking in the bill but are present in the New South Wales ICAC act. I think it would improve the IBAC to have those as the overarching principles by which it operates.

The second new section that my amendment 9 proposes to insert into the act, section 9B, would also result in an amendment that would take out a subsection further on in the bill — that is, the particular provision that states on page 31:

> The IBAC must not conduct an investigation under subsection (1) unless it is reasonably satisfied that the conduct is serious corrupt conduct.

That is a limitation which, when taken with the other limitations in terms of the definitions in the bill, significantly limits the discretion of the IBAC. I have heard government speakers talking about not wanting the IBAC to be looking at minor corruption. Interestingly in the seminar on IBAC today that was described as an oxymoron, because corruption is never minor. Even if people consider it to be minor, it can often be a pointer to more serious corruption around and about.

Ms Mikakos — Systemic.

Ms PENNICUIK — Yes, systemic corruption. This does not mean that the IBAC would necessarily start investigating minor breaches or matters that were not serious, but it would mean that it could follow certain matters wherever they may lead and not be restricted in doing so. This is the case in every other jurisdiction that has a standing commission. It would mirror the situation in New South Wales — the terminology is almost the same — and that in Western Australia, Tasmania and Queensland as well.

Hon. M. P. PAKULA (Western Metropolitan) — The opposition will be supporting Ms Pennicuik's amendment 9.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In terms of Ms Pennicuik's amendment, let me step back. The IBAC is a key reform in the vastly strengthened and improved integrity regime that the coalition promised. We promised to establish the IBAC, we promised it would cover the whole public sector, we promised to give the IBAC the strongest possible powers of investigation and we promised to introduce a hugely strengthened oversight system to Victoria's integrity regime. We are doing all of these things.

In addition, the coalition government has introduced a series of historic integrity reforms, delivering on its election commitments. Since coming to office the government has introduced a Public Interest Monitor, a Victorian inspectorate, IBAC legislation, an independent freedom of information commissioner, a code of conduct for fundraising, a code of conduct for ministers and important reforms that tighten the lobbyists register. With IBAC at the apex, these measures are key elements of a new multilayered integrity regime for Victoria. The coalition government is getting on with the job of delivering these historic reforms. We note that Labor had 11 long years in office and steadfastly refused to do so.

The coalition government has repeatedly said that the IBAC is intended for the investigation of serious corruption, not for the purposes of investigating every minor breach or offence. In Victoria misconduct in public office is a common-law offence involving lesser order matters. It is an amorphous, ill-defined concept that has been the subject of criticism. In Victoria and other jurisdictions throughout Australia the experience of integrity bodies has been that inappropriate excesses and poor outcomes occur when extraordinary and coercive powers designed for serious corruption are used to investigate minor and lesser order offences.

The government is being careful to learn the lessons of other jurisdictions with the establishment of the new IBAC. The government has taken the time to consider legislation in other jurisdictions, and what we are delivering is a model that is right for Victoria, that focuses on the most serious matters, not trivialities, and that avoids the failings of other jurisdictions. In the event that the new Commissioner believes there is a case for additional powers or jurisdiction for the IBAC, he or she will be able to make recommendations to the new parliamentary Independent Broad-based Anti-corruption Commission Committee, which will be able to review the IBAC's powers and jurisdictions.

The DEPUTY PRESIDENT — Order! The question is that Ms Pennicuik's amendment, which proposes to insert a new clause to follow clause 6, be agreed to. I advise the committee that my vote is with the ayes.

Committee divided on new clause:

Ayes, 19

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

Noes, 21

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

New clause negatived.

Clauses 7 and 8 agreed to.

Clause 9

The DEPUTY PRESIDENT — Order! Ms Pennicuik is proposing to move some amendments to clause 9.

Ms PENNICUIK (Southern Metropolitan) — I have questions and I understand Mr Pakula has questions on clause 9 as well, so we will deal with these before we move the amendment.

I would like to direct the minister's attention to page 32 of the bill, proposed section 43. That concerns the findings about judicial officers which are not to be included in special or annual reports under this bill. My question is: how are findings about judicial officers to be presented?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Sorry, I missed that.

The DEPUTY PRESIDENT — Order! There have been some distractions. Could Ms Pennicuik repeat the question?

Ms PENNICUIK (Southern Metropolitan) — I am happy to repeat the question. I direct the minister to page 32, new section 43, regarding findings about judicial officers not being included in special or annual reports. My question is: how are findings about judicial officers to be presented or what happens to any findings about judicial officers?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Judicial officers are covered by the IBAC. The IBAC must have proper regard for the preservation of the independence of judicial officers. The different treatment of judges recognises the need to preserve the independence of the judiciary under our constitution. The provisions in relation to judges are designed to ensure that the separation of powers remains paramount.

The DEPUTY PRESIDENT — Order! Does Ms Pennicuik have any further questions? I am told Mr Rich-Phillips can handle the questions.

Ms PENNICUIK (Southern Metropolitan) — The minister stated that the bill preserves the independence of judicial officers. One of my questions was going to be how that will be achieved, because all I can see in the bill is that the person who does an inquiry or an investigation into the conduct of a judicial officer must be a judge of the County Court or the Supreme Court or a magistrate or a person qualified to be so. My first question is: how does that per se ensure the separation of powers and the independence of the judiciary? The other question that I just asked has not been answered: what happens to the findings of an investigation into a judicial officer if they are not to be included in reports?

The DEPUTY PRESIDENT — Order! I welcome back the minister.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The answer is what I said before in relation to a judicial officer being covered by the IBAC.

Ms PENNICUIK (Southern Metropolitan) — I know there has been a bit of disruption and coming and going, but perhaps I can repeat the question again. Can I have the minister's attention?

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

Ms PENNICUIK (Southern Metropolitan) — I am aware that judicial officers are covered by the IBAC. The question I asked before was regarding new clause 43. If the findings of an investigation into a judicial officer are not to be included in reports, what happens to them? How does the provision that judicial officers are investigated by another judicial officer or a person who is qualified to be a judicial officer alone preserve the independence of the judiciary?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In terms of Ms Pennicuik's question, she went to the first part at page 31 of the bill, but new clause 42 at page 32 — and it is important to read it out — states:

> (2) In performing its corrupt conduct investigative functions in relation to a judicial officer, the IBAC —
>
> (a) must have proper regard for the preservation of the independence of judicial officers; and
>
> (b) must notify, and may consult, the relevant head of jurisdiction unless doing so would prejudice an IBAC investigation.

Ms PENNICUIK (Southern Metropolitan) — Deputy President, with your indulgence, I still do not have an answer to the first question I have asked three times, which is: what happens to any findings made of judicial officers, because under the bill they cannot be included in reports? My query is: what happens to them?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am looking again at new clause 43, headed 'Findings about judicial officers not to be included in special or annual reports', which states:

> The IBAC must not include any finding of corrupt conduct of a judicial officer or any other adverse finding in relation to a judicial officer arising from an investigation in —
>
> (a) a special report under section 86; or
>
> (b) an annual report under section 89.

It is clear how they are treated.

Hon. M. P. PAKULA (Western Metropolitan) — We know that. That is why we were asking the minister. Perhaps if I ask the question in a different way we might get a different answer. If there is an adverse finding made against a judge, how will anyone ever know about it?

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

under the IBAC this will be the first time there will be the capacity for judicial officers to be investigated. In terms of the specific question which has been asked, the separation of powers doctrine must remain paramount as a consideration by this government.

Hon. M. P. PAKULA (Western Metropolitan) — To be clear, what the minister is telling the house is that if the IBAC finds that a judge has behaved corruptly, that information will be kept secret from the public. Is that what the minister is telling the house?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that these matters will be dealt with in further legislation. The government is taking a staged, measured approach. As I said, the separation of powers doctrine must remain paramount, and I also note that at present — prior to the introduction of IBAC — there is no jurisdiction of investigative judiciary. It is important for us to recognise that the government will do this in a staged, measured approach.

Hon. M. P. PAKULA (Western Metropolitan) — That is great, except we are being asked to vote on this bill today without knowing what is going to be in the government's staged, measured approach. In the subsequent piece of legislation can we be assured that if judicial officers are found to have behaved corruptly, there will be a mechanism for that information to be made public?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Again, I think it is important to put it in the context of the coalition government getting on with the job of delivering these historic reforms. It is interesting that Labor had 11 long years in office to do something about this. In terms of the judicial officers, they will be covered by IBAC. As I said, we must have proper regard for the preservation of the independence of the judicial officers. Those matters will be dealt with in further legislation, the government is taking a staged, measured approach and further legislation will outline how IBAC will interact with the judicial complaints commission. The government is taking a considered, informed approach.

Hon. M. P. PAKULA (Western Metropolitan) — I query the minister's reliance on the doctrine of the separation of powers. The doctrine of the separation of powers is about ensuring the independence of the judiciary from the executive; it is not about providing a cloak of anonymity and secrecy for improper or corrupt behaviour. The minister should remember that the type of behaviour covered by IBAC, as the government has constituted it, is criminal conduct, so what he is talking about is potential criminal conduct by members of the judiciary, but he is not prepared to assure the house that potential criminal conduct will be made known to the public.

I would have thought it is an absolute slam-dunk no-brainer that if you are going to have an independent, broadbased anticorruption commission that is only looking into criminal conduct, corrupt conduct and stuff that is already an indictable offence, the notion that anyone including a judge could commit an indictable offence, be investigated by IBAC and that information be kept secret would be offensive to the government. The government providing this small undertaking — that is, that if IBAC finds that a judge has committed an indictable offence, the public will find out about it — would have been about the easiest thing for it to do tonight, and it is extraordinary that the minister will not do that.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I note the crocodile tears from the member opposite. He was a minister in a government that did nothing about dealing with an independent broadbased anticorruption commission. In terms of this matter we, as a government, are getting on with the job of delivering these historic reforms. I made the point, through the assertions made by Mr Pakula, that there will be further legislation which will outline how IBAC will interact with the judicial complaints commission and that judges are equal before the law in relation to crime. The public would find out about any charges laid against the judiciary in due course under the Crimes Act 1958. I understand Mr Pakula's assertions, but they are not correct.

Ms PENNICUIK (Southern Metropolitan) — Given that I asked that question about findings three times, and given all the scurrying around that is being done over in the advisers box with people toing and froing, disappearing and coming back, I suspect that a mistake has been made here which has just been realised, and that is why we get an answer such that it will be fixed in the next bill. But the separation of powers is an important issue, and it is also important that wrongdoing does not get hidden. The minister read out parts of the bill in answer to the questions. We can read the bill ourselves, but he read a little bit about IBAC having proper regard 'for the preservation of the independence of judicial officers'. What exactly does that mean in the context of the performance of a corrupt conduct investigative function?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Where creatures of the executive arm of government such as an IBAC investigate the judicial arm, the separation of powers must remain paramount. Victoria Police will continue to be able to investigate alleged crimes.

Hon. M. P. PAKULA (Western Metropolitan) — Still on clause 9, but moving on to some other issues, I wonder if the minister could lay out for the house some examples of the exceptional circumstances that might enable someone to make a complaint to the IBAC without putting it in writing. To save time, perhaps while the minister is considering the answer to that question he might also consider whether it is possible for someone to make a complaint anonymously to IBAC.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In relation to Mr Pakula's first question, a person may make an anonymous complaint. In relation to the second matter, this is a matter for the Commissioner to consider.

Hon. M. P. PAKULA (Western Metropolitan) — Then is it a matter for the Commissioner to decide whether or not the Commissioner accepts a complaint that is in some form other than in writing? Is that what the minister is saying?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The bill makes reference to whether or not, in the opinion of the Commissioner, the subject matter of the complaint or notification is trivial or unrelated to the functions of IBAC, so it will obviously be a matter for the Commissioner to consider in that regard.

Hon. M. P. PAKULA (Western Metropolitan) — Moving on to page 31 of the bill, I note that in the definition section the definition of 'corrupt conduct' has the meaning given by section 3A, but new section 41(2) makes reference to 'serious corrupt conduct'. Corrupt conduct is defined, but serious corrupt conduct appears not to be defined. Given that there is no reference to it in the definition section, could the minister define serious corrupt conduct?

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

Hon. M. P. PAKULA (Western Metropolitan) — We got to it in the end. I was going to ask the minister to tell me what kind of corrupt conduct is not serious, but if I have heard him correctly, the minister is saying that there are two types of corrupt conduct — that is, serious corrupt conduct and not serious corrupt conduct and that whether something is serious or not serious corruption will be a matter for the Commissioner to decide. Is that correct?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I have said before, it is important to place on record that in Victoria and in other jurisdictions around Australia integrity bodies have had inappropriate excesses and poor outcomes occur when extraordinary and coercive powers designed for serious corruption are used to investigate minor and lesser order offences. The government has been very clear about its reform, and this vastly strengthened and improved integrity regime will be delivered. We see this as giving IBAC the strongest possible powers of investigation and, as we promised to introduce, a hugely strengthened oversight system for Victoria's integrity regime.

Hon. M. P. PAKULA (Western Metropolitan) — I have a simple query for the minister: is not all corruption serious?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In developing the bill, I again remind the member that the government has looked at legislation in other jurisdictions and has also taken heed of lessons learnt from the experiences of other jurisdictions. We have sought to ensure that IBAC is appropriately focused on the most serious matters, in respect of which the use of coercive powers is appropriate. The elements of the Victorian bill's definition of corrupt conduct, being substantially similar to that contained in the legislation of other Australian jurisdictions, seek to focus on serious corrupt conduct.

Hon. M. P. PAKULA (Western Metropolitan) — It might help the Parliament in understanding what the minister means if the minister could give us an example

of a type of corruption that is not serious. If IBAC is only going to deal with serious corruption, what would an example of non-serious corruption be?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The word 'serious' has been a word in common usage in the modern English language for some time. It would be a matter for the Commissioner to determine what are serious matters.

Hon. M. P. PAKULA (Western Metropolitan) — How is the Commissioner to form a view about whether or not serious corruption has taken place if the Commissioner cannot commence investigation without forming the view that serious corruption has taken place? Does that not put the cart before the horse? How is the Commissioner going to form that view without conducting an investigation?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I understand the proposition that Mr Pakula is putting. In his contribution to the second-reading debate Mr O'Brien put forward some examples. I do not propose to go through them, but they included the New South Wales experience. As I said, the view the government has is that it needs to be careful about the lessons learnt in other jurisdictions in the establishment of this new Independent Broad-based Anti-corruption Commission. We have taken the time to consider the legislation in other jurisdictions, and what we believe we have delivered is a model that is right for Victoria and which focuses on the most serious matters, not trivialities, and it avoids the failings we have seen in other jurisdictions.

Hon. M. P. PAKULA (Western Metropolitan) — I note the minister is not willing to chance his arm on a definition of non-serious corruption, so I will move on.

If we turn to page 35 of the bill, we see that new section 47(3) refers to a person who delays in making a complaint by more than a year. It talks about IBAC requiring persons to give an acceptable explanation for why there has been that delay. In those circumstances will it be an acceptable explanation to say that there has not been an IBAC until now? In other words, if there is conduct that goes back 15 months, 2 years or 3 years and a person makes a complaint, on the face of it you would say that it is more than 12 months old. Is the answer, 'We have not had an opportunity to make a complaint before today because there has not been an IBAC.'? Would that be considered an acceptable reason for that delay?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that this will be a matter for the Commissioner to determine.

Hon. M. P. PAKULA (Western Metropolitan) — Let us unpack that then. We have a situation where the Minister responsible for the establishment of an anti-corruption commission, in answering various questions he has been asked in the public domain about this, has made it clear that the IBAC Commissioner can investigate. He has been asked about retrospectivity and he has said, 'The IBAC Commissioner can investigate any matter'. How will that occur in a practical sense if it is more than 12 months old given the way this legislation has been drafted?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I said, the Commissioner will be well qualified to assess the matters within his or her jurisdiction. The Commissioner will assess the information and the complaints he or she receives and determine them accordingly.

Hon. M. P. PAKULA (Western Metropolitan) — I will move on. I turn now to page 39 and to new section 53(2), which is in regard to the power to require police to give information and documents and answer questions. Is there anything in the legislation that provides similar compliance directions for people other than the police? In other words, is there anything in the legislation that says someone other than a police officer has to answer questions put to them by IBAC?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Under new section 53 IBAC will be able to require members of the police force to give information, documents and answers. Failure to comply will amount to a breach of discipline under the Police Regulation Act 1958. The police force plays a crucial role in the Victorian justice system and members are vested with powers and appropriate discretion as to the exercise of those powers. As such it is important that members of the police force are held to high standards of accountability in order to maintain public confidence. New section 53(2) provides that a member of the police force may be coercively questioned, while new section 53(3) provides that any information, document or answer given or produced in accordance with a direction under subsection (2) is not admissible as evidence before any court or person acting judicially.

Exemptions to this are proceedings for perjury or giving false information, breaches of discipline, an offence under the Independent Broad-based Anti-corruption Commission Act 2011 for failure to comply with the direction of IBAC or review proceedings under the Police Regulation Act 1958. This section is consistent with the existing powers of the Office of Police Integrity under the Police Integrity Act 2007 and the Chief Commissioner of Police under the Police Regulation Act 1958. However, this section also enables IBAC to use that power to conduct an own-motion investigation in addition to investigations of complaints and notification.

In relation to non-police force members, I am advised that further legislation will be introduced to give IBAC its examination and referral powers.

Hon. M. P. PAKULA (Western Metropolitan) — Really that last bit would have done. The minister has said there will be a further piece of legislation. Just to condense it all into one question, will that further piece of legislation deal with IBAC's compliance powers for people other than police? Will it deal with IBAC's ability to summons individuals other than police? Will it deal with the question of whether or not IBAC has the power to require people other than police to give evidence under oath? Will the summons, provision of information, evidence under oath and non-police all be in the next piece of legislation?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I have indicated, I am advised that the matters the member asked about — in relation to people other than police — will be subject to further legislation that will be introduced to give IBAC its examination and referral powers.

Hon. M. P. PAKULA (Western Metropolitan) — Given that that is clearly the answer we are going to get, I will move on to page 46 of the bill. I raised this issue during the second-reading debate. Can the minister explain why this legislation limits the cohort of judicial officers who can issue search warrants under the bill to Supreme Court judges? In other words, why is it only Supreme Court judges and not magistrates who can issue search warrants under this bill?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — IBAC has serious powers to investigate serious corruption. In these circumstances it is appropriate that the state's superior court be the body to which applications for search warrants are made. Victorians would expect nothing less.

Hon. M. P. PAKULA (Western Metropolitan) — All right, but would the minister not agree that the circumstances in which these search warrants will be sought are largely similar to the circumstances in which magistrates are asked to issue search warrants on a regular basis? What impact on the resources of the Supreme Court does the minister believe limiting this power to Supreme Court judges will have?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I am advised that the government's view is that the state's superior court should be the body to which applications for search warrants are made. We see this as being appropriate.

Hon. M. P. PAKULA (Western Metropolitan) — I move to pages 68 to 70 of the bill, new section 86. Can the minister explain what mechanisms exist to deal with the circumstances where a relevant principal officer is the subject of an IBAC investigation?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — New section 86 empowers IBAC to make a special report at any time regarding any matter in relation to its duties and functions, including the outcome of an investigation. There are a number of appropriate procedural fairness protections for those who are named or have adverse comments made about them in an IBAC report — for example, if a report includes adverse comments about the person, the commission must first provide the person with a reasonable opportunity to respond and must fairly set out each element of the response in its report. Similarly if an adverse finding is to be made about a public body, the relevant principal officer, such as the secretary of the department, will have an opportunity to respond and the response will be set out in the report.

Even if a person is not implicated in any wrongdoing, simply being named in a report about serious corruption can sometimes have adverse consequences. Accordingly a person who is not the subject of adverse comment or opinion will not be identified in an IBAC report unless the commission is satisfied that it is in the public interest and will not cause unreasonable damage to the person and it states in the report that the person is not the subject of any adverse comment or opinion. The person will also be provided with a copy of the relevant material, giving them the opportunity to object or raise concerns with IBAC about being named. It is no

different from anyone else. There are appropriate reporting provisions which allow IBAC to report directly to Parliament in relation to relevant principal officers.

Hon. M. P. PAKULA (Western Metropolitan) — I heard the minister's last comment, but what does he say occurs in the case of the relevant principal officer being the actual subject of the complaint?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — As I said, it is no different from anyone else. If an adverse finding is to be made about a public body, the relevant principal officer, such as the secretary of the department, will have an opportunity to have a response set out in the report. Provisions allow IBAC to report directly to Parliament in relation to relevant principal officers.

Hon. M. P. PAKULA (Western Metropolitan) — While we are on the question of IBAC's reports to Parliament, can the minister just explain why it is that this section is so prescriptive about the form and the nature of the IBAC reports? The minister has indicated on numerous occasions now how a whole suite of things, including the question of whether or not serious corrupt conduct has occurred, is left to the discretion of the Commissioner, and yet in the question of reporting the minister has very onerous restrictions and the bill takes a very prescriptive approach. Why is it that matters such as who can be investigated and whether serious corrupt conduct has occurred can be left to the Commissioner's discretion but the question of how a report should be written cannot be?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The process for tabling reports in Parliament strikes an appropriate balance between ensuring that IBAC can do its important work and protecting the rights of individuals.

Hon. M. P. PAKULA (Western Metropolitan) — In other words the IBAC Commissioner can be trusted to ascertain for himself or herself whether or not someone has behaved in a seriously corrupt way but the IBAC Commissioner cannot be trusted to draft a report as he or she sees fit?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — There are two parts to this. In terms of making private recommendations to agency heads, this provision is a standard clause that exists for oversight and integrity bodies. Not only does this discretion exist for other anticorruption bodies in Australia, New Zealand and as far away as Canada, but in Victoria it is also available to the Ombudsman and the director, police integrity. Where minor disciplinary breaches are detected they should be addressed but should not ruin careers. In terms of the process for tabling reports in Parliament, as I have indicated, there needs to be the striking of an appropriate balance between ensuring that IBAC can do its important work and protecting the rights of individuals.

Hon. M. P. PAKULA (Western Metropolitan) — I ask the minister to turn to page 72 and new section 87 of the bill, headed 'Advice to a complainant and other persons', where it states that the IBAC may provide a complainant with information about the results of an investigation, including any action taken by the IBAC and any recommendations by the IBAC that any action or further action be taken. My question is: is that it?

Progress reported.

Business interrupted pursuant to sessional orders.

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

That the sitting be extended.

House divided on motion:

Ayes, 21

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

Noes, 19

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

Motion agreed to.

Committee

Resumed from earlier this day; further discussion of clause 9.

Hon. M. P. PAKULA (Western Metropolitan) — I am almost there. I was in the process of referring to new section 87 on page 72, and I was just going through the actions that the IBAC Commissioner can take to advise a complainant or other persons. What I was about to ask the minister is: is that it? Is section 87(1) the sum total of the further action that the IBAC Commissioner can take in relation to corrupt activity that has been exposed by an investigation, or does the legislation instead provide for the IBAC Commissioner to refer matters on anywhere else — for instance, to the Director of Public Prosecutions (DPP) or to any other body that the IBAC Commissioner believes is appropriate given whatever the Commissioner has uncovered?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The advice I have is that in relation to the specific question asked by Mr Pakula there obviously will be, as indicated before, further legislation introduced in respect of IBAC in terms of its examinations and referral powers.

Hon. M. P. PAKULA (Western Metropolitan) — The last one from me! If the minister is now indicating that the referral powers may well be included in future legislation, I ask the minister: for this IBAC to be a fully functioning, ready-to-go body, how many further pieces of legislation will we need to get to that point?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I note the comments made by Mr Pakula in terms of how much there is to go. It is interesting that as a government we are delivering on our election commitments. Since coming to office we have — —

Hon. M. P. Pakula interjected.

Hon. R. A. DALLA-RIVA — Mr Pakula interjects, saying 'Don't say it again', but I will, because I think it is important to outline just what we have done as a government. In terms of our election commitments, since coming to office we have introduced the Public Interest Monitor legislation, the Victorian Inspectorate legislation, the IBAC legislation, the independent freedom of information commissioner — —

Hon. M. P. Pakula interjected.

Hon. R. A. DALLA-RIVA — Mr Pakula does not like to hear it, but I will keep on going. We have introduced a code of conduct for fundraising. Mr Pakula might remember that when he was in government — —

Honourable members interjecting.

Hon. R. A. DALLA-RIVA — Not at all! We have introduced a code of conduct for ministers — I do not recall that one either — and important reforms tightening the lobbyist register.

Honourable members interjecting.

Hon. R. A. DALLA-RIVA — It is interesting that they yell and scream across the chamber, but they had 11 long years in office to do something about establishing such historical reforms. The question asked was answered in the second-reading speech.

The DEPUTY PRESIDENT — Order! The minister has extended the sitting, and I suggest to him that if he does not want it to extend very late, then we need to be careful on both sides that we keep this as a proper committee stage looking at specific clauses so members can ask questions — and I would prefer that the minister answered them.

Hon. M. P. PAKULA (Western Metropolitan) — Thank you, Deputy President. The minister answered that question as if my question was a provocation. My question was not designed to be a provocation — it was a genuine question — and I do not think it needed the minister's diatribe about fundraising codes, even though members of the government were at a $10 000-a-plate event just last week.

The DEPUTY PRESIDENT — Order! I know that Mr Pakula was invited to respond, but I have already indicated that at nearly 10.15 p.m. I would prefer to deal with the committee stage in proper consideration of each clause. Thank you.

Hon. M. P. PAKULA (Western Metropolitan) — I hear you loud and clear, Deputy President, and I will not persist. It really was a simple question. The minister has already indicated that there will be a further piece of legislation. I am simply trying to understand if that next piece of legislation will be it or whether there will be another one after that before the IBAC is up and running.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In terms of the second-reading speech, it is important to note that

the government was very clear about its intention for further legislation and that it would contain examination referral powers and transitional and consequential provisions. I also note that, as I said, there will be further legislation for those matters, but just for the record, there were 11 pieces of legislation to establish the OPI.

Hon. M. P. PAKULA (Western Metropolitan) — I do not think there were 11 pieces of legislation before the OPI got up and running. I am not asking how many pieces of legislation there might be over the whole life of the IBAC. I am simply asking how many there will be before it starts. Will it be one more bill? How many more bills can we expect in the Parliament in regard to the IBAC before the IBAC commences operation? That is all we want to know.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — With this bill the coalition government has delivered the investigative framework for IBAC, building on the foundations set in the Independent Broad-based Anti-corruption Commission Act 2011. As I indicated, further legislation will contain examination and referral powers and transitional and consequential provisions as outlined in the second-reading speech.

Hon. M. P. PAKULA (Western Metropolitan) — 'I don't know' would have been okay in that circumstance. If the minister does not know, can he just tell us that how many bills there will be has not been decided? Or if the minister does know but does not want to tell the Parliament, maybe he should just say that.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — I envisage there will be less than the 11 pieces of legislation it took to establish the OPI.

Ms PENNICUIK (Southern Metropolitan) — Following on from the Deputy President's earlier ruling, if the minister kept to answering questions and not referring to ministerial statements, we might have got to the end of the committee stage of the bill without having to extend the sitting. My question refers to new section 87(4)(c), which is at page 73 of the bill. I appreciate that the government is taking seriously the risk that there may be people who have just been caught up in an IBAC investigation. People who have not done anything wrong could have their reputation damaged. The bill says:

> (4) The IBAC must not provide any information … if the IBAC considers that the provision of the information would —
>
> …
>
> (c) cause unreasonable damage to a person's reputation.

My question is: what does unreasonable damage mean and how would that be ascertained? To put it another way: what is reasonable damage to a person's reputation? Is there a well-known legal test that is being used here or is that a matter for the commission's judgement?

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — The exceptions are set out in new section 87(4). They preclude IBAC from advising complainants and others where there would be serious consequences for doing so — for example, where it would be contrary to public interest or justice, put a person's safety at risk, prejudice an investigation, reveal secret investigative methods of IBAC and so forth. In relation to the specific circumstances of each case, that would be for the Commissioner to consider and determine.

Ms PENNICUIK (Southern Metropolitan) — I have no more questions on clause 9 and if there are no more questions from other members, I am happy to proceed with my amendment.

The DEPUTY PRESIDENT — Order! I invite Ms Pennicuik to move her amendment 10, which is a test for her remaining amendments 11 and 12.

Ms PENNICUIK (Southern Metropolitan) — I move:

> 10. Clause 9, page 31, line 4 omit "(1) Subject to subsection (2), the" and insert "The".

This amendment is a change to a sentence. Amendment 11 is the more substantive change. That relates to page 31 of the bill where clause 9 inserts section 41(2). This amendment would omit subsection (2), which states:

> (2) The IBAC must not conduct an investigation under subsection (1) unless it is reasonably satisfied that the conduct is serious corrupt conduct.

I moved that amendment following on from the earlier amendment I lost, which was to reword that clause so that the commission has discretion as to what matters it investigates. This bill already contains quite limiting provisions on what corrupt conduct is, in terms of it being behaviour that results in an indictable offence or

three quite distinct common-law offences, including perverting the course of justice and bribery. This legislation is much more restricted than other acts across the country. This provision further restricts it, and as we discovered through our questioning in committee, we do not understand and the bill does not define what serious corrupt conduct is, as opposed to any corrupt conduct. As Mr Pakula said: what is serious and what is not? We believe this particular provision is unnecessary.

Hon. M. P. PAKULA (Western Metropolitan) — Given that the minister has been unable to provide an example of non-serious corrupt conduct, we think that reference to serious corrupt conduct becomes in effect meaningless. I am yet to understand a circumstance in which corruption by a public official can be not serious. In those circumstances we think, like the Greens do, that more discretion for the Commissioner is warranted, and we will be supporting the amendment.

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — Under proposed section 41, IBAC must not conduct an investigation in accordance with its corrupt conduct investigative powers unless it is reasonably satisfied that the conduct is serious corrupt conduct. The definition of corrupt conduct requires that the conduct be a statutory indictable offence or a common-law offence, an attempt to pervert the course of justice, bribery of a public officer or perverting the course of justice. This requirement prevents the inappropriate investigation of matters that are minor or trivial. For those reasons the government considers section 41(2) to be critical to the bill and necessary to ensure that IBAC focuses only on serious corrupt conduct. Therefore, the government will not support the proposed amendment.

Committee divided on amendment:

Ayes, 19

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

Noes, 21

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

Amendment negatived.

Clause agreed to; clauses 10 to 17 agreed to.

Postponed clause 3

Hon. R. A. DALLA-RIVA (Minister for Employment and Industrial Relations) — In regard to Mr Pakula's question relating to the relevant principal officer as defined under clause 3, the Director of Public Prosecutions is not a relevant principal officer as the solicitor for public prosecutions is the relevant principal officer for the Office of Public Prosecutions. The IBAC will be able to investigate the director but make recommendations to the solicitor. This is because the director is not defined under the Public Administration Act 2004. Likewise the heads of universities and private prisons do not fall within that definition. The IBAC will not be able to make direct recommendations in relation to these persons but will still be able to investigate them and potentially report to the Parliament. Therefore all of the persons mentioned by Mr Pakula are capable of being investigated. The IBAC will also be able to report directly to the Parliament about all the persons mentioned by Mr Pakula.

Clause agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

ROAD SAFETY AMENDMENT (CAR DOORS) BILL 2012

Referral to committee

Mr KOCH (Western Victoria) — By leave, I move:

That the Road Safety Amendment (Car Doors) Bill 2012 be referred to the Economy and Infrastructure Legislation Committee for inquiry, consideration and report.

It is important that this bill be referred to the Economy and Infrastructure Standing Committee at the first opportunity. This is the most appropriate committee to handle matters relating to transport, and it is the most

sensible committee to undertake all of the necessary hearings and discussions relating to this matter.

We are all aware of the dangers that both cyclists and motorists are confronted with and how easily accidents occur. Drivers do not receive training with respect to cyclists, and on many occasions they are not aware of cyclists approaching, especially with bike lanes now being placed on the left side of carriageways. Similarly, cyclists do not necessarily always appreciate that passengers alight from the left-hand side of motor vehicles.

In saying those few words, I commend the motion to the house.

Ms PULFORD (Western Victoria) — The opposition will be supporting this motion. Indeed we were about to move it when debate was adjourned by agreement of all parties in the house in the last sitting week. I invite Mr Koch to indicate in his right of reply the time frame for the report to be completed. I had been led to believe that it was — —

Ms Pennicuik — It was 2015.

Ms PULFORD — Yes. There is no date on it. I had been led to believe there was a time frame in mind. The opposition certainly welcomes the change of heart about how the upper house committees are to be used. Having matters referred to the legislation committee is something we have not been successful in doing. I am a member of the Standing Committee on the Economy and Infrastructure and certainly look forward to an opportunity to consider this important matter.

There are literally a million or more Victorians who get on their bikes on a regular basis, including kids on their way to school and people getting from A to B. It is an issue that affects a lot of people and one that is worthy of proper consideration by a committee that is designed to consider legislation in this way.

I will conclude by again asking Mr Koch to indicate if he has a time frame in mind, because the motion we intended to move along these lines in the last sitting week, which we did not move, certainly had a very specific and tight time frame of five or so weeks.

Mr BARBER (Northern Metropolitan) — The Greens will support this motion; however, it is still our view that the underlying issue we are attempting to address through this bill is something the government should be acting on urgently. We are still strongly of the view that the mechanism of an increase in fines is necessary and that the government through the use of a regulatory instrument — for instance, the *Government Gazette* — could implement this measure tomorrow. It could have done so over the months during which we foreshadowed this bill. It could still do it, even as this committee inquires into the bill. It is an urgent matter, and we would love to find out that the government had in fact taken the wind out of our sails by reading in the *Government Gazette* tomorrow morning that it has already done the thing that this bill intends to achieve.

However, if the bill does go to a committee of inquiry, then there will be the opportunity, we hope, for submissions, and many members of the public — cyclists and other road users alike — would have the opportunity to have their views on this bill and its related issues aired before the Parliament. That would also be a good thing. Politicians will have to listen while cyclists talk, and for that reason an inquiry is a worthwhile exercise.

I should indicate that tomorrow morning in motions by leave we will seek to substitute Ms Hartland in place of me on the legislation committee. I do not want to be having an inquiry into my own bill, so for the purposes of this specific inquiry we will seek to substitute another member of the Greens on the committee. We will address that by motion tomorrow morning.

Motion agreed to.

ADJOURNMENT

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

That the house do now adjourn.

Costerfield mine: ministerial visit

Mr LENDERS (Southern Metropolitan) — The matter I raise on the adjournment tonight is for the attention of Peter Walsh, the Minister for Agriculture and Food Security and Minister for Water. It is in relation to AGD Operations, a company owned by Mandalay Resources that employs 160 people at the Costerfield mine, 50 kilometres east of Bendigo. Ms Darveniza and I visited the mine last Tuesday after being asked to come by some of the local farmers. The area has been mined since the 1860s. Gold and antimony have been mined there for many years. What is causing friction in the community is the conflicting priorities of agriculture and mining, which have come to the fore.

Ms Darveniza and I met with an amazing man called Gil Cochrane. He and his group of local farmers were quite upset by the ‘dewatering’, as they described it, by

the mine. We have a mine that has drawn on water for a long time, and we have had an application to Goulburn-Murray Water for a greater ability to draw on water for the mine — water for the purpose of keeping down dust and a whole range of mining processes.

Gil Cochrane outlined the farmers' point of view. His family has been there since European settlement — they had the original selection — and they are saying that the springs have gone dry for the first time that they can in their collective memory recall. They are certainly of the view that the aquifer has been overdrawn, and where from the farmers' point of view this is becoming quite a challenge is that farmers who have been drawing on the springs for decades are now having to truck in water for their stock and their vines. It has become more expensive for them, and it is a priority issue.

The issue I am raising tonight for the minister is that this conflict between agriculture and mining has come to the fore at Costerfield. The farmers certainly would like to meet him to outline their concerns to him — —

Hon. D. M. Davis — What is the name of the firm?

Mr LENDERS — The name of the firm is AGD Operations. It operates the Costerfield mine, and it is run by Mandalay Resources. The action I seek from the minister is that he go to Costerfield, which is, as I said, 50 kilometres east of Bendigo in the Rodney electorate — perhaps the local member might go with him — and actually sit down with the farmers there, see firsthand this conflict between agriculture and mining and try to resolve some of the issues. They have issues for the Minister for Energy and Resources and they have issues for the Minister for Environment and Climate Change, but as an advocate for them I urge Minister Walsh to go to Costerfield and meet with the local farmers.

Planning: Point Cook

Ms HARTLAND (Western Metropolitan) — On Saturday I met with members of the Point Cook Action Group, who took me on a tour of Point Cook. They really love their suburb, especially the wetlands and the great mix of people who live there. I arranged to meet with them because of the flood of emails I have received about the Point Cook precinct plan, which is a plan for some 5800 new dwellings, and the local residents have concerns with the process.

After speaking to residents and doing a tour around Point Cook with them, I can see exactly what their concerns are. The residents are at their wits' end in relation to commuting to work either by public transport or by car. In terms of public transport there are only the 413 and the 416 buses. No other public transport runs into or out of Point Cook. Believe it or not, these buses run on a 40-minute frequency, even in peak periods. I really did say that — a 40-minute frequency in peak periods — and that is just abysmal. Most people have to drive, whether they want to or not, but there is gridlock on Point Cook Road. It takes somewhere between 20 and 30 minutes to get out of Point Cook in the morning, either onto one of the main roads or to the railway station at Laverton or Hoppers Crossing. If you drive to the train station, you need to be there by 7.00 a.m. or you will not get a spot in the station car park.

One of the issues the residents raised is the fact that the Growth Areas Authority is using the 2006 census for its planning decisions. This is a classic example of what is wrong with this plan. These census figures are now obviously five years old, and the new census numbers will be available in June this year. I urge the minister to come to Point Cook, see the transport infrastructure for himself and talk to the residents. At the very least I ask him to talk to the Growth Areas Authority about delaying the Point Cook precinct plan until the new census numbers are available.

Hon. D. M. Davis — This is the planning minister?

Ms HARTLAND — Yes, it is. The minister should be prepared with a plan of how the government might provide road and public transport infrastructure to the existing residents, let alone to the residents of the 5800 new dwellings.

Carbon tax: hospitals

Mrs COOTE (Southern Metropolitan) — My adjournment matter this evening is for the Minister for Health. Incredible as this might seem, the federal Minister for Climate Change and Energy Efficiency, Mr Greg Combet, recently said that he did not know what the average household power bill was but that it was going up. As I say, incredible as it might be, he has taken no interest at all in the fact that, because of the carbon tax, power bills are going to go up absolutely enormously in Victoria, and that is going to have a huge impact on health issues. I am particularly concerned about hospitals within my own electorate. It is a great pity that the federal government is not sharp enough to understand this. Mr Combet is an absolute and utter disgrace.

I am concerned that the commonwealth has not properly compensated Victorian health services for the

impact this new tax is going to have on all their services and budgets. I am also extremely concerned about the impact on several of the hospitals within my electorate which look as if they are going to be facing additional bills of over $1 million a year. This includes the Alfred hospital — one of the largest hospitals in my electorate — and I am particularly concerned about what the impact is going to be.

There does not seem to be any specific provision for carbon tax compensation. There needs to be full compensation from the federal government to the Victorian government for this very issue. I know there are a number of factors, and it is very important to understand that it is not just how the carbon tax will increase overall; it is burrowing down to a whole range of issues. Once again it has been totally and utterly overlooked. The state is going to have to pick up the cost, and the commonwealth has not taken into account any of the crucial factors affecting this.

Tonight on the adjournment I ask the minister to continue to fight for compensation for Victorian hospitals and take his fight to the commonwealth.

Hon. M. P. Pakula — On a point of order, President, I would ask you to give consideration to whether or not the type of action that Mrs Coote seeks is within the standing orders and accords with previous rulings.

Hon. D. M. Davis — On the point of order, President, I think she means to advocate to protect Victoria from the impact of the carbon tax. I think that is what she means.

Hon. M. P. Pakula — Further on the point of order, President, I do not think the minister has added mind-reading to his skills. He might say that that is what the member meant; it is not what the member said. Perhaps the member can speak for herself.

Mrs COOTE — On the point of order, President, I would like to rephrase my request so that Mr Pakula can understand that the action I seek this evening is for the minister to advocate very strongly on behalf of Victoria to the commonwealth government for compensation to the Victorian health system, particularly the hospitals within my electorate, in relation to the effect of the carbon tax. Did Mr Pakula understand that one?

The PRESIDENT — Order! I do not know whether Mr Pakula did, but I did. I must say that I think Mr Pakula's original point of order was accurate. The fact is that the minister has himself raised this issue in the chamber, and to ask him to continue to fight I think is probably stretching it in terms of the adjournment. I also note that whilst Mrs Coote's further contribution on the point of order was not really a matter relevant to the point of order, it has nevertheless rephrased the action, which is what I might have given her an opportunity to do. I guess we are now in a better position in terms of the minister having an action that is acceptable in the context of the adjournment.

Planning: Point Cook

Mr TEE (Eastern Metropolitan) — I too rise to raise with the Minister for Planning the very difficult position of Point Cook residents — an issue I raised in this chamber last year — in relation to the impact of increasing development and infrastructure issues facing this community. The Growth Areas Authority is currently considering a Point Cook West precinct structure plan that will dramatically increase the number of homes in this community, which is already bursting at its seams. The Growth Areas Authority proposal is a plan that has already been rejected by the Wyndham City Council, and it is a proposal that will ultimately need to come before the minister for his approval.

Community members have been communicating with me and obviously other MPs in this place to convey their desperation and despair about overly congested roads, the lack of community facilities like youth centres and swimming pools, overflowing schools, the lack of public transport — and the list continues. These community members moved to Point Cook for the look and feel and the strong community fabric that they believed was unparalleled. They are now concerned about the increasing threat proposed by this sort of development, which they think is short-sighted and does not show any consideration for the long-term consequences of the lack of infrastructure.

The action that they and I seek from the minister is a commitment to improving existing infrastructure like public transport, like the bus service which currently runs only every 40 minutes and like the road upgrades which are planned but have not yet been implemented. They seek a commitment to funding them before there is further expansion and a commitment that any expansion in terms of additional homes comes with the appropriate transport, education and community infrastructure. Otherwise what we will have is an outcome that is unfair and that will leave a legacy of congestion as families drive long distances to drop their children off at faraway schools.

Planning: Point Cook

Mr FINN (Western Metropolitan) — I also wish to raise a matter for the attention of the Minister for Planning. It concerns the thousands of residents of Point Cook who are deeply concerned about the plight they find themselves in at this time. Point Cook is a delightful place, but I think it would be safe to say that planning has failed it. Point Cook is a classic example of how not to plan a suburb. It is a suburb that barely existed when I first came into this house in 2006, but it is now a thriving metropolis, as I have mentioned in this house before, with a magnificent town centre. However, the planning processes that have allowed this suburb to grow like Topsy without the necessary infrastructure have failed everybody.

It has to be noted that this lack of planning occurred entirely under the previous government; there has been no residential development approved by the current government. All the problems we see in Point Cook — the road problems, the public transport problems — are a direct result of the failure of the previous government to take account of the needs of the people moving into Point Cook. Quite frankly the previous government took the money and ran. It took the stamp duty, it took the assorted taxes and it gave nothing back to the people of Point Cook.

It has to be said now that Point Cook Road, the major thoroughfare in and out of Point Cook, would be a joke if you could call such a thing funny. How could the previous government possibly have allowed this major road to have its outlet to the freeway through the Laverton township? How could that have been allowed to happen? It was allowed to happen, and it is still very much the case now. I drive through there quite frequently and shake my head at the incompetence of the previous minister and government in their planning approaches.

Sneydes Road is another road that urgently needs an interchange to allow further access to the Princes Freeway. That is very high on my list of priorities, and I hope it is very high on the government's list of priorities.

I know that Minister Guy is very much aware of the many problems faced by residents. I have discussed them with him at length privately, and I know he has visited Point Cook on a number of occasions to view these problems for himself. I ask him this evening to make public the timetable for future precinct structure plan approvals. As I said, I know he has not approved any to this point, but we would like to know exactly what he has in mind and what the government has in mind for the future of this suburb.

Department of Human Services: restructure

Ms MIKAKOS (Northern Metropolitan) — My matter is for the Minister for Community Services. I wish to express my concern about the potential loss of 500 positions as a result of the proposed organisational restructure of the Department of Human Services. According to the latest DHS annual report, the north and west metropolitan region employs a total of 2382 staff across a range of areas, including disability services, housing and child protection. The north and west regional office also manages 178 disability residential facilities, which is the highest number in Victoria.

Suburbs in my electorate of Northern Metropolitan Region have some of the highest rates of residents with a disadvantage. According to the 2006 census figures Thomastown and Preston were rated as the top two Legislative Assembly electorates with the highest proportion of persons who need assistance in the Northern Metropolitan Region. Broadmeadows was rated at no. 4. This includes many thousands of people who have a disability. The 2006 census for the north-western Melbourne statistical region reported that there were 13 714 persons who had 'a need for assistance with core activities'. These residents and their carers rely heavily on the Department of Human Services for services to assist them with the challenges they face on a daily basis. I believe that cuts to staff levels will have a detrimental impact on their quality of life.

The action I am seeking is for the Minister for Community Services to provide a guarantee that staffing levels for disability support workers in the north and west metropolitan region will not be diminished as a result of the DHS restructure.

Australian Council of Trade Unions: secretary

Mrs PEULICH (South Eastern Metropolitan) — I wish to raise a matter for the attention of the Minister for Employment and Industrial Relations, Mr Dalla-Riva. It is in relation to the matter I raised as a members statement this morning, and that is the recent appointment of Mr Oliver as the new secretary of the Australian Council of Trade Unions (ACTU).

Hon. M. P. Pakula — He hasn't been appointed!

Mrs PEULICH — He has found himself in that particular position. Whilst he is a member of the Socialist Left, he was the head of the Australian

Manufacturing Workers Union. As one of the members representing the south-east, which has a very large base of manufacturing and industry, and given that Labor both here and federally cannot seem to grasp that it is not possible to build prosperity by taxing industry and killing jobs, I think it might be worthwhile for Mr Dalla-Riva to consider writing to Mr Oliver to enlist his commitment to build campaigns. Mr Oliver did say the campaign that he wishes to focus on is campaigning against Tony Abbott. I would have thought that his time and position would be better spent campaigning for jobs and policies that support industry and jobs.

I am asking Mr Dalla-Riva to give consideration to writing to Mr Oliver to convince him that he would better represent his members and members of the unions by building a campaign against the carbon tax or giving consideration to the deferral of the carbon tax so that they could persuade the Prime Minister, Julia Gillard, to put on hold or defer a policy that is going to kill off not just businesses across Australia and across Victoria, certainly throughout the south-east, but also jobs. We know and we have heard that the carbon tax is going to increase the costs of services, which will have a compounding effect throughout the community. It will also affect family budgets. But most importantly it is going to throw — and it is already throwing — many businesses to the wall, and it is costing jobs. We know that the most impoverishing effect on families is the loss of jobs.

I think it is worthwhile trying to do whatever we can; therefore I call on the minister to give consideration to writing a very early letter to the new ACTU secretary so we can at least attempt to find some method of persuading the Labor Party to adopt more common-sense positions given the challenges facing the economy.

The PRESIDENT — Order! I wonder if Mrs Peulich could very quickly rephrase the action she seeks, because an action that asks a minister to consider writing a letter is not within the keeping of our adjournment.

Mrs PEULICH — Far be it from me to direct the minister as to what he should do. I am asking him to give consideration to writing a letter and communicating the needs of the electorate that I represent in this Parliament, and I would have thought that it was a pretty clear matter to build a campaign against the job-destroying policy of the carbon tax — a policy in relation to which the Labor Prime Minister is clearly deaf and has her head deeply stuck in the sand.

The PRESIDENT — Order! I direct that the minister not respond to that particular item. I gave the member an opportunity to rephrase it, and it was not taken. The issue is on the table and it was also put on the table earlier today.

Mrs Peulich interjected.

The PRESIDENT — Order! The minister obviously has the opportunity to write such a letter — —

Mrs Peulich interjected.

Debate interrupted.

SUSPENSION OF MEMBER

Mrs Peulich

The PRESIDENT — Order! Mrs Peulich will be suspended from the house for half an hour at the start of tomorrow's proceedings. The minister will not respond to that item.

ADJOURNMENT

Debate resumed.

Bushfires: emergency management

Ms PULFORD (Western Victoria) — We have had some adjournment matters from central casting and the government's media release folder tonight!

The PRESIDENT — Order! That is unnecessary. I have made a ruling, and I ask the member to address her own adjournment item.

Ms PULFORD — My adjournment matter this evening is for the attention of the Deputy Premier and Minister for Bushfire Response, Peter Ryan. The 2009 Victorian Bushfires Royal Commission made some 37 recommendations that impact on local government. As is the case for many members in this place, there are a great number of high bushfire risk communities in my electorate. Both the former Brumby government and the current Baillieu government have worked with the Municipal Association of Victoria to support local councils in ensuring the implementation of the recommendations of the bushfires royal commission.

In July last year many councils in western Victoria appointed emergency management coordinators to deal specifically with the implementation of best practice emergency management plans to ensure the highest

level of bushfire safety for our communities. Those positions were created with funding provided by the Department of Planning and Community Development, and numerous people across councils in regional Victoria have undertaken tasks including assessing the ongoing suitability of neighbourhood safer places; developing emergency management plans for kindergartens and maternal health facilities; engaging with communities, community groups and associated agencies around the implementation of municipal emergency management plans; and creating a link between those plans and township protection plans and working across all agencies. These are big tasks that require ongoing work.

Councils have been advised that funding for these programs is to be dramatically reduced. Some municipalities will be sharing their resources in the future, and the Northern Grampians, Ararat and Pyrenees shires will be splitting the role three ways. This will necessitate an enormous amount of travel, and I have already been advised that in one case in my electorate it has caused the loss of expertise as people have been unable to stay in these positions now that they have been split.

I ask that, rather than cutting the funding now, the Deputy Premier urgently reinstate the funding before any more expertise is lost and review this matter in another two years time.

Employment: Geelong

Ms TIERNEY (Western Victoria) — My adjournment matter this evening is for the Minister for Ports, Dr Napthine, and it is in relation to the Geelong port. On 27 July 2011 the minister was in Geelong to officially launch a discussion paper released by the coalition government on the relocation of the roll-on, roll-off car trade from Melbourne to the port of Geelong. As described in the media release on the Premier's website the following day, the discussion paper explained that this move 'would significantly cut traffic crossing the West Gate Bridge and deliver thousands of jobs to Geelong'.

In the media release the minister is quoted as saying:

> A move to Geelong would also be a massive boost for the local economy with the discussion paper finding the increase in ship visits would 'drive economic development in the region'. This means thousands of jobs and millions of dollars in investment that would directly benefit Geelong and the surrounding area.
>
> In addition to this the paper identifies Geelong as being well placed to take Victoria's import and export car trade …

At the media event in Geelong the minister glowingly endorsed the discussion paper findings in 2011; however, when the Premier was questioned during the last sitting week by the shadow Minister for Ports, Tim Pallas, the Premier refused to answer the question. When the opposition has tried to access the consultant's report under the Freedom of Information Act 1982 it has been denied. In opposition the coalition, including the current Minister for Ports, spoke very favourably of relocating the roll-on roll-off car trade from Melbourne to the port of Geelong. Now we cannot get a word out of this government at a time when Geelong residents are looking to the government for a plan to protect their jobs.

The action I seek is that the minister publicly come clean with the people of Geelong, indicate the government's position on the relocation of the roll-on roll-off car trade from Melbourne to the port of Geelong and inform me of whether the government has met with the car manufacturers to discuss the impacts on productivity for the industry that will be caused by this potential move.

Sunshine Hospital: radiation therapy centre

Hon. M. P. PAKULA (Western Metropolitan) — I wish to raise a matter for the minister at the table, the Minister for Health, David Davis, and it concerns Sunshine Hospital.

The minister will be aware that a significant amount of funding was provided by the former Labor government for various parts of the hospital, and that has allowed some significant strides to be made at Sunshine Hospital — a hospital that takes the lion's share of the load for Melbourne's west. There was the $51.6 million Western Centre for Health Research and Education, the relatively new Sunshine Hospital radiation therapy centre, which cost something like $41 million to $42 million, and the inpatient and ambulatory centre, with 128 beds.

All of that will mean that by next year Sunshine Hospital will have more multi-day beds than all but three hospitals in Victoria and more beds in total than any hospital other than the Austin, but what it does not have is an intensive care unit (ICU). It is already by some distance the largest hospital in the state without an ICU, and last financial year I believe there were something like 450 transfers from the emergency department to other ICUs — predominantly to Footscray — and that was an increase of some 14 per cent on the 2009–10 year. Undoubtedly those numbers will grow as the population of that part of Melbourne grows — the numbers of patients that present at the

emergency department at Sunshine and then require a transfer to another hospital, most likely Western General Hospital at Footscray, will continue to grow.

It is my understanding that for some $15 million Sunshine Hospital can have an ICU and perhaps also a couple of additional birthing suites for the maternity unit. The action I seek from the minister is that he ensure that in the upcoming budget the investment by the former government to improve and make Sunshine Hospital excellent is built upon and that he do that by providing the $15 million the hospital needs for an intensive care unit.

Floods: northern Victoria

Ms DARVENIZA (Northern Victoria) — I wish to raise a matter for the attention of the Minister for Police and Emergency Services, Peter Ryan, concerning the flooding in north-eastern Victoria, particularly in Numurkah, Katamatite, Nathalia, Tungamah, Tallygaroopna, Wangaratta and Yarrawonga.

Last Tuesday I visited the flood recovery centre in Congupna with the federal Attorney-General and member for Gellibrand, Nicola Roxon, where I witnessed firsthand the tremendous work being done by personnel from the State Emergency Service, the Country Fire Authority, the Australian Army and Victoria Police as well as by council officers and the many volunteers. I want to take this opportunity to acknowledge their tremendous efforts and to thank them for all the work they have been doing over the past week.

It is times like these that the incredible community spirit shines through, and many residents were running on little sleep as they battled to save not only their own homes but also those of neighbours. Last Wednesday I had the opportunity to view the extensive and devastating flooding of the region from the air. The magnitude of the affected area is astonishing. In Tungamah, Katamatite and Numurkah the water was higher than the 100-year-event flood levels.

Wangaratta had its wettest week in recorded history, with 242 millimetres, compared with the previous record of 209 millimetres back in 1939. The highest readings were between 200 and 300 millimetres throughout the region. The highest was in Tungamah, with 300 millimetres of rain falling within seven days.

Up to 300 000 sandbags have been laid across the region in a bid to hold back the water. Thousands of volunteers worked tirelessly with little or no sleep. Again, it was a tremendous effort for which we all thank them.

Over 20 primary schools, creches and kindergarten centres were closed. In Numurkah 34 patients had to be evacuated from the hospital when it was inundated, and 40 homes and businesses were damaged. All road access to Katamatite was completely cut off and the local hotel became the unofficial relief centre.

In Nathalia on Friday Broken Creek peaked 20 centimetres higher than expected, at 3.3 metres, and 114 000 sandbags were used to stem the flow. Farmers had to wade through floodwaters up to their chests to move stranded cattle, and Murray Goulburn could not pick up milk from some farmers due to unsafe roads. Yarrawonga had 184 emergency calls, and 24 houses were inundated.

My specific request to the minister is that in the immediate aftermath of the flood he ensure that all those people affected by the floods have access to financial assistance and the support that they need and that they are made aware of grants and other funding.

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

Responses

Hon. D. M. DAVIS (Minister for Health) — I have written responses for 15 members in relation to adjournment debate matters raised earlier: Mr Drum, 30 August 2011; Mrs Petrovich, 30 August 2011; Mr Leane, 31 August 2011; Mrs Petrovich, 27 October 2011; Mrs Peulich, 9 November 2011; Mrs Coote, 7 February 2012; Mr Lenders, 7 February 2012; Ms Broad, 8 February 2012; Mrs Coote, 8 February 2012; Mr Leane, Mr Lenders and Ms Pennicuik also on 8 February 2012; Mr O'Brien and Mr Ramsay on 9 February 2012; and Ms Mikakos on 28 February 2012.

I have also had a number of adjournment matters raised with me tonight. One was raised by Mr Lenders for the attention of the Minister for Water, Mr Walsh, concerning a mine operator and issues of conflict between mining and agricultural activity — longstanding issues. I know the challenge that is faced in balancing competing interests, and I will ensure that the matter and the request for a visit are passed to the minister.

Ms Hartland raised with me a matter which a number of others also raised with me concerning the Point Cook wetlands, the Point Cook precinct plan and the failure to plan over a period of time, and she made a request

for the Minister for Planning to visit the area. It is my understanding that the minister has actually visited Point Cook, perhaps more than once, to look at these matters. Indeed as this adjournment debate moved on the matter was fleshed out in greater detail in subsequent matters, including Mr Finn's contribution. I think he eloquently made the point that Point Cook residents have faced a failure of planning over a number of years. I too know the area well personally and understand some of the points that have been raised. I will raise the matter with the minister, and I have no doubt that he will give it further significant attention.

The matter raised by Mrs Coote was for my attention. It concerned the impact of the carbon tax on health services, particularly the Alfred hospital, which she singled out, where the cost of the carbon tax on that health service is likely to be more than $1 million a year. I agree with her about the need to compensate health services in Victoria. There is going to be a significant impact, and there will be less capacity to grow the system in forthcoming years if the carbon tax is not compensated in the states. I note very clearly that the commonwealth government has not understood the significance of this matter and the impact it will have on health services. I indicate clearly to Mrs Coote that I will continue to advocate to the commonwealth government, and I will do that in a coordinated way not only in this chamber but elsewhere as well.

Mr Tee raised a matter for the attention of the Minister for Planning, also in relation to Point Cook. I think he perhaps failed to mention the longstanding issues that developed in that area over a number of years under the previous government and the failure to plan that residents, as Mr Finn pointed out in the subsequent adjournment matter, had to endure under the previous government. As I have said, I have no doubt that the minister has been out to Point Cook several times to look at the issues, including the need for facilities, the failure to plan and the issues around infrastructure. I am certain that he will continue to act on those matters, but I will also pass Mr Tee's matter to him.

Mr Finn, as I said, has raised the matter of planning at Point Cook as well. He made it clear that he has visited the area a number of times. This points to the previous government's failure to plan at Point Cook. Mr Finn eloquently, I think, made the point that the previous government comprehensively failed to plan and is entirely responsible for the current situation, since the current minister has granted no planning applications or changes for the area. I will certainly pass Mr Finn's matter to the Minister for Planning.

Ms Mikakos raised a matter for the attention of the Minister for Community Services concerning the restructure of the Department of Human Services. That has been a matter of debate in the chamber over the last few sitting days, including today. I must say that I am surprised the member sought to raise this issue, given the information that came to light that suggests she misunderstood or perhaps deliberately raised a matter without sufficient grounding, and I would have thought she would be prepared to make an apology concerning today's — —

Ms Mikakos — On a point of order, President, I raised a matter for the Minister for Community Services specifically about disability support workers and staff levels in the north and west metropolitan region. This is not an opportunity for the Leader of the Government to give me a spray about matters that came up during question time; they have nothing to do with my adjournment matter.

The PRESIDENT — Order! I think the minister is returning to the substance of the matter.

Hon. D. M. DAVIS — As the President indicates, I am returning to the substance of this matter concerning the restructure of the Department of Human Services. I have no doubt that front-line services will be preserved, and I can indicate that I have spoken to the Minister for Community Services about these matters. I will pass this to her for her attention as requested. I am surprised that the member would raise this matter given the activities today.

Mrs Peulich raised a matter for the attention of the Minister for Employment and Industrial Relations, but it has been indicated to me that I am not to respond to that matter.

Mr Tee — And he won't.

Hon. D. M. DAVIS — Indeed, I will not, but I understand the point Mrs Peulich made.

Ms Pulford raised a matter for me concerning bushfire response and the recommendations of the royal commission and the points the Municipal Association of Victoria has made concerning emergency management coordinators. This is for the attention of the Minister for Bushfire Response, who is also the Deputy Premier. I will pass that to him, and the matters raised will be given attention by him.

Ms Tierney raised a matter for the Minister for Ports concerning a discussion paper on roll-on, roll-off activities for car production at Geelong and the surrounding area, and I will pass that to the minister,

who will give it his attention. I know he is a strong advocate for the port of Geelong.

Mr Pakula raised a matter for me concerning the Sunshine Hospital and its need for an intensive care unit. This is a longstanding issue. I know the member does not live in the area, but he does represent the area; he actually lives at Black Rock in my electorate. I will make a point about the Sunshine Hospital. This hospital was planned under the Kennett government, and the initial plan was that there would be an intensive care unit there. Plans were well advanced in 1999, but there was a change of government. At that time Premier Bracks undertook a review of the need for intensive care services in the western region of Melbourne. In 2001 that review strongly recommended that Sunshine have its intensive care unit. Despite that, the then Bracks government and then the Brumby government failed over a number of years to put an intensive care unit into the hospital.

Indeed the government did much worse than that: it actually turned the intensive care unit into a film studio and began renting it out for the production of movies and television documentaries, and it advertised it regularly on the Film Victoria website. This is the purpose-built intensive care unit at Sunshine Hospital. It was an extraordinary misuse in the context of a 1999 plan to build an intensive care unit at Sunshine Hospital.

Over the period, and including under the previous health minister, the member for Mulgrave in the other place, there was a complete failure and a determination not to build an intensive care unit at Sunshine Hospital despite the needs that had been outlined in 1999.

Hon. M. P. Pakula interjected.

Hon. D. M. DAVIS — I think Mr Pakula well understands the budget processes. Mr Pakula has asked me whether this would be in the current budget. I think he well understands that budget processes work in the following way: we will reveal the details of the state budget on budget day in the forthcoming period. I note that it is a little bit rich for Mr Pakula to raise the matter of the need for an intensive care unit when he does not live in the area and, what is more, he was part of a government that turned the space into a film studio instead of an intensive care unit.

Having said that, I very much understand the need for additional services at Sunshine Hospital. There is population growth in the city's west, and there is a longstanding need for greater intensive care support in the western suburbs of Melbourne. I understand the deeper point the member is making. It is a pity that over 11 years the former government — a government of which he was part — chose to take no role whatsoever in putting in an intensive care unit at Sunshine.

Finally, I had a matter concerning flooding raised with me by Ms Darveniza for the attention of the Deputy Premier, who is also the Minister for Police and Emergency Services. This is a very serious matter. All of us in the chamber are very familiar with what is occurring in northern Victoria. I, like Ms Darveniza, pay tribute to the activities of our professional agencies and our volunteers in particular for the great work they have done in responding to the floods in northern Victoria.

I know Ms Darveniza did not get to a final request, but in the spirit with which she raised the point I nonetheless reciprocate and indicate that there will be strong support for people in northern Victoria. Many senior government members have visited the area over the last period as this flooding has occurred and in the wake of flooding in areas to the east of the Moira shire as the water has moved across. I know each has been touched by the activities of the local government services, the State Emergency Service and the ambulance services. Certainly in my visit on Thursday to Numurkah and the incident control centre in Shepparton I too was very impressed with the way the situation is being managed.

On my visit I was particularly interested in the preparations of a number of aged-care services and the work that had occurred and was occurring at the time of the flooding. I inspected the Numurkah hospital and the impact on people in Numurkah. There is no doubt about the very significant impact and that there was significant inundation of parts of the hospital. The government is responding to that as quickly as it can, and I indicate that significant assessments of the impact on a number of areas of the hospital and other parts of the health service are being undertaken today at Numurkah. I pay tribute to the board for the work it has done and the CEO for the way she has handled the significant challenge involved. I think every member of the chamber would join me and Ms Darveniza in complimenting the work that has been undertaken by both the professionals and volunteers.

Mrs Peulich — On a point of order, President, I wish to raise two points of order in relation to your rulings following my raising the matter of the impact of the carbon tax on employment and jobs in South Eastern Metropolitan Region. The first point of order I would like to raise relates to your ruling the item out of order. I seek that you review that ruling, because in my

reading of the practice of this chamber and a refresher on the relevant standing orders — from 4.10 through to 4.11 — there is nothing that requires a member to call for an action, although I did call for an action. Indeed 4.10(1) says quite clearly that 'members may raise matters for consideration by ministers' rather than direct them to take a course of action.

Without reflecting on the Chair, President, I do not believe it was appropriate for you to rule that out of order. I apologise for my heated response when you did so: it is a matter that is very important to my electorate and the many businesses and families who have raised these matters with me across the south-east.

Secondly, I understand that in my absence from the chamber you ruled that I be suspended for a period of 30 minutes as of tomorrow morning's sitting. In my reading of the relevant standing orders, including standing order 13.02(1) and in particular standing order 13.02(3), there is nothing that allows a presiding officer to prospectively, following a period of the house's sitting, suspend a member for a future period. If that were the case, it would be a matter of some concern to members because of the potential — again I am not reflecting on you, President — for prospective exclusions to be manipulated to suit particular purposes. I would see that as undemocratic.

Whilst I respect your right to suspend a member, President, prospective exclusions are not consistent with my reading of the standing orders. I do not expect you to rule at this moment, but I invite you to review those matters overnight and perhaps give us a ruling tomorrow morning.

Hon. D. M. Davis — On the point of order, President, Mrs Peulich's first point is reasonable in light of the change to the standing orders, which in our chamber no longer require the seeking of a specific action but provide the option of merely seeking to bring the attention of a minister to a particular matter. It may well be that her adjournment matter met that standard, if not the more formal and traditional standard.

The PRESIDENT — Order! I am in a position to rule on both matters. I thank Mrs Peulich for the manner in which she raised this point of order in returning to the chamber. In the first instance, in regard to my ruling out the adjournment matter, I was concerned about this because it was a matter that had been raised earlier in the day in the context of an earlier debate. Of course it is perfectly legitimate to re-run it tonight as an adjournment item. However, the context in which it was raised was very much a matter of debate rather than a matter seeking that the minister take an action. The phrase was that the minister should consider writing a letter.

I know Mrs Peulich has drawn attention to standing orders 4.10 and 4.11. I think the item failed on two counts under standing order 4.11. Standing order 4.11(1) states that a matter must be within the administrative competence of the minister. One of the concerns I had about this matter and the way it was raised was that it actually invited the minister to consider writing to an independent organisation — not a government agency or another government — urging it to undertake a political campaign against the federal government. That is arguably outside the minister's administrative competence.

Standing order 4.11(2) states that the matter ought not be the subject of debate. I asked Mrs Peulich to rephrase the action she sought to address the concerns I had with the substance of the matter. However, Mrs Peulich took the opportunity to continue to debate the matter rather than rephrase it. That was the issue of concern to me and the basis upon which I ruled it out.

Notwithstanding that adjournment matters do not need to ask for specific actions — it is legitimate within the adjournment debate to raise a matter that a minister ought to give consideration to — this matter went further than that. It was not about the minister considering a matter that was within his area of responsibility per se. It was actually to request the minister to consider writing a letter to an independent organisation asking it to undertake a political campaign. I think that stretches the bounds of what I see as appropriate matters for the adjournment debate.

In respect of the suspension, I was disappointed at the manner in which the member left the chamber, and I think the suspension was warranted on that basis. The standing orders do not preclude a suspension being made for the next day of sitting. The context in which my decision was made was that the member had left the chamber. From my point of view, there was little point in suspending a member who had already left the chamber, so I sought to apply that suspension tomorrow.

Mrs Peulich — On a point of order, President, in relation to your first ruling — which through a series of consequences has led to the second situation — in asking me to rephrase the question you gave me a particular insight as to what you saw as the problem, which was that I was not clear about the sort of action that you required me to express. In making your ruling now, you have given me a very different reason. The reason you have now given refers to calling for action

involving a third party, which, could I say, is quite common in this place. Whether it is a statutory authority or whether it is another organisation, it happens routinely; I am sure that a review of previous matters would confirm that.

However, you do not give me procedural fairness because your very first objection in relation to my adjournment matter, which I believe still conformed, was judging it on one set of rules or reasoning, and your decision now is on a very different set of rules or reasoning. If you had given me that advice earlier on, I may have been able to assist you.

I understand that you are keen to clarify your ruling, President, but I believe your ruling has actually made it even more complex. I ask that you take the time overnight to review that and perhaps enlighten the house, because all of us wish to collaborate and cooperate with the Chair and make sure that there is a smooth running of the chamber.

The PRESIDENT — Order! I understand what Mrs Peulich is saying in terms of her understanding when I asked her to rephrase her question. She is suggesting that I have actually taken it further. In the subsequent remarks I have made on her points of order, I have responded to her position that standing orders 4.10 and 4.11 apply and support her contention that the matter should stand. I have simply raised two bases upon which I have made a decision that it should not stand under standing orders 4.11(1) and (2). That is in direct response to Mrs Peulich's point of order.

I acknowledge, on both Mrs Peulich's and Mr Davis's part, that our guidelines following the review of the adjournment debate do not specifically require an action from a minister. However, they say that if a member expects to receive a response from a minister, the matter raised should be framed in such a manner as to invite or require a minister to provide a response. The adjournment debate ought not be a debate where members get up and, when they are not supposed to, make a set piece speech and then at the end of that tag on something to just say, 'Oh, look, this is how I legitimise this speech'. We cannot do that. The adjournment matter has to be a within the minister's competence and involves a situation where the minister either takes an action, perhaps by request, or gives consideration to a matter — for instance, the flood victims matter that was raised by Ms Darveniza. The issue there was that the minister ought to consider the plight of those people and what actions might be taken to address their concerns.

I accept that there are many occasions when adjournment items relate to other agencies. Of course they do because very often members are asking a minister to give a direction to an agency that is within their administrative competence. In fact items have to be within a minister's administrative competence; that is the way adjournment items run. That is why we direct an adjournment item to a particular minister; we pick out the minister with the administrative competence.

In this situation Mr Dalla-Riva is not responsible for the Australian Council of Trade Unions; he is not responsible for the incoming secretary of the ACTU. I do not think it is appropriate that the minister be asked to consider writing a letter to start a political campaign against another level of government when it is outside his administrative competence.

Mrs Peulich — On a point of order, President, I think the more we give these issues an airing, the more complex you are making it, if I may say so without reflecting on the Chair. Basically you have now ruled out that a minister of the Crown has an advocacy role and that that advocacy role may well be a broad one, which has clearly been the understanding of the role of any minister.

More importantly, no-one could refute that many of our state employees are bound by industrial relations laws which are controlled at the federal level. We have seen the protracted union campaigns that significantly impact on state issues, state budgets and the services we can provide. We also know the impact of the carbon tax on so many areas of the state budget.

I am gobsmacked, to say the least, that you could make such a ruling. I would ask again, President, without entering into a ping-pong debate, as I am sure people are very keen to get away, that you have a look at *Hansard*, consider those issues in detail and perhaps give us some rulings that we can hold onto as we move forward.

The PRESIDENT — Order! In the interests of advancing I am prepared to look at it and give some subsequent rulings, but I suggest to Mrs Peulich that there is no way that I have ruled out the ability of a minister to advocate on behalf of the state or on behalf of citizens of the state. In fact when Mrs Coote asked Mr Davis a question she was also asked to rephrase her question in order to put it in an appropriate context, and she did so willingly.

The minister was asked to advocate on behalf of the state in respect of, again, carbon tax but in relation to its

impact on hospitals in the Southern Metropolitan Region. That was a legitimate adjournment item; it was not ruled out of order. I had not in any way constrained the minister's ability to advocate for that matter. I think it is appropriate he does, but that is very different from asking a minister to consider writing a letter to the Australian Council of Trade Unions to engage in a political campaign. I do not accept that because it involved industrial relations at a federal level it somehow brings this into play. However, I will have a look at it. The suspension stands, I am sorry.

Mrs Peulich — On a point of order, President, I thought you were going to review both matters.

The PRESIDENT — No.

Mrs Peulich — The President is not going to review the second matter?

The PRESIDENT — No. The manner in which Mrs Peulich left the chamber — particularly by slamming the door — was totally unacceptable. There is no way I can review that matter.

Mrs Peulich — On a point of order, President, I understand your irritation, and I hope you understand my passion on this issue and its significance to my electorate. I do not believe there has been due recognition given to that. However, the issue I am asking you, President, to review is not whether I deserve to be suspended, but the fact that you are doing so prospectively. I believe that sets a bad precedent for the proceedings of this house.

The PRESIDENT — Order! It is not done prospectively. The fact is I called it as it happened. It simply means that the actual term of suspension will be served tomorrow. I thought Mrs Peulich had left the chamber, otherwise I would have started her suspension from that point for half an hour. In that case Mrs Peulich would not have had an opportunity to prosecute these other matters in respect of the adjournment debate.

The house stands adjourned.

House adjourned 11.40 p.m.