PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

19 March 2002

(extract from Book 1)

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

By authority of the Victorian Government Printer

The Governor

JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

The Ministry

Premier and Minister for Multicultural Affairs	The Hon. S. P. Bracks, MP
Deputy Premier and Minister for Health	The Hon. J. W. Thwaites, MP
Minister for Education Services and Minister for Youth Affairs	The Hon. M. M. Gould, MLC
Minister for Transport and Minister for Major Projects	The Hon. P. Batchelor, MP
Minister for Energy and Resources and Minister for Ports	The Hon. C. C. Broad, MLC
Minister for State and Regional Development, Treasurer and Minister for Innovation	The Hon. J. M. Brumby, MP
Minister for Local Government and Minister for Workcover	The Hon. R. G. Cameron, MP
Minister for Senior Victorians and Minister for Consumer Affairs	The Hon. C. M. Campbell, MP
Minister for Planning, Minister for the Arts and Minister for Women's Affairs	The Hon. M. E. Delahunty, MP
Minister for Environment and Conservation	The Hon. S. M. Garbutt, MP
Minister for Police and Emergency Services and Minister for Corrections	The Hon. A. Haermeyer, MP
Minister for Agriculture and Minister for Aboriginal Affairs	The Hon. K. G. Hamilton, MP
Attorney-General, Minister for Manufacturing Industry and Minister for Racing	The Hon. R. J. Hulls, MP
Minister for Education and Training	The Hon. L. J. Kosky, MP
Minister for Finance and Minister for Industrial Relations	The Hon. J. J. J. Lenders, MP
Minister for Sport and Recreation and Minister for Commonwealth Games	The Hon. J. M. Madden, MLC
Minister for Gaming, Minister for Tourism, Minister for Employment and Minister assisting the Premier on Multicultural Affairs	The Hon. J. Pandazopoulos, MP
Minister for Housing, Minister for Community Services and Minister assisting the Premier on Community Building	The Hon. B. J. Pike, MP
Minister for Small Business and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
Parliamentary Secretary of the Cabinet	The Hon. Gavin Jennings, MLC

Legislative Council Committees

Economic Development Committee — The Honourables R. A. Best, Andrea Coote G. R. Craige, Kaye Darveniza, N. B. Lucas, J. M. McQuilten and T. C. Theophanous.

Privileges Committee — The Honourables W. R. Baxter, D. McL. Davis, C. A. Furletti, M. M. Gould and Gavin Jennings.

Standing Orders Committee — The Honourables the President, G. B. Ashman, B. W. Bishop, Gavin Jennings, Jenny Mikakos, G. D. Romanes and K. M. Smith.

Joint Committees

Drugs and Crime Prevention Committee — (*Council*): The Honourables B. C. Boardman and S. M. Nguyen. (*Assembly*): Mr Cooper, Mr Jasper, Mr Lupton, Mr Mildenhall and Mr Wynne.

Environment and Natural Resources Committee — (*Council*): The Honourables R. F. Smith and E. G. Stoney. (*Assembly*): Mr Delahunty, Ms Duncan, Mrs Fyffe, Ms Lindell and Mr Seitz.

Family and Community Development Committee — (*Council*): The Honourables E. J. Powell, G. D. Romanes and J. W. G. Ross. (*Assembly*): Mr Hardman, Mr Lim, Mr Nardella and Mrs Peulich.

House Committee — (*Council*): The Honourables the President (*ex officio*), G. B. Ashman, R. A. Best, J. M. McQuilten, Jenny Mikakos and R. F. Smith. (*Assembly*): Mr Speaker (*ex officio*), Ms Beattie, Mr Kilgour, Ms McCall, Mr Rowe, Mr Savage and Mr Stensholt.

Law Reform Committee — (*Council*): The Honourables R. H. Bowden, D. G. Hadden and P. A. Katsambanis. (*Assembly*): Mr Languiller, Ms McCall, Mr Stensholt and Mr Thompson.

Library Committee — (*Council*): The Honourables the President, E. C. Carbines, M. T. Luckins, E. J. Powell and C. A. Strong. (*Assembly*): Mr Speaker, Ms Duncan, Mr Languiller, Mrs Peulich and Mr Seitz.

Printing Committee — (*Council*): The Honourables the President, Andrea Coote, Kaye Darveniza and E. J. Powell. (*Assembly*): Mr Speaker, Ms Gillett, Mr Nardella and Mr Richardson.

Public Accounts and Estimates Committee — (*Council*): The Honourables D. McL. Davis, R. M. Hallam, G. K. Rich-Phillips and T. C. Theophanous. (*Assembly*): Ms Barker, Mr Clark, Ms Davies, Mr Holding, Mr Loney and Mrs Maddigan.

Road Safety Committee — (*Council*): The Honourables Andrew Brideson and E. C. Carbines. (*Assembly*): Mr Kilgour, Mr Langdon, Mr Plowman, Mr Spry and Mr Trezise.

Scrutiny of Acts and Regulations Committee — (*Council*): The Honourables M. A. Birrell, Jenny Mikakos, O. P. Olexander and C. A. Strong. (*Assembly*): Ms Beattie, Mr Carli, Ms Gillett, Mr Maclellan and Mr Robinson.

Heads of Parliamentary Departments

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

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

Hansard — Chief Reporter: Ms C. J. Williams

Library — Librarian: Mr B. J. Davidson

Parliamentary Services — Manager: Mr M. L. Bromley

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT — FIRST SESSION

President: The Hon. B. A. CHAMBERLAIN

Deputy President and Chairman of Committees: The Hon. B. W. BISHOP

Temporary Chairmen of Committees: The Honourables G. B. Ashman, R. A. Best, Kaye Darveniza, D. G. Hadden, Jenny Mikakos, R. F. Smith, E. G. Stoney and C. A. Strong

Leader of the Government:
The Hon. M. M. GOULD

Deputy Leader of the Government:
The Hon. GAVIN JENNINGS

Leader of the Opposition:
The Hon. BILL FORWOOD from 13 September 2001
The Hon. M. A. BIRRELL to 13 September 2001

Deputy Leader of the Opposition:
The Hon. C. A. FURLETTI from 13 September 2001
The Hon. BILL FORWOOD to 13 September 2001

Leader of the National Party:
The Hon. P. R. HALL from 20 March 2001
The Hon. R. M. HALLAM to 20 March 2001

Deputy Leader of the National Party:
The Hon. E. J. POWELL from 20 March 2001
The Hon. P. R. HALL to 20 March 2001

Member	Province	Party	Member	Province	Party
Ashman, Hon. Gerald Barry	Koonung	LP	Hall, Hon. Peter Ronald	Gippsland	NP
Atkinson, Hon. Bruce Norman	Koonung	LP	Hallam, Hon. Roger Murray	Western	NP
Baxter, Hon. William Robert	North Eastern	NP	Jennings, Hon. Gavin Wayne	Melbourne	ALP
Best, Hon. Ronald Alexander	North Western	NP	Katsambanis, Hon. Peter Argyris	Monash	LP
Birrell, Hon. Mark Alexander	East Yarra	LP	Lucas, Hon. Neil Bedford, PSM	Eumemmerring	LP
Bishop, Hon. Barry Wilfred	North Western	NP	Luckins, Hon. Maree Therese	Waverley	LP
Boardman, Hon. Blair Cameron	Chelsea	LP	McQuilten, Hon. John Martin	Ballarat	ALP
Bowden, Hon. Ronald Henry	South Eastern	LP	Madden, Hon. Justin Mark	Doutta Galla	ALP
Brideson, Hon. Andrew Ronald	Waverley	LP	Mikakos, Hon. Jenny	Jika Jika	ALP
Broad, Hon. Candy Celeste	Melbourne North	ALP	Nguyen, Hon. Sang Minh	Melbourne West	ALP
Carbines, Hon. Elaine Cafferty	Geelong	ALP	Olexander, Hon. Andrew Phillip	Silvan	LP
Chamberlain, Hon. Bruce Anthony	Western	LP	Powell, Hon. Elizabeth Jeanette	North Eastern	NP
Coote, Hon. Andrea	Monash	LP	Rich-Phillips, Hon. Gordon Kenneth	Eumemmerring	LP
Cover, Hon. Ian James	Geelong	LP	Romanes, Hon. Glenyys Dorothy	Melbourne	ALP
Craige, Hon. Geoffrey Ronald	Central Highlands	LP	Ross, Hon. John William Gamaliel	Higinbotham	LP
Darveniza, Hon. Kaye	Melbourne West	ALP	Smith, Hon. Kenneth Maurice	South Eastern	LP
Davis, Hon. David McLean	East Yarra	LP	Smith, Hon. Robert Fredrick	Chelsea	ALP
Davis, Hon. Philip Rivers	Gippsland	LP	Smith, Hon. Wendy Irene	Silvan	LP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Furletti, Hon. Carlo Angelo	Templestowe	LP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Theophanous, Hon. Theo Charles	Jika Jika	ALP
Hadden, Hon. Dianne Gladys	Ballarat	ALP	Thomson, Hon. Marsha Rose	Melbourne North	ALP

CONTENTS

TUESDAY, 19 MARCH 2002

Tuesday, 19 March 2002

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

CONDOLENCES

Alfred Reginald Bruce McDonnell

The PRESIDENT — Order! I wish to inform the house of the death on Tuesday, 12 March, of Mr Alfred Reginald Bruce McDonnell, a former Clerk of this house who retired in 1983. Mr McDonnell had a distinguished career in the Parliament which began in 1947 when he was appointed to the staff of the Legislative Assembly. He was appointed to the position of Serjeant-at-Arms in 1961 and Clerk-Assistant in 1964 before becoming Clerk of the Legislative Assembly in 1968.

Mr McDonnell achieved the rare distinction of having been Clerk of both houses upon his appointment as Clerk of the Parliaments and Clerk of the Legislative Council in 1969. He held that position until his retirement on his 65th birthday in September 1983. Mr McDonnell was also the honorary secretary of the Victorian branch of the Commonwealth Parliamentary Association from 1967 to 1982.

On the occasion of his retirement many tributes were paid to his work in the Legislative Council on 16 June 1983. I remember Mr McDonnell as a highly professional parliamentary officer and certainly enjoyed working with him while he was Clerk. He is survived by his wife, Betty, and daughter, Glenys. On behalf of the house and particularly the other members who knew him personally — who I think are now only Mr Baxter and Mr Birrell — I extend my condolences to his family.

MINISTRY

Hon. M. M. GOULD (Minister for Education Services) — I wish to inform the house of changes to the ministry. As Leader of the Government in the Legislative Council, I am now the Minister for Education Services and Minister for Youth Affairs. The Honourable Marsha Thomson is Minister for Information and Communication Technology and the Honourable Justin Madden is Minister for Commonwealth Games. There are no minister assisting portfolios for ministers in the Legislative Council. Details regarding the responsibility of ministers in the Legislative Council for matters within the jurisdictions of ministers and colleagues in the Legislative Assembly have been circulated to honourable members.

Hon. P. R. Hall — On a point of order, Mr President, at this stage could I invite an explanation from the Leader of the Government as to what the new ministerial portfolio of education services actually means. To my knowledge honourable members have not been circulated as to what areas of responsibility would fall into that portfolio. I ask the minister to provide an explanation as to what areas of responsibility she accepts as the Minister for Education Services.

The PRESIDENT — Order! I do not believe that is a point of order. It is appropriate for ministers from time to time to advise other members of Parliament and the public more generally about the nature of their responsibilities. I presume the minister will do so in due course.

ABSENCE OF MEMBERS

The PRESIDENT — Order! The Deputy President, the Honourable Barry Bishop, is currently unwell. He has been diagnosed with cancer and was due to have an operation this week; however, that operation has been put off pending further tests. I have passed on the best wishes of all honourable members and staff to Mr Bishop for a speedy recovery.

The Honourable John Ross is also unwell, although he is getting around the place. I also wish him well for a speedy recovery from his illness.

ROYAL ASSENT

Message read advising royal assent to:

11 December 2001

Accident Compensation (Amendment) Act
Animals Legislation (Responsible Ownership) Act
Auction Sales (Repeal) Act
Energy Legislation (Miscellaneous Amendments) Act
Fair Trading (Unconscionable Conduct) Act
Film Act
Liquor Control Reform (Prohibited Products) Act
Livestock Disease Control (Amendment) Act
Marine (Hire and Drive Vessels) Act
Petroleum (Submerged Lands) (Amendment) Act
Road Safety (Further Amendment) Act
Second-Hand Dealers and Pawnbrokers (Amendment) Act
Transport (Alcohol and Drug Controls) Act

18 December

Scotch College Common Funds Act
Victorian Institute of Teaching Act

CRIMES (DNA DATABASE) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

SENTENCING (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

ROAD SAFETY (ALCOHOL INTERLOCKS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

WILDLIFE (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

BUSINESS OF THE HOUSE

Sessional orders

The PRESIDENT — Order! As honourable members are aware, a number of new sessional orders came into effect on 1 January this year. Each member was given a copy of the updated sessional orders towards the end of last year. Additional copies may be obtained from the papers office. I take this opportunity to remind honourable members of some of the changes and general guidelines that will apply to those sessional orders.

Question time

Each member has a time limit of 1 minute in which to ask a question without notice and the minister's response is limited to 4 minutes.

Supplementary questions

Following a minister's reply, the questioner may ask a supplementary question to the same minister in order to elucidate the reply. It will not be in order to ask a supplementary question to another minister. Only one supplementary question will be allowed immediately following each minister's reply.

Supplementary questions must be actually and accurately related to the original question and must relate to or arise from the minister's response.

The asking of each supplementary question must not exceed 1 minute and the minister's response also must not exceed 1 minute. The time limits for questions and supplementary questions will be strictly enforced.

Motions to take note of answers to questions without notice

After the conclusion of questions without notice, the Chair will ask 'Are there any motions to take note of answers?'. A member may then move, without notice, a motion to take note of an answer or answers to questions without notice given that same day. A member has a 5-minute time limit to speak on such motions. The debate on motions to take note of answers will not exceed 30 minutes.

Members statements

Following general business on Wednesday and at 2.00 p.m. on Thursday when any business before the house shall be interrupted, members may make statements on any topic of concern for a maximum of 90 seconds. The total time for members statements will not exceed 15 minutes.

Presentation of committee reports

Upon the presentation of any report of a parliamentary committee the chairman or other member presenting the report may move without notice that the Council take note of the report.

The member presenting the report may speak for a maximum of 5 minutes and the total time for debate on the take-note motion on the day of presentation is 15 minutes. This should enable a member from each party to speak at this stage.

If the question is not put the debate shall be adjourned and become an order of the day for the next Thursday when motions to take note of reports and papers are considered.

Motions to take note of reports and papers

Following question time and formal business on Thursdays a maximum of 1 hour will now be available for debate on motions to take note of any report or paper tabled in the house during the session. Honourable members should note that this procedure has been widened to include any paper which has been tabled, rather than it being limited to a report as was previously the case. A member will have a maximum of 10 minutes to speak on such motions.

The new sessional order establishes a new order of precedence for debating such motions where priority will be given, firstly, to a report of the Auditor-General, secondly, to a report of a parliamentary committee, and thirdly, to any other report or paper.

As there are 36 notices of motion to take note of reports and papers on the notice paper honourable members should note that these have been re-ordered to take account of the new sessional orders.

Points of order and other interruptions

As the new sessional orders impose certain time limits on both individual members and certain debates overall I have given consideration as to the effect of any points of order or other interruptions on those time limits. I have also sought the views of the party leaders on this matter.

A member asking a question or supplementary question, speaking on a motion to take note of an answer to a question without notice, a report or paper, making a members statement or speaking on the adjournment debate, where a 3-minute limit already applies, will have their time preserved — if required — and the clock will be stopped whenever points of order are raised and other interruptions occur. The overall time limits for debate on motions to take note of answers, debate on motions to take note of committee reports and the time allocated for members statements also will be preserved as 30 minutes and 15 minutes respectively irrespective of the time taken for points of order and other interruptions. In all other cases where the total time for a debate is prescribed by the sessional orders no adjustment will be made.

To assist members with the new arrangements digital countdown clocks have been installed at both ends of the chamber.

Hon. Bill Forwood — On a point of clarification, Mr President — I thank you for the document, which will be useful for honourable members — in relation to the presentation of committee reports, which will happen today, you state in the third paragraph:

> If the question is not put the debate shall be adjourned and become an order of the day for the next Thursday …

The question that honourable members wish to have clarified is whether this will happen automatically when the quarter of an hour expires or whether someone should formally move that debate be adjourned until the Thursday.

The PRESIDENT — The motion that would be before the house and be put is that the house take note of the report. In other words, if it is indicated to the Chair that other honourable members want to speak on that day — that is, continue the debate — then it will go over to the Thursday and the Thursday rules would apply. If there is no other interest, then the take-note motion would be put.

Hon. M. M. Gould — On a further point of clarification, Mr President, as you indicated there are 36 items currently in that category on the notice paper and if the matter is referred to the Thursday it would fall into that category as prioritised in accordance with the new sessional orders. If somebody speaks on it, say, today, would that prevent them from speaking on it again on Thursday? I am assuming that is the case, but I just want it clarified.

The PRESIDENT — Unless the house is in committee on a bill. That is the only time there will be more than one go if required, otherwise there is only one chance.

QUESTIONS WITHOUT NOTICE

Electricity: generation investment

Hon. C. A. FURLETTI (Templestowe) — I refer the Minister for Energy and Resources to the numerous announcements by the Premier, the Treasurer and herself over the last year or so announcing the facilitation and construction of well over 1000 megawatts of new generation for Victoria by the end of February this year.

Given that only 43 megawatts of the ‘well over 1000 megawatts’ has actually been added to the electrical pool, will the minister concede that the government has failed dismally in its commitment to Victorians?

Hon. C. C. BROAD (Minister for Energy and Resources) — I can take this as a further indication of the negative, carping approach that the opposition intends to continue taking. Notwithstanding that negative, carping approach, I congratulate the honourable member on his taking over responsibility for the shadow portfolios following in the footsteps of the Honourable Philip Davis.

I have on many occasions in this place drawn attention to the efforts the government has made, is making and will continue to make to secure Victoria's electricity supplies, in stark contrast to the complete lack of any effort on the part of the Kennett government in the area of new investment in securing Victoria's electricity supplies.

Some 1000 megawatts in new generation capacity is either under construction or planned in Victoria. I strongly support and welcome the investments that have been made in those projects. Victoria has concerns in relation to the delays in these projects, which have come about as a result of a number of factors, including delays in planning and environmental approval processes and industrial issues. As a result Victoria has been active in raising in the National Electricity Market ministerial forum, which I chair, the point that the national electricity market needs to consider mechanisms for ensuring timely investment in new capacity to ensure that electricity supply is available when needed.

It is also the case that there is currently no concern about the state of Victoria's electricity supplies. However, Victoria will continue to be active in securing better mechanisms for ensuring that new investment in capacity and in the electricity market is brought forward in a timely fashion. I am pleased to say that other ministers representing jurisdictions in the national electricity market have agreed that these matters should be considered as part of our deliberations.

In conclusion, the Victorian government will continue its efforts to secure adequate electricity supplies for all Victorians, unlike the failures of the previous Kennett government.

Hon. C. A. FURLETTI (Templestowe) — It gives me great pleasure to ask the first supplementary question, and I ask it because the purpose of these questions is to seek solicitation. The question I put to the minister was clear. The minister referred to delays due to industrial relations and of course planning, both of which were caused primarily by the government. Will the minister concede that the state of affairs in Victoria is such that new investment is being deterred from Victoria and Victoria faces a crisis in electricity as announced last week at the Electricity Supply Association of Australia conference, and what will the government do about it?

Hon. C. C. BROAD (Minister for Energy and Resources) — An even more negative and carping question seeking to talk down the Victorian economy, no less. It may have escaped the honourable member's memory that the previous Kennett government dismantled the state industrial relations system, and it is the federal industrial relations system upon which we must rely to try to resolve these matters. It may also have escaped his attention that planning and environmental approval processes are independent. It is not appropriate, and nor do I seek to, to interfere in independent planning and environmental approval processes, nor will I do so in the future. However, I will seek to facilitate in every appropriate way this securing of — —

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

Minister for Education Services: responsibilities

Hon. E. C. CARBINES (Geelong) — Can the Minister for Education Services advise the house of the key responsibilities contained in her new portfolio of education services?

Hon. M. M. GOULD (Minister for Education Services) — I thank the Honourable Elaine Carbines for her question because I know she is keenly interested in education. I would like to take this opportunity to congratulate her in her new role as parliamentary secretary for education and training because we are members of a government that ensures that it looks after the women in our party.

I am very proud to be taking on the new portfolio of education services. The creation of this new portfolio reflects the importance the Bracks government places on education.

Having a strong and vibrant education system is critical in turning around this state, based on what the previous government had done in education. The previous government had closed 300 schools and sacked 9000 teachers in the education system. That is what the opposition did when in government.

My new portfolio will specifically focus on restoring the quality and status of teachers within the education system. The reason for that is that teachers were devalued by the opposition when it was in government;

they were demoralised by the then government. We are about fixing the damage that was put in place by the previous government in our schools and our school services.

Specifically my portfolio will include responsibility for teacher work force planning and recruitment. I will be responsible for teacher registration and standards, including the Victorian Institute of Teaching Act that was just passed in the last session. I will be involved in the implementing of agreed capital programs, building, equipment and information technology. I will be responsible for asset maintenance and security, and I will be responsible for student welfare, including disability and impairments, which is an area that the opposition, when it was in government, just walked away from.

I look forward to working closely with my ministerial colleague in the other place the Minister for Education and Training to ensure that the Bracks government continues to deliver an outstanding education and training system to Victorians in line with its commitment of turning the state around.

Electricity: Basslink

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Energy and Resources. The release last week of the draft report of the Basslink joint advisory panel has created among Gippsland citizens a new level of uncertainty, anxiety, fear and intimidation as a result of a request on 10 April 2000 from the then Minister for Planning. The panel was requested to consider an alternative alignment from McGaurans Beach to Merrimans Creek. The panel has now recommended this revised alignment ahead of the national grid's preferred route. Will the minister assure the Gippsland community that she will facilitate the compulsory acquisition of an easement on this alignment only if the transmission line is underground?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am quite sure the honourable member opposite is well aware that this is a draft report from a panel, which has been released for public comment. I would certainly urge all Victorians who have a concern about these matters to make submissions to the panel. I understand that submissions will be taken by the panel up to 16 April. At that time a final report will be concluded and forwarded to the Victorian, Tasmanian and commonwealth governments for their consideration. As he will also well know, the responsible minister in that regard is the Minister for Planning. I am sure the Minister for Planning will take note of the comments that have been made by the honourable member today. However, these are matters which should properly be directed to the planning minister.

In relation to the comments the honourable member has made about the impacts on members of the Gippsland community, clearly the government does not support some of the reported tactics being employed by participants in the debate and would urge people to confine their activities to making submissions through the appropriate processes.

Hon. PHILIP DAVIS (Gippsland) — I have a supplementary question. In relation to the minister's response it is clear that, in considering the concerns of the Gippsland community, to date she has not in fact taken on board those concerns. Indeed, in relation to that she has done nothing to respond to Gippsland citizens. She has not met any deputations from Gippsland. She refers continually — as she has just done — to the Minister for Planning. What I am interested to know is: when will the Minister for Energy and Resources, who has ultimate responsibility for the creation of an easement by compulsory acquisition, respond to Gippsland people in terms that will give them some confidence that their rights — private citizens' rights — will not be overrun by this government and a multinational corporation?

Hon. C. C. BROAD (Minister for Energy and Resources) — The honourable member will be well aware that there are a range of views, including those in the Liberal Party and the National Party, on these matters, and political games are continuing to be played which are not to the advantage of the Gippsland community. I have no intention of engaging in those sorts of political games. My responsibilities here are clear: they are to act to ensure that Victorians have access to a secure and affordable electricity supply. I will continue to make all efforts in that direction and, as the honourable member has noted in his question, these are properly matters at this time for planning ministers.

Women: small business

Hon. KAYE DARVENIZA (Melbourne West) — The Minister for Small Business recently launched the Showcasing Women in Small Business strategy, which includes advice to further assist women in small business in accessing finance. Can the minister inform the house of any feedback she has received?

Hon. M. R. THOMSON (Minister for Small Business) — I thank the honourable member for her question. Approximately 120 000 small businesses are being run by women in Victoria. The previous

government, the now opposition, did absolutely nothing for them — nothing. The only thing it had to offer — —

Honourable members interjecting.

The PRESIDENT — Order! The clock was stopped because of interruptions. I ask the house to settle down and allow the minister to respond.

Hon. M. R. THOMSON — Thank you, Mr President. The only thing the then government could produce for women in small business was a directory of networks. That is all it could do — the only thing it could do. However, as honourable members are aware, I spend a great deal of time going out and talking with small businesses and listening to their concerns. Many of the women in small business whom I have spoken to raised the issue of knowledge about how they access finance and the kinds of finance options available to them and their concerns about the treatment they receive — —

Hon. Bill Forwood — What about the GST?

Hon. M. R. THOMSON — That might be another question.

I have spoken to women about the treatment they receive by financial institutions when they approach them. I have now launched the Showcasing Women in Small Business strategy, and as part of that have launched 'Show me the money — a women's guide through the financial maze'. It is a financial guide that has been written by women for women and provides them with a great deal of useful information on how to deal with financial institutions. It has been well received by women in the small business community. It has also been well received by financial institutions. In fact, we have received an endorsement from Ann Sherry, the chief executive officer of the Bank of Melbourne.

I quote Ann Sherry:

> Clearly I am delighted to endorse 'Show Me the Money — A Women's Guide through the Financial Maze'. I think it's a timely document and will be very useful for several reasons.
>
> It covers all of the key elements of things you touch on when starting and operating a small business. It also demystifies the language and processes, which are often a huge barrier to women in business. It's a powerful way to demystify the whole thing. And, it explains all of the options in a way that is not otherwise easy to access — the choices are available in one simple location.
>
> It's practical, useful and targeted at the fastest growing part of the small business sector — women.

I welcome that endorsement from Ann Sherry and the fact that the Commonwealth Bank also believes it is a very useful document for women.

The government will not only distribute the manual for women but will also follow up with seminars for women to help give them an opportunity to gain access to finance that they have not been able to access before.

We have been out listening to small businesses and I have been out talking with small businesses, and the women in small businesses are pleased to see that we have delivered what they want.

Electricity: charges

Hon. P. R. HALL (Gippsland) — I refer the Minister for Energy and Resources to the government's decision to approve retail electricity price increases effective from 13 January this year — a decision that will impact hardest on those living in and doing business in country Victoria. Prior to the last election the Australian Labor Party committed a Labor government to maintaining uniform electricity tariffs. I ask the minister to explain to the house why that election promise has been broken.

Hon. C. C. BROAD (Minister for Energy and Resources) — Not surprisingly, there are a number of things that the honourable member neglected to mention in his question.

Hon. W. R. Baxter — He was carping, was he?

Hon. C. C. BROAD — Indeed, I am pleased to hear it coming back from the other side — he was negative and carping.

Honourable members interjecting.

Hon. C. C. BROAD — Go right ahead, give us all the help you can!

What the honourable member neglected to mention was the open-slather approach to pricing that the government inherited from the previous government. It is a fact that this government acted to ensure that that was not allowed to continue by putting legislation through the Parliament to give the government the capacity to intervene to protect Victorian consumers from unjustified price increases in electricity. That is exactly what the government did at the end of last year. After an investigation by the independent Regulator-General, now the Essential Services Commissioner, the government intervened to prevent unjustified price increases, another initiative by this government to protect Victorian consumers.

On 13 January this year the government acted to give Victorian consumers choice of electricity supplier, and we are doing our bit to encourage Victorians to exercise that choice, to seek information from electricity companies, to get information from the Essential Services Commission and to ensure they are getting the best deal possible under choice of electricity supplier.

This was not a situation put in place by the previous government. Indeed, under the situation inherited by this government we had monopoly private companies and Victorians had no choice of retailer whatsoever. This government will continue to act in the best interests of Victorian consumers by preventing unjustified price increases and by acting, as it has done, through the special power payment, to ensure country and regional Victorians, outer suburban households and small businesses are not disadvantaged by the way the Kennett government drew the distribution boundaries when it privatised the electricity system. That will ensure that Victorians on equivalent electricity tariffs will pay no more on average than metropolitan consumers.

Hon. P. R. HALL (Gippsland) — In light of the minister's statement that the government will be providing a subsidy for country and outer metropolitan consumers — and I presume she is referring to the $118 million subsidy that was announced at the time — can she give an assurance that no country consumer will be worse off than the benchmark of 4.7 per cent increase average across the state?

Hon. C. C. BROAD (Minister for Energy and Resources) — As I have already said in my previous answer, what I can indicate is what the government has already indicated that all Victorians on equivalent tariffs will pay no more on average on equivalent tariffs than metropolitan consumers.

Electricity: special payment

Hon. T. C. THEOPHANOUS (Jika Jika) — I direct my question to the Minister for Energy and Resources. I am pleased to ask this question of the minister, particularly given my recent appointment as Parliamentary Secretary for Industry, Innovation and Regional Development and the importance of the special power payment to regional Victorian consumers and businesses. Will the minister inform the Legislative Council of the progress of the government's $118 million special power payment for electricity customers in rural, regional and outer suburban areas, and is the minister aware of alternative views of the special power payment?

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

Hon. C. C. BROAD (Minister for Energy and Resources) — I thank the honourable member for his question and I welcome the opportunity to advise the house of the details and progress in relation to the $118 million special power payment that will offset price increases for electricity consumers in outer suburban Melbourne and in rural and regional Victoria.

An average rebate of $89 will be paid to residential consumers in those areas and an average rebate of $173 will be paid to small businesses, including farmers, in the same areas. That will commence on 1 April.

The special power payment together with the Bracks government's decision to reject unjustified price increases means that the average price increase that Victorians will pay is no higher than 4.7 per cent, and the special power payment means that the average power bill for country and outer suburban consumers will now generally be no more than the average bill of a city consumer on an equivalent tariff. Once the rebate is applied the average electricity bill for consumers in Origin Energy's distribution area will increase by 4 per cent, and the average bill for customers in TXU's distribution area will increase by 4.4 per cent — less than the 4.7 per cent.

We do not believe that country, regional and outer suburban regional electricity consumers should be punished for the mistakes of the Kennett government's flawed privatisation process. The previous government made a mess of electricity privatisation by carving up the electricity sector in a way that disadvantaged regional Victorians and Melburnians in the outer suburbs.

The $118 million special power payment is being spent responsibly and is targeted at those consumers in Origin and TXU areas who are facing the biggest increases in their bills. It demonstrates that the Bracks government is decent and cares about Victorians and country Victorians in particular.

There are, of course, alternative views of the special power payment, and I believe the Liberal Party stands condemned for rejecting the $118 million special power payment to protect country and regional Victorians. The Liberal Party is determined to continue punishing regional Victorians for the failures of the Kennett government that have necessitated special power payments. By opposing the rebate the Liberal Party supports an increase in annual average electricity bills

which would leave country Victorians out of pocket by more than $100 per household. The fact is the opposition does not care about country Victorians and were — —

Hon. Bill Forwood — On a point of order, Mr President, it is obvious the minister is debating the question. I ask you, Sir, to tell her to answer the question.

The PRESIDENT — Order! The minister was just about to finish her answer and I invite her to do so.

Hon. C. C. BROAD — The fact is that the opposition does not care about country Victorians and will condemn country Victorians to massive electricity price increases that only come about because of the way the system was privatised by the Kennett government.

Electricity: competition

Hon. C. A. STRONG (Higinbotham) — I direct my question to the Minister for Energy and Resources. On many occasions she has assured the house of her commitment and her government's commitment to electricity industry competition as the best route to an efficient, low-priced, customer-focused industry. However, her actions are crushing competition between retail price caps and escalating wholesale prices. With the Californian experience in mind, the electrical industry players are getting out of the retail industry. Citipower is selling out and Pulse is rethinking its future. If the government is not to become a retailer of last resort, how will it ensure a viable electricity retail sector?

Hon. C. C. BROAD (Minister for Energy and Resources) — The suggestion that any reasonable comparisons can be drawn between the state of electricity supplies in Victoria and California is ridiculous, and I suggest that the honourable member knows that is the case.

Once again, this suggestion lifts to new heights the negative and carping approach of the opposition. In addition to everything else, it talks down the Victorian economy, given the absolutely crucial nature of electricity infrastructure in this state. The opposition parties would do well to make up their minds as to whether or not they support intervention in electricity prices for Victorians. As I pointed out in my answer to a previous question, the interventions by this government have ensured that Victorian consumers are protected from unjustified price increases. The honourable member's question seems to suggest that it is inimical to competition for the Victorian government to intervene in electricity prices. I suggest that if that were the case the price rises which Victorians may be exposed to would be even greater than I suggested in my answer to a previous question.

The Victorian government will continue to act in accordance with the legislation it has introduced to protect Victorian consumers from unjustified price increases. That legislation was the subject of substantial consultation and discussion with the industry before it was introduced. The powers given by the legislation are well understood by the industry in terms of the basis on which the Victorian government will intervene to protect Victorian consumers in circumstances where it finds competition is not working effectively in the interests of and not delivering the benefits of competition to Victorian consumers. After all, competition is not an end in itself: it is a means of delivering benefits to Victorian households, small businesses and farmers. Competition for small consumers has only just commenced on 13 January and it was always to be expected to take some time for it to become effective. In the meantime the Victorian government makes no apologies whatsoever for standing fairly and squarely in a place where it acts to protect Victorian consumers, including households, farmers and small businesses, from a situation where competition is not yet delivering the promised benefits.

Hon. C. A. STRONG (Higinbotham) — The minister gave the normal waffle around the issue and talked about how the government had intervened in the market. My question was, to protect retail competition, is the government going to bring in wholesale price caps to match retail price caps?

Hon. C. C. BROAD (Minister for Energy and Resources) — Now that we have a national electricity market, in which Victoria is one of a number of jurisdictions that are shareholders, it is not within Victoria's capacity to introduce wholesale price caps or indeed to act in another manner in relation to wholesale electricity prices. It is quite extraordinary that the honourable member should ask such a question, given that the arrangements which apply were set up under the Kennett government.

Commonwealth Youth Games

Hon. D. G. HADDEN (Ballarat) — In light of the Bracks government's commitment to securing events across Victoria, will the Minister for Commonwealth Games advise the house as to any recent steps he has taken to deliver on this promise?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — During January this year I

had the good fortune, with my colleague the Deputy Premier, John Thwaites, to announce in the City of Greater Bendigo that Bendigo will host the 2004 Commonwealth Youth Games. These games will be held in December 2004 over six days and will attract 800 athletes, 135 officials and 20 technical officials. More than 1000 supporters are also expected to travel to Victoria for the event.

The La Trobe University Bendigo campus will serve as the village for the athletes. It will do a great deal for morale as well as create a great sense of expectation in Bendigo. The games will generate the equivalent of 33 full-time jobs in the Bendigo region as well as providing invaluable experience for local sporting and event industries. The economic impact of this event has been estimated at approximately $6 million for the region, with an additional $5 million for the state of Victoria.

The government has supported these games through its major events funding. The Australian Commonwealth Games Association and the City of Greater Bendigo are also providing support. This is yet another example of this government providing events for regional Victoria. It follows hard on the heels of the triathlon world cup in Geelong, again reinforcing that we are delivering for all Victorians and growing the whole of the state, which is in direct contrast to opposition members, who did not care about regional Victoria when they were in government, and while they pretend to now, we know they do not care and never have!

Minister for Energy and Resources: performance

Hon. C. A. FURLETTI (Templestowe) — I refer the Minister for Energy and Resources to a report in yesterday's *Age* newspaper which outlined the reason why Dean Mighell, the secretary of the Electrical Trades Union, resigned from the ALP. Will the minister explain to the house why it took her five months to reply to Mr Mighell's letter and why she refused to grant him the simple and reasonable introduction he sought on behalf of his union members?

Hon. C. C. Broad — I did not hear the last part of the question.

Hon. C. A. FURLETTI — I asked the minister why it took her five months to reply to Mr Mighell's letter and why she refused to grant him the simple and reasonable introduction he sought on behalf of his union members.

Hon. C. C. BROAD (Minister for Energy and Resources) — My voice is starting to get a little worn, but I will endeavour to answer the honourable member's question.

Hon. I. J. Cover — It is all the carping you have been doing!

Hon. C. C. BROAD — No, it is all the carping that the opposition has been doing — carping and negativity, and it does not care.

In my experience the secretary of the Electrical Trades Union does not need me to introduce him to anybody. I indicate a number of things about my responsibilities. In terms of the way I go about attacking my portfolio responsibilities, they extend a long way beyond what comes to my in-tray. I also scrutinise what comes into my in-tray rather more carefully than a certain senator appears to have done in recent times!

In relation to the matter I was asked about on this occasion, it was not about making an introduction; it was a request to direct the Regulator-General in relation to certain matters. It was clearly an inappropriate request, and it was conveyed verbally as well as in writing. Among other things, quite apart from the fact that the Regulator-General is independent and conducts extensive consultations, which this government strongly supports and will continue to strongly support, I am not the minister responsible for the Regulator-General.

Hon. C. A. FURLETTI (Templestowe) — I have a supplementary question. I put on record that I am still waiting for a response from the minister to a letter of some two months ago, but I am happy to wait for the five months. Will the minister assure the house that no other ordinary Victorians are being treated as offhandedly and unprofessionally as her former friend and colleague Mr Mighell?

Hon. C. C. BROAD (Minister for Energy and Resources) — The Victorian government will continue to support what I consider to be the excellent efforts of the Essential Services Commission, previously the Office of the Regulator-General, to consult with all Victorians, including unions, in its deliberations and reports, including reports to this Parliament. The government will continue to treat all Victorians and to act in the interests of all Victorians a great deal better than did the previous Kennett government.

Minister for Youth Affairs: responsibilities

Hon. G. D. ROMANES (Melbourne) — Will the new Minister for Youth Affairs please advise of her priorities in respect of the youth affairs portfolio?

Hon. M. M. GOULD (Minister for Youth Affairs) — I thank the honourable member for her question. As the new Minister for Youth Affairs I intend to continue the excellent work of my colleague the Honourable Justin Madden. He did a fantastic job in improving in the eyes of the Victorian community the lives of our young people.

It is an appropriate time to remind honourable members just how bad things were for young people in this state when we came into government because the opposition did not have an office for youth affairs. The previous government stuck a couple of people away in the Department of Human Services, indicating to the community that it thought about young people only as kids at risk — children at risk and young people at risk — and therefore problem people. That was the view of the previous government.

In stark contrast the Bracks government has created the Office for Youth within the Department of Education and Training, and it will focus on the positive aspects of young people. That was started by my colleague, and I will continue that important change of identifying the positive aspects of young people rather than identifying young people as people at risk.

The Bracks government is also committed to developing a youth strategy, and it will be the first time such a strategy has been created in more than 10 years.

Honourable members interjecting.

The PRESIDENT — Order! A number of members of this house had the opportunity last week to sit in the gallery of the Senate in Canberra and we thought it was very rowdy, unruly and unproductive. I would hate to think that we were going down the same line.

Hon. M. M. GOULD — The previous minister commenced this process and I am proud to continue his work in this area.

With respect to youth affairs I will be focusing on ensuring that young people have a voice in the government so they can help to shape the state. The previous minister started the youth round tables. They have been very effective and we will continue them. We will be providing positive opportunities for young people to participate, including through National Youth Week.

Consistent with the Bracks government's overall vision these goals will be pursued across government in partnership — and I know that is a word the opposition cannot tolerate because it hates the word 'partnership' — with the key youth agencies because we have a plan for the future for our young people.

Finally, I will take the opportunity of building links between my other portfolio of education services and youth affairs to ensure we achieve the best possible outcomes for our young people right across the state.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Electricity: generation investment

Electricity: Basslink

Electricity: charges

Electricity: competition

Minister for Energy and Resources: performance

Hon. C. A. FURLETTI (Templestowe) — I move:

> That the Council take note of the answers given by the Minister for Energy and Resources to questions without notice asked by honourable members relating to the electricity industry and related matters.

In doing so let me firstly remind the house of how unfortunate it is that the minister in her term as an adviser to the former Premier of the state, Joan Kirner, learnt absolutely nothing about what Victorians want. Are you leaving the chamber, Minister?

Honourable members interjecting.

Hon. C. A. FURLETTI — I hope the minister will turn on her microphone in her office so she can hear what Victorians want to hear.

It is the height of impudence on the part of the leader of this chamber that she criticises the previous Victorian government, the Kennett government, for the condition in which this government found the state.

The electricity reforms that were introduced in the mid-1990s were some of the most dramatic and beneficial for this state that we have seen. The former electricity industry, which was corrupted with unionism, overburdened with employment demands and restructured as a result of the corporatisation and sell-off, saw an increase in generation capacity of from 65 per cent to 95 per cent for Victorians. It had to happen. It was a huge overhaul of the employment

levels and the culture leading to the extraordinary situation where in fact electricity prices dropped by almost 30 per cent to the benefit of Victorians.

It is recognised now that that reduction in prices is one of the main reasons for Victoria's huge uplift from the depth of despair experienced by Victorians in 1992 when the Kennett government took the reins of office, at a time when the state was borrowing money to pay its interest bill.

Hon. T. C. Theophanous — What's that got to do with it?

Hon. C. A. FURLETTI — What has it got to do with it? It has to do with the fact that by introducing the electricity reforms, Mr Theophanous, the state was able to recoup $23 billion, which it used directly to repay the $32 billion debt the Cain and Kirner governments created for the people of Victoria. I do not blame the minister for leaving the chamber because I would not want to be reminded that I was part of that disastrous situation, of that Guilty Party, as you were, Mr Theophanous, which saw Victoria — —

Hon. T. C. Theophanous — On a point of order, Mr President, given that this is a new procedure occurring in this house — in fact, it is the first time we have had this motion occur — I think it is important that the ground rules are clearly understood in relation to relevance. My point of order has to do with the honourable member opposite involving himself in what might be a flowery debate about debt and the sale of the electricity industry, but that has very little to do with the answers given by the minister. I seek from you, Mr President, a ruling on whether this debate has to be relevant to the answers provided by the minister; and if the answer is yes, it does have to be relevant, I would seek your ruling that the honourable member is out of order because he has swayed a long way from responses given by the minister.

Hon. Bill Forwood — On the point of order, Mr President, it is extraordinary that Mr Theophanous would come in here and try this line. He was with us in Canberra last week and watched his colleague and friend Stephen Conroy in action on a similar take-note motion, which by any measure ranged across the answers. Let me make the point that the motion before the house is to take note of the answers of the minister. They include the answer to the question asked by Mr Theophanous, the question asked by the Leader of the National Party, two questions by the Deputy Leader of the Liberal Party in this house and questions by Mr Davis and Mr Strong.

A vast amount of information came out in those answers, particularly some statements about the previous structure of the electricity industry, about privatisation and about pricing. This debate today is worded in a way that enables each and every one of the answers — of which there were 11 by my count — given by the Minister for Energy and Resources to be covered. Mr Furletti has not even started to get to all the issues it is possible for him to raise. Every issue he has raised to date has been entirely appropriate, given the answers given by the minister in questions without notice today.

The PRESIDENT — Order! First of all, the point made by Mr Theophanous is correct — it is important that we get the ground rules right. The question of relevance governs everything this house debates, it is the central principle. However, it is also true that in her various answers the Minister for Energy and Resources ranged across the whole issue of the state of the electricity industry in Victoria: the privatisation policies of the previous government, the pricing policies, subsidies in relation to those matters and industrial relations. In other words, there is very little that was not touched on in that time. I am not prepared to draw a line and attempt to circumscribe that and say that the minister did not exactly touch this issue but she did touch the others when generally in her collective answers she covered the whole gamut. The honourable member has not spelt out to me those issues raised by the Honourable Carlo Furletti to which he actually objects.

Hon. T. C. Theophanous — I said about state debt.

The PRESIDENT — Order! It is a bit hard to talk on one hand about privatisation without talking about one of the reasons we had privatisation. That is where it is difficult. In this case I do not uphold the point of order. I invite the honourable member to continue.

Hon. C. A. FURLETTI — As I said, having been driven to privatise and to reform the electricity industry, the purpose of privatisation was an effort to pay off the enormous debt that the Cain and Kirner governments left — we only need to mention the lost State Bank and the Victorian Economic Development Corporation and Pyramid debacles and the fact that Victoria was recognised as being the rust bucket state.

Returning to the question of the future of Victoria's electricity supplies, we have a situation where due to government intervention and to some extent government lack of intervention in assisting and facilitating — these two words the government has been prone to recite on a regular basis — the AES

Transpower Golden Plains generator has been held over because of the government waiver of the environment effects statement (EES) process leading to union strife and local objections. This situation is totally untenable for Victorians. There is hypocrisy in demanding an EES for renewable energy generators but not for generators that use diesel, kerosene and gas. We also have the situation in Somerton, where AGL is about six months behind in completing its generator. That is an unacceptable situation, given that it was supposed to have been completed within six months. The government has done nothing to seek to negotiate and reconcile the union differences delaying the completion of that generator.

Victorians should be aware of the dismal failings of this do-nothing Victorian government in this matter, a government that sits on its hands and will do nothing to impede its union colleagues. It is totally reliant and dependent upon unionism. The Mighell debacle is more smoke and mirrors — —

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

Hon. T. C. THEOPHANOUS (Jika Jika) — The government inherited an absolute mess in the electricity industry from the previous government. The privatisation process adopted by the previous government led to the creation of five monopolies in the state under the guise of some sort of competition.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — It just shows you what a fool you are, Mr Smith, because a monopoly is a monopoly — it means people do not get a choice. The worst of it is two of the monopolies created were in regional Victoria, and people in regional Victoria will get very little choice under the arrangements put in place by the previous government.

When Labor came to office there was very little competition under the plan of Stockdale and Kennett. We had a circumstance where there was not adequate provision of electricity supply into the future and very little prospect of that occurring because of the arrangements put in place by the previous government. The current government went about trying to secure additional electricity supply and, despite what the opposition might carp on about, 1000 megawatts of additional power is now in either the construction or the approval stage.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — You don't want to hear. It is either in construction or in various stages of approval. How much was in the approval stage and how much was in the construction stage when Labor came to power? Zero. The previous government had none.

Not only did the previous government have no forward planning, let's look at the other things it did under the guise of electricity reform. It got rid of the whole demand management strategy of the former State Electricity Commission and replaced it with nothing, so there was nothing to protect the environment and consumers. Members should ask themselves why is it that the current government has had to put in place a $118 million special power payment. That has occurred for only one reason: it has to do with the fact that the previous government established two monopolies in regional Victoria, and under the arrangements put in place for those two monopolies regional Victorians were going to be screwed in terms of the price they would have to pay for electricity. This government had to provide $118 million to fix up the mess members opposite left behind. It is $118 million to try to provide some level of support so that regional Victorians do not have to pay an exorbitant price for electricity.

Honourable members interjecting.

The PRESIDENT — Order! The chitchat across the chamber is not helping Mr Theophanous.

Hon. G. R. Craige — I noticed that.

The PRESIDENT — Order! I seem to be hearing the Craige tones in the background. I ask honourable members on both sides to desist and allow Mr Theophanous to finish his contribution.

Hon. T. C. THEOPHANOUS — As I was saying, the $118 million has been targeted to try to protect country Victorians from the system established under the previous government. However, that is not the only thing the Labor government has done in this area. The government is in the process of providing additional capacity. It has established the Sustainable Energy Authority of Victoria to ensure Victorians have access to energy-efficient programs, choices and rebates. The government also established the Essential Services Commission to ensure that Victorians have access to reliable and secure electricity under a properly regulated system into the future.

The government has sought to fix the problems of the previous government. I want to congratulate the Minister for Energy and Resources on the work she has done in achieving that.

Hon. PHILIP DAVIS (Gippsland) — I observe that the chamber is without the minister about which this debate is concerned. It is an absolute disgrace that a minister of the Crown, responsible for one of the most significant portfolios — —

Hon. J. M. Madden — On a point of order, Mr President, you are setting the ground rules here and I want to put on the record that this format is based on that of the Senate. Honourable members would be well aware that in the Senate ministers do not remain for the period when there is debate about questions.

The PRESIDENT — Order! There is no point of order. Basically we set our own rules in relation to this matter. The only strict requirement for the operation of the house is that there be at least one minister present. Certainly when it comes to the adjournment debate at the end of the day, it is the long-held custom that each minister be here. Whether a minister is here or not for the take-note motion is up to him or her. That does not stop the Honourable Philip Davis from observing that a matter which is being dealt with relates to a minister who is not present.

Hon. PHILIP DAVIS — Thank you for that ruling, Mr President. I will continue to say that it is an absolute disgrace that the Minister for Energy and Resources is not present this afternoon. The four questions the Liberal Party directed to her are the subject of the present debate.

These are significant issues for the community of Victoria. It is a disgrace that the minister is not here to defend herself, and I can only presume it is on the basis that she is afraid to stand in this house and justify her lack of action and her failures as a minister. She has claimed, for example, that the government has been responsible for the facilitation of 1000 megawatts of additional electricity generation capacity. Indeed Mr Theophanous made that claim just a moment ago. Both the Minister for Energy and Resources and Mr Theophanous have been misleading this house, and it is simply a matter of fact — —

Hon. T. C. Theophanous — On a point of order, Mr President — —

Hon. PHILIP DAVIS — Let me conclude — —

The PRESIDENT — Order! You know the rules! Mr Theophanous, on a point of order.

Hon. T. C. Theophanous — The honourable member has just said that both the minister and I have misled the house, and I take exception to that comment.

Hon. Bill Forwood — You haven't heard what he has said!

Hon. T. C. Theophanous — I take exception to his comment in relation to my misleading the house and I ask you to ask him to withdraw.

Hon. PHILIP DAVIS — On the point of order and to assist you Mr President, the point I was making about misleading the house was quite clear. Mr Theophanous and the minister have made a claim about 1000 megawatts. Without getting to the detail, there is no 1000 megawatts approved for construction in the state at the present time. For example, just one project alone is the AES Transpower project, which has not proceeded beyond a conceptual stage. There is no approval in place. If Mr Theophanous insists on my withdrawing the fact that he has misled the house by making a statement on whether 1000 megawatts is approved, I would simply say that at least 50 per cent has not yet got past the conceptual stage.

Hon. T. C. Theophanous — Further on the point of order, Mr President, this is an important point. Not long ago I was forced to withdraw in this house in relation to a comment to the Honourable Bruce Atkinson, simply because I had made a comment — and I still believe that comment to be true — about a ticket scalping issue. I was asked to withdraw simply because I used the words that he had misled the house and he took exception to my saying that.

The Chair ruled on that occasion that I had to withdraw whether or not the case could be made about whether I had misled the house. I take exception to the comment made about misleading the house — and I am happy to debate with the honourable member whether that is the case if he wants to move it as a substantive motion in relation to my contribution to the debate. That is the proper process for him to adopt if he wants to cast an aspersion on a member in this house. Mr President, I reject the argument he has put. I have not misled the house and I still insist that he withdraw his comment.

The PRESIDENT — Order! I have heard enough on the issue. We seem to be getting things a bit mixed up. If a member takes exception to words which are said in respect of that person, or in fact another member of Parliament who is absent or is a member of the other house, there is a procedure whereby the Chair decides objectively whether it is an offensive remark and therefore whether it should be withdrawn. I do not believe I was involved in the matter to which you refer involving Mr Atkinson — —

Hon. T. C. Theophanous — You were not in the chair, Mr President.

The PRESIDENT — Order! The rule that I have consistently applied is: is what is being said objectively offensive?

Hon. T. C. Theophanous — Well, it is!

The PRESIDENT — Order! Hang on, it is for me to work that out. In this case a concept that an honourable member or one side of the house is misleading the public or the other side of the house is a fairly common statement which comes from both sides of the house. I do not believe it is objectively offensive — —

Hon. T. C. Theophanous — You ought to tell your deputy!

The PRESIDENT — Order! While I am in the Chair I will not rule that, so I do not uphold the point of order and I invite the honourable member to continue.

Hon. PHILIP DAVIS — Mr President, thank you for the ruling. It clarifies an important point: I allege that in the Parliament today the government has clearly made representations that are inaccurate. It is appropriate that honourable members feel that that misleading is offensive, because it is quite clear that the government has failed to facilitate any significant investment. In fact the investment which has proceeded to date has come about as a result of the inherited structure of the electricity industry as it was when there was a change of government in 1999.

The only 43 megawatts of additional generation power constructed since the change of government in 1999 was the result of a decision taken by Duke Energy prior to the change of government. Therefore, the government has not facilitated any new generation capacity that has come on line as yet. Indeed, half of the 1000 megawatts claimed, the 500-megawatt AES project at Stonehaven, is not proceeding. AES has announced that as of 16 March the project will no longer proceed and has been put on hold.

For the government to make that claim is absolutely fallacious and misleading. Clearly the minister's absence demonstrates she does not want to be accountable to the house and to the Victorian public for her failures. The fact that there were significant delays in the introduction of full retail contestability clearly indicates the incompetence of the minister because they were delays that occurred as a result of failure in government policy. Introduction of full retail contestability coincides exactly with the spike in electricity prices as a result of the delay in the facilitation of new investment — that is, had there been new generation capacity available, we would not have seen the increase in the wholesale electricity market that has led to a retail price outcome consumers are finding difficult to bear.

Today the minister demonstrated her ignorance of her portfolio responsibilities when she spoke about the industrial relations system. In this state the electricity industry has always come under the federal award system — it has never been a matter of state jurisdiction. For her to deny the relationship between what happened in California and present circumstances in Victoria again demonstrates her ignorance on this subject.

It is clear that the price-capping measures the Victorian government has applied will in the end lead to the same lack of electricity capacity in the state. There is no doubt that the minister's comments today have highlighted her less-than-satisfactory grip of her portfolio, and I regard her performance in relation to Basslink with disdain.

Hon. G. D. ROMANES (Melbourne) — This debate takes me back to the mid-1990s when the former Kennett government sold off the electricity assets of this state, and in so doing showed absolute contempt for the people of Victoria. They were not consulted about whether they wanted their essential services sold off to private interests. As we know from subsequent polls, most Victorians did not want their electricity industry sold off to the private sector. That action was against the will of the people and was done in such a way that the private electricity industry was led to believe it would be open slather on prices and that Victorian consumers would be totally unprotected from rising prices in the future.

The former Kennett government made a complete mess of privatisation by carving up the electricity sector in a way that disadvantaged regional Victoria and did absolutely nothing to provide for future energy supply requirements of Victorian consumers and industry. We have had to address those issues again and again through various electricity industry amendment bills introduced in this place,.

In selling off the electricity industry in the 1990s the Kennett government did nothing on issues of alternative green energy and did nothing to address demand management. No requirements were placed on the new electricity companies to address those issues and to try to look at alternative ways of cutting down on electricity demand and need. The previous government

failed to put in place a workable electricity system. The Bracks Labor government over the past two and half years has been turning things around. We are delivering and putting in place a system that is working and will work for the future. A number of achievements have been made, and I commend the Minister for Energy and Resources for the work she has done in tackling the numerous problems that were left by the previous government and the mess this government inherited.

As well as the construction and the approval processes that are under way to deliver 1000 megawatts of additional power, the government has created the Essential Services Commission to ensure that Victorians have access to reliable and secure electricity, gas and water at an affordable price in the future. We must bear in mind that the electricity companies were not left with the requirement to guarantee supply. The Bracks Labor government has committed $118 million through the special power payment to ensure electricity consumers in regional and rural Victoria and the outer suburbs of the Melbourne pay no more for their power than the average paid by consumers in the city. That is a commitment the government has made to people in rural and regional Victoria and outer Melbourne. We have addressed the issues of demand management by increasing resources for the Sustainable Energy Authority of Victoria to ensure that Victorians have access to energy-efficient choices, programs and rebates. The minister has been active in taking these issues and concerns to national forums to talk with other ministers from around Australia about the national electricity market in an effort to make it work better not only for Victorians but for people throughout the country.

Hon. P. R. HALL (Gippsland) — One of the questions asked of the minister today was why the Labor government had abandoned its election policy of maintaining uniform electricity tariffs in this state. It is a fact that prior to the last election the Labor Party said that it would maintain uniform electricity tariffs in Victoria.

The minister responded to that question asked of her today — she is not in the house to rebut it — by saying that she had no choice, that the government inherited a system from the Kennett government and could not maintain uniform electricity tariffs. The government knew exactly the system of electricity retailing it was inheriting in Victoria. Why then did it make a promise to maintain uniform electricity tariffs when it knew that it could not keep that promise? It misled the people of Victoria badly. It lied to the people of Victoria prior to that election. It stands condemned for that.

Hon. J. M. Madden interjected.

Hon. P. R. HALL — The Minister for Sport and Recreation can respond if he wants to, rather than interjecting. I want to put some facts on the record. If the minister wants to contribute to the debate, he should do it in the right way.

The PRESIDENT — Order! One-on-one is okay, but the minister should cease interjecting.

Hon. P. R. HALL — The government has allowed retail electricity increases to be effective from 13 January this year. In the case of TXU, one of country Victoria's major retailers, the increase granted by the government was 15.5 per cent.

Further to that, off-peak power costs under TXU's D tariff have increased from 3.66 cents a kilowatt hour to 10.07 cents a kilowatt hour — almost a 300 per cent increase!

The government response was to introduce a $118 million country power subsidy. But we still do not know much about that subsidy. We do not know how that $118 million will be apportioned between different users. We heard from the minister today, but once again she could not give an assurance that nobody in country Victoria would be worse off. We do not know to what extent that subsidy will be applied to large off-peak electricity users. We know that a tariff increase came in on 13 January, and we also know that the subsidy will not be paid until April.

So regardless of three months' use of electricity, a lot of people in country Victoria will be faced with massive increases in the price of electricity. Why the government could not require that subsidy to be paid immediately to electricity users is beyond me. It could have reimbursed TXU and Origin Energy for that extra cost at a later time. It chose not to — to the disadvantage of people in country Victoria.

There is one outstanding issue of further major concern for us in the National Party — that is the issue of what happens 12 months down the track. What happens in 2003? This $118 million offset to country consumers will be paid for only one year, and there are no guarantees of what might happen beyond that. We say that is a disgrace. This government will probably try to get an election out of the way before then, and then abandon people in country Victoria and allow them to pay huge increases.

If it claims it has any credibility it is beholden on this government to give the reassurance now to people in country Victoria that they will not be disadvantaged

when compared with people who live in other parts of this state. It is not good enough for the minister to say, as she is reported as saying in the *Herald Sun* of 24 February:

> The rebate means that the average increase in the country will generally be no higher than that of a city customer on equivalent tariffs …

I say that that is not good enough, and I do not believe it anyway. The fact is that people in country Victoria will be grossly disadvantaged because, firstly, this government misled them on a promise that it would maintain uniform electricity tariffs; secondly, it approved massive increases in retail electricity prices, to the detriment of people living and doing business in country Victoria; and thirdly, it gives them no long-term commitment that it will be there to help them when things get tough and prices go up.

It is a pity the minister is not here to listen to this debate. She stands condemned for not being here, because the people of Victoria want to hear directly from her in response to some of the issues that have been raised during this debate.

Hon. C. A. STRONG (Higinbotham) — I would also like to say how unfortunate I think it is that the minister has chosen not to be here for this first motion to take note of questions. The procedures of this place are established by practice and precedent, and by the arrogant way with which she has shown her total disrespect by leaving this house the minister is trying to set a precedent which undermines the democratic processes of this house. I think that is most unfortunate.

In her answers today the minister spoke a lot about how she saw the government intervening in the electricity industry and its process to try to improve it. She also spoke at great length about the ministerial council that she takes such great pleasure and pride in saying she set up. But originally the whole process of the electricity structure was to set in place Nemmco as an independent arbiter so that the political issues would not involve themselves in the management of the national electricity market.

This wonderful ministerial council that the minister has set up is already showing how politicians intervene. An article in the *Australian Financial Review* of yesterday, 18 March, says:

> But government and industry sources said NSW had been angered by Victorian Energy Minister Candy Broad unveiling plans for a national industry-based regulator at an electricity conference early last week.

It goes on to say that there are sharp differences emerging between the governments in this council, and how New South Wales has taken the initiative and will be the convenor of a paper that will set out how the new ministerial council on electricity will work. The article goes on to say, referring to the two states of New South Wales and Queensland:

> The two states are also understood to be pushing for the ministerial forum to have the power to veto key recommendations by —

Nemmco. So now this ministerial council, with which this minister sought to have government intervention in the system by setting up, is seeking the power to intervene and veto what Nemmco, the independent manager of the system, wants to put in place. It seems that the more this minister gets involved in the system, the more it gets messed up, because this ministerial council will now become a monster that will override the independent arbiter and manager of the national electricity system. Once that is done it will fundamentally be a disaster, because every state will be pushing its own barrow, and there will not be an independent manager of the whole system. Who is responsible for this? The minister is responsible for this. She has taken great pride in setting up this ministerial council to veto the recommendations of the independent co-administrator.

The *Australian Financial Review* article is also interesting in that it deals with how Queensland and New South Wales, which have very significant surpluses, are in fact not making those available to the national electricity market. The minister has repeatedly refused to use her powers — through the Australian Competition and Consumer Commission or any other means possible — to try to bring, particularly New South Wales to book. It has set up a tariff equalisation system in its treasury, which really means that it has capped electricity prices in New South Wales and taken New South Wales out of the national electricity market. Her wonderful ministerial council is in fact aiding and abetting this, rather than solving the problem.

Once again I say that this should be left to the market, and the more people and politicians who intervene and get involved, the more we head down the Californian route. We really are, and the minister should simply get out of the system and let it run properly.

Motion agreed to.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Education Services) — Mr President, I have answers to the following questions on notice: 1992, 2036, 2128–38, 2153, 2251–2, 2264–7, 2292–5, 2299, 2383–2401, 2403, 2408, 2411, 2427, 2452–9, 2465–6, 2474, 2476–9, 2484–91, 2495–7, 2499–2501, 2503–10, 2513–25, 2606–8, 2610–12, 2614–7, 2620, 2622–3, 2625, 2636, 2638–42, 2674–6, 2679, 2682–4, 2687–9, 2691–2, 2694–5, 2697–8, 2700–1, 2703–5, 2707–12, 2714 and 2716.

Hon. C. A. FURLETTI (Templestowe) — I wrote to the Minister for Education Services on 12 March raising with her answers to questions on notice 2472 and 2473, which remain unanswered. But the question on notice of particular concern to me is 2339 in respect of which notice was received on 9 October last year. I raised this matter with the minister by letter of 30 November and again in this place on 4 and 6 December, and I still have not received an answer.

Hon. M. M. GOULD (Minister for Education Services) — I do not have copies of those letters. I agree that the honourable member did send them to me and I thought I had checked them off. I will follow them up. I am not sure to whom the questions were referred, possibly to ministers in another place. I will follow them up and investigate where the responses are.

Hon. C. A. FURLETTI (Templestowe) — I am happy to provide a copy of my letter to the minister, but I have had those assurances in the past.

Hon. ANDREA COOTE (Monash) — I refer to question on notice 2492 raised on 27 November with the now Minister for Education Services to be directed to the Minister for Health in another place, and I too have had no response.

Hon. M. M. GOULD (Minister for Education Services) — I will follow up with the minister in another place to find out where the response to such question is.

SELECT COMMITTEE ON THE URBAN AND REGIONAL LAND CORPORATION MANAGING DIRECTOR

Terms of reference

Hon. T. C. THEOPHANOUS (Jika Jika) — I move, by leave:

> That the resolution of the Legislative Council of 5 December 2001 appointing the Select Committee on the Urban and Regional Land Corporation Managing Director be amended and that the following new paragraph be inserted to follow paragraph (m):
>
> (n) The committee shall include with any of its reports to the Council, minority reports submitted to it by a member or members of the committee.

I understand the motion is supported by the opposition and is in keeping with practices in the past.

Hon. P. R. Hall interjected.

Hon. T. C. THEOPHANOUS — I am happy to explain it to you. For the information of honourable members, committees of the Parliament such as the Public Accounts and Estimates Committee or other joint parliamentary committees have the facility to allow minority reports. It is part of the establishment and long-term practice of those committees. Unfortunately, select committees, such as the committee investigating the Urban and Regional Land Corporation do not have, as a matter of right, unless inserted in the terms of reference, the capacity to produce a minority report. After discussion with the Leader of the Opposition it was agreed that the motion be moved to facilitate that.

Hon. P. R. Hall interjected.

Hon. T. C. THEOPHANOUS — I did not think there would be an issue with the motion. I asked the Leader of the Opposition about moving the motion by leave. I did not think members of this place would want to stop members of select committees making minority reports.

Hon. P. R. Hall — It is a courtesy.

Hon. T. C. THEOPHANOUS — If I neglected to speak to the National Party about this I regret that. There are precedents for this issue. I am able to quote if necessary an upper house committee established in 1995 which was of a similar nature and which allowed for minority reports to be included in its terms of reference.

This motion will facilitate the functioning of the committee because rather than move a series of amendments for every clause members will be able to put their view in a more concise minority report. I hope this motion will be supported by all honourable members.

Hon. BILL FORWOOD (Templestowe) — I have discussed the issue with Mr Theophanous, and the opposition does not have a problem with it. When I moved the motion with the original terms of reference it was not intended to exclude minority reports being part of the process. My understanding at the time was that like all other parliamentary committees it would be entitled to produce minority reports. When I was informed that was not possible I willingly agreed to this motion. It is important honourable members have the capacity to express their views and it seems a logical and sensible way and I think in future if select committees are established we should include that capacity in the terms of reference.

Hon. P. R. HALL (Gippsland) — I am happy to put on the record that the National Party does not object to minority reports being tabled. We think it is a good thing and many of us have been involved in writing minority reports from time to time. I make this point about consultation. Leave is by the goodwill of the house and any member of the house who objects to something can prevent a motion being moved by leave. When leave is being sought it is courteous and efficient to ensure that all three parties are consulted about the matter so that problem, which is not necessary, could arise. I say in response to Mr Theophanous that the National Party is the third independent party in this Parliament and it would be useful for members of the government, when moving motions, to ensure that consultation takes place with the National Party.

The PRESIDENT — Order! Before putting the question I make a couple of observations now that I know there is agreement within the house. There are some practical difficulties in relation to the production of minority reports. As a result the Presiding Officers have prepared guidelines for joint investigatory committees in relation to minority reports. I will make sure copies of the guidelines are available to Legislative Council committees so that there is some consistency.

Motion agreed to.

COUNCIL OF MAGISTRATES COURT

Annual report

Hon. J. M. MADDEN (Minister for Sport and Recreation) presented, by command of the Governor, report for 2000–01.

Laid on table.

BLF CUSTODIAN

54th report

Hon. M. M. GOULD (Minister for Education Services) presented report dated 28 February 2002 given to Mr President pursuant to section 7A of BLF (De-recognition) Act 1985 by the custodian appointed under section 7(1) of that act.

Laid on table.

SELECT COMMITTEE ON THE FRANKSTON CENTRAL ACTIVITY DISTRICT DEVELOPMENT

Report

Hon. ANDREW BRIDESON (Waverley) presented report, together with appendices, maps and minutes of evidence.

Laid on table.

Ordered that report, appendices and maps be printed.

Hon. ANDREW BRIDESON (Waverley) — I move:

That the Council take note of the report.

The genesis of this inquiry is that it emanated in response to allegations made in both newspaper reports and the Victorian Parliament regarding the conduct of certain individuals and the processes which were followed by the Frankston City Council in its consideration of a proposed construction and development of a multimillion-dollar commercial facility in the Frankston central activity district.

The findings and recommendations at the commencement of the report have been logically developed from the evidence, and it appears that two individuals in particular — Cr Mark Conroy and Mr Matthew Viney, the honourable member for Frankston East in the Legislative Assembly — played a pivotal role in confidential information being passed to

the Frankston *Independent* newspaper. The report sets out all of the acts, facts and circumstances in relation to this, but I think it is important that I put on record the summary of findings and recommendations of the select committee.

The committee found that a breach of section 77 of the Local Government Act 1989 occurred because confidential details of the scores of the two bidders, which had been accessible only to councillors and members of the working party who were all bound by confidentiality requirements, were published in the Frankston *Independent* on 2 October 2001.

The select committee considers that a further breach of section 77 of the act may have occurred. This particular breach related to the circumstances leading to an eleventh-hour change submitted by the Gandel Retail Trust which materially altered the company's original tender. The evidence presented to the select committee indicates that such a breach is likely to have occurred during the working party's presentation to the councillors on 26 September, between the coffee break taken at 3.30 p.m. and the conclusion of the briefing at 5.00 p.m. These are very crucial dates and times and, as I said, everything is set out in the report.

The committee also found from the evidence — I stress 'from the evidence' — of the three councillors that a third breach of confidentiality most likely occurred. The committee accepts that a meeting was organised with a party not privy to the Frankston central activity district development process, indicating that the confidentiality of the process was breached. This meeting was called by Matthew Viney, MP, and was conducted in his office between the date of the confidential briefing to councillors and the date of the newspaper article being published.

Furthermore, the select committee subpoenaed the mobile telephone records of Cr Mark Conroy for calls made between 27 September and 2 October. These are the dates immediately after the council briefing and up to the publication of the confidential details being published in the *Independent* newspaper. It is to be noted that seven phone calls were made to the Frankston *Independent* newspaper between these dates. One of the telephone calls was made at 14:54 on 28 September 2001 and lasted for some 31 minutes and 44 seconds. The report sets out the length of the other phone calls.

By inference, the committee was able to come up with its recommendations and findings. As I said, it is pretty obvious that the two individuals who have been mentioned played a pivotal role.

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

Hon. R. M. HALLAM (Western) — I was pleased to represent the National Party on the Select Committee on the Frankston Central Activity District Development. I was pleased for two reasons, the first of which goes to the issue of the reputation of local government. There had been a very clear breach of confidentiality in Frankston City Council's process to select a preferred tenderer for this multimillion-dollar project, given that confidential details of the final two bids appeared in the Frankston *Independent* before the council had met to formally determine its response. Then not only the fact of that breach but also associated claims were canvassed in the Legislative Assembly and some very serious accusations were made, particularly in respect of one councillor, and those accusations raised the question of whether one bidder had been given privileged advantage. That obviously not only placed a question mark on Frankston City Council but also had ramifications for local government generally. I thought that issue was appropriately canvassed in the inquiry.

In addition, I considered that the conduct of the inquiry was an appropriate role for the Legislative Council. We hear much that is critical of the role and operation of this chamber, and incessant urging to do more to maintain the checks and balances required for a healthy parliamentary system. For my part the committee's investigation was appropriate, given that the Minister for Local Government in another place had blithely dismissed the whole matter in the first place.

As noted by my colleague, the report concludes that there was one clear breach of confidentiality, but it cites compelling evidence of two other breaches which are very serious. The report is fairly straightforward. It is reasoned and balanced and I commend it to colleagues. However, I wish to add a few personal views.

Firstly, I was disappointed that the Labor Party chose not to be involved in the committee. I thought that decision was discourteous to the chamber but, more importantly, was short-sighted in political terms. I hasten to add that it certainly did not make the role of the conservative members of the committee any the easier; quite the reverse.

I was disappointed that Cr Mark Conroy decided not to attend. Cr Conroy had been the subject of some very grave accusations and he proclaimed his innocence and said publicly that he would vigorously defend the charges, but in the event he declined to appear which was a pity.

I was disappointed at the probity auditor's report. I believe the report could have been much more incisive given that a member of the probative auditor firm was in attendance at all meetings of the working party. Indeed an earlier draft report had been presented to council which was tougher than the final report and that in itself raised a few questions.

I was disappointed also that the breaches of confidentiality only occurred after, and indeed immediately after, councillors had been briefed. This project had been running for months and dealt with some very sensitive issues, but there had not been the slightest whiff of any breach of confidentiality until councillors became involved, and then the balloon went up. That in itself was very sad.

I was also disappointed to learn of the acrimony it had prompted at the council table. Council's role is tough enough without having the sort of personal conflicts that emerged at the council table.

Against all that, I was pleased at the evidence of total professionalism across the ranks of council officers and members of the working party. I was pleased with the evidence of the councillors who attended. It took some real courage to speak out and I hope the Frankston community will be able to gain the benefit of that strength.

I was pleased that the City of Frankston was able to find a way through the entire issue by establishing a joint venture between the two final bidders. That made good sense. But above all else I was pleased that the committee's role may have assisted in bringing about that good outcome. It was a consistent theme pursued by members in conducting the hearings.

I commend the committee staff, Matthew Tricarico and Sarah Davey, and I particularly commend my colleagues the Honourables Andrew Brideson and Geoff Craige for their professionalism in the execution of a quite difficult brief.

Hon. GAVIN JENNINGS (Melbourne) — The dates of 17 October 2001 and 19 March 2002 will go down in the history of the Legislative Council as being fairly ordinary days in relation to the consideration by the Council of the report that has been tabled here today of the select committee that was drawn up by resolution of the Council on 17 October.

In my contribution to the debate about whether this committee should or should not be established I said on behalf of the government that the government perceived this to be a tawdry exercise in the lead-up to the federal election. There is ample evidence within the considerations and the deliberations of the select committee that that was the case. Six public hearings were held by the committee in its considerations, and five of them occurred in the weeks leading up to the federal election campaign where the person who was subjected to most scrutiny in this process, Cr Mark Conroy, was the Labor Party candidate for the federal seat of Dunkley. It is a very ordinary piece of work by the select committee which does no pride and gives no joy to the Legislative Council whatsoever.

I take some comfort from Mr Hallam's contribution that the resolution of the substantive matter for the people of Frankston has resulted in the establishment of a joint venture to proceed with this important infrastructure in the Frankston municipality. The net worth of the select committee's consideration is its finding that it is likely there was a breach of protocol and probity issues in relation to matters that were reported in the press in the Frankston area on 2 October. In its summary of findings and recommendations the committee was unable to shed any light on where, when and how those breaches occurred. In fact, the committee has not been able to indicate how processes were breached.

An absolute issue in terms of the paradox we find ourselves in today is that in my contribution to the debate on 17 October I said on behalf of the government that the Minister for Local Government was prepared to put an inspector in to evaluate this situation, and under the responsibilities and obligations of the Local Government Act that has transpired. So what do we see? The conclusion of the select committee is to refer to the Minister for Local Government and his department a request to fully investigate these matters.

What a tawdry exercise this has demonstrated itself to be. I asked the Clerk if he knew how much money was spent on this matter but I did not want to embarrass him by pursuing the matter further. What a waste of the public purse on this tawdry political exercise. The net result of this select committee is that the government's offer should be taken up and in fact the issue should be investigated under the auspices of the Local Government Act, which was volunteered to be undertaken by the minister. In fact that has transpired.

I draw attention to Mr Hallam's contribution when he said the officers of the council operated on an extremely professional basis and carried out their undertakings. I rely on the testimony to the committee of the chief executive officer, John Edwards, which is reported at page 8 of the transcript of 29 October, that he had:

> … no information to suggest that there had been a breach. Nor, should I suggest did the probity auditor.

He goes on:

> If you read the report —

of the probity auditor Pricewaterhousecoopers —

> I would suggest that the working party's process has been signed off in every regard.

In the words of the CEO himself, probity requirements had been satisfied. In its consideration the select committee has not added to the public record any issue of substance. It has been a waste of time of the Council and the public purse of Victoria.

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

Debate adjourned on motion of Hon. B. C. BOARDMAN (Chelsea).

Debate adjourned until next day.

ROAD SAFETY COMMITTEE

Rural road safety and infrastructure

Hon. ANDREW BRIDESON (Waverley) presented report together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

Hon. ANDREW BRIDESON (Waverley) — I move:

> That the Council take note of the report.

This is a significant report of the Road Safety Committee. It is an important conclusion to a 18-month inquiry by the committee. I place on record my sincere thanks and the thanks of the committee members to the acting executive officer, Alex Douglas, and Graeme Both, the research officer, who put considerable time and effort into the writing of the report. I also thank Lois Grogan, our office manager.

The Road Safety Committee is a very close-knit committee. We enjoy our work in furthering road safety for all Victorians. The 50 recommendations in this report, if implemented, will result in safer roads for our citizens to travel on.

One of the recommendations I am pushing is that the government create road safety officer positions at local government level to assist councils to concentrate on the reduction of rural road trauma on main roads and local roads. We believe that is a very practical recommendation, as are all the other 49 recommendations. It is one of the philosophical bases of this committee that any of our recommendations be practical and able to be readily implemented. I look forward to the implementation of these recommendations over the next few years. I know it takes some time for many of these recommendations to filter through into legislation. A classic example is a 1988 report of the Social Development Committee recommending alcohol interlocks, which we will be debating later this week. That just shows that it does take time, but at the end of the day the value of these committees is shown to be worth while.

Motion agreed to.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Cooperative schemes administration

Hon. A. P. OLEXANDER (Silvan) presented report on intended declaration and proclamation of Classification (Publications, Films and Computer Games) (Enforcement) Act 1995.

Laid on table.

Ordered to be printed.

Statute Law (Further Revision) Bill

Hon. A. P. OLEXANDER (Silvan) presented report, together with appendices.

Laid on table.

Ordered to be printed.

Members privacy code

Hon. C. A. STRONG (Higinbotham) presented final report, together with appendix and minutes of evidence.

Laid on table.

Ordered that report and appendix be printed.

Hon. C. A. STRONG (Higinbotham) — I move:

> That the Council take note of the report.

In so doing, Mr President, perhaps a bit of background would be useful. The Parliament when it passed the information privacy legislation last year was wondering how it would deal with information privacy for members of Parliament. As a result, the government

gave a reference to the Scrutiny of Acts and Regulations Committee to look into how information privacy would affect members of Parliament. One of the key recommendations of that reference was that:

> The committee shall also investigate —

and this is important —

> and make recommendations for an interim privacy code for members of the Victorian Parliament …

So the committee was required to produce an interim privacy code, which I am now tabling here. There was, however, very considerable discussion and debate as to whether there was a need for a code at all. Page 14 of the report, under the heading 'Need for a code', states:

> Opinion is divided amongst members as to the need for a code. Some can see no clear evidence either of demand for a code or of abuses or problems in the way members operate that would justify the imposition of standards … The committee notes that there is no specific evidence of public concern about how MPs handle personal information. Furthermore, no evidence was submitted to the committee of specific complaints about breaches of privacy.

I must admit I was one of those who shared that view. Nevertheless, we were required under our terms of reference to produce a code and in so doing we took account of the special place and special scrutiny under which members of Parliament perform their duties. This scrutiny is quite intense from the media, and anybody who is aggrieved in any way can go to talk radio and seek all sorts of recompense there. So we attempted to make the code as non-prescriptive as possible so that its interpretation would rely on the judgments of ourselves as members of Parliament rather than a whole lot of highly prescriptive and specific clauses.

I will touch on some of the key issues as a result of that. First of all, the code will be a voluntary code — or that is the recommendation of the committee. Honourable members are allowed to collect information in a lawful fashion by fair means and in ways that are not unreasonably intrusive. Where members obtain prejudicial information about individuals from third parties they will take reasonable steps to verify it.

One of the key issues was the question of use and disclosure. Once again we tried to make that as non-prescriptive as possible:

> Members will only use or disclose personal information as necessary for their functions, taking into account the sensitivity of the information.

In other words it is a question of judgment for us as members of Parliament rather than surrounding it with various prescriptive rules.

Another issue of concern was the access of information that members of Parliament held for correction and such matters. The code again tries to be as non-prescriptive as possible and says that to the maximum extent possible members will provide an individual, on request, with access to information they hold about that person. Where providing access is inappropriate, members will provide reasons. Once again the code seeks to meet the spirit of information privacy while leaving discretion with members.

Finally, on accountability the code proposes that members will be accountable for compliance with this code to the Presiding Officer of the relevant house.

With those few comments I present this code. I would like to reiterate that many of us felt that there was no need for such a code and no evidence was presented to the committee of any abuse of information held by members.

Debate adjourned on motion of Hon. W. R. BAXTER (North Eastern).

Debate adjourned until next day.

Annual review

Hon. A. P. OLEXANDER (Silvan) presented report for 2001, together with appendices.

Laid on table.

Ordered to be printed.

Alert Digest No. 1

Hon. A. P. OLEXANDER (Silvan) presented *Alert Digest* No. 1 of 2002, together with appendices.

Laid on table.

Ordered to be printed.

Alert Digest No. 2

Hon. A. P. OLEXANDER (Silvan) presented *Alert Digest* No. 2 of 2002, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Budget Sector —

Budget Update 2001–02.

Mid-year Financial Report, 2001–02, incorporating the Quarterly Financial Report No. 2 for the period ended 31 December 2001.

Casterton Memorial Hospital — Minister for Health's report of receipt of the 2000–01 report.

Civic Mutual Plus — Report, 2000–01.

Coleraine District Health Services — Minister for Health's report of receipt of the 2000–01 report.

Drugs, Poisons and Controlled Substances Act 1981 — Standard for the Uniform Scheduling of Drugs and Poisons, No. 16, 1 December 2001, and 1 March 2002, together with Amendments Nos. 2 and 3 and the Minister's Notices regarding the amendments, commencement and availability of the Poisons Code (four papers).

East Grampians Health Service — Report, 2000–01 (two papers).

Environment Protection Act 1970 —

Order in Council of 6 December 2001 declaring Industrial Waste Management Policy (Movement of Controlled Waste between States and Territories).

Order in Council of 21 December 2001 declaring State Environment Protection Policy (Air Quality Management) and varying State Environment Protection Policy (Ambient Air Quality).

Falls Creek Alpine Resort Management Board — Minister's report of failure to submit 2000–01 report to her within the prescribed period and the reasons therefor.

Fundraising Appeals Act 1998 — Exemption Order, 1 January 2002, pursuant to section 16A of the Act.

Hesse Rural Health Service — Report, 2000–01.

Heywood and District Memorial Hospital — Minister for Health's report of receipt of the 2000–01 report.

Inner and Eastern Health Care Network — Report, 2000–01.

Lake Mountain Alpine Resort Management Board — Minister's report of failure to submit 2000–01 report to her within the prescribed period and the reasons therefor.

Melbourne City Link Act 1995 —

Order in Council of 11 December 2001 decreasing the Project Area pursuant to section 8(4) of the Act (two papers).

Statement of Variation No. 4/2001 Detailed Tolling Strategy, 31 December 2001, pursuant to section 15B(5).

Melbourne Health — Report, 2000–01 (two papers).

Mount Baw Baw Alpine Resort Management Board — Minister's report of failure to submit 2000–01 report to her within the prescribed period and the reasons therefor.

Mount Buller Alpine Resort Management Board — Minister's report of failure to submit 2000–01 report to her within the prescribed period and the reasons therefor.

Mount Hotham Alpine Resort Management Board — Minister's report of failure to submit 2000–01 report to her within the prescribed period and the reasons therefor.

Mount Stirling Alpine Resort Management Board — Minister's report of failure to submit 2000–01 report to her within the prescribed period and the reasons therefor.

Moyne Health Services — Minister for Health's report of receipt of the 2000–01 report.

Municipal Association of Victoria — Report, 2000–01.

Murray Valley Wine Grape Industry Development Committee — Minister for Agriculture's report of 9 January 2002 of receipt of the 2000–01 report.

National Environment Protection Council — Report, 2000–01.

Omeo District Hospital — Minister for Health's report of 8 January 2002 of receipt of the 2000–01 report.

Optometrists Registration Board of Victoria — Minister for Health's report of receipt of the 2000–01 report.

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

Alpine Planning Scheme — Amendment C6.

Ballarat Planning Scheme — Amendments C39 Part 1, C43 Part 1 and C46.

Banyule Planning Scheme — Amendment C26.

Bayside Planning Scheme — Amendments C1 and C22.

Boroondara Planning Scheme — Amendment C22.

Brimbank Planning Scheme — Amendments C23 Part 1 and C27.

Buloke Planning Scheme — Amendment C3.

Cardinia Planning Scheme — Amendments C6, C19, C21 Part 2 and C26.

Casey Planning Scheme — Amendments C17, C26, C33, C36 and C40.

Dandenong — Greater Dandenong Planning Scheme — Amendments C20, C23, C28 and C32.

Darebin Planning Scheme — Amendments C21, C24 and C32.

Delatite Planning Scheme — Amendments C12 and C17.

East Gippsland Planning Scheme — Amendments C4, C5 and C10.

Geelong — Greater Geelong Planning Scheme — Amendments C30, C31, C33 and C39.

Golden Plains Geelong Planning Scheme — Amendment C9.

Hepburn Planning Scheme — Amendments C2 Part 1 and C10.

Hobsons Bay Planning Scheme — Amendment C25.

Horsham Planning Scheme — Amendment C11.

Indigo Planning Scheme — Amendment C11.

Kingston Planning Scheme — Amendments C15, C18 and C23.

Knox Planning Scheme — Amendment C18.

La Trobe Planning Scheme — Amendment C6.

Loddon Planning Scheme — Amendment C7.

Macedon Ranges Planning Scheme — Amendments C2 Part 1 and C11.

Manningham Planning Scheme — Amendments C1, C4, C7, C10 and C23.

Maribyrnong Planning Scheme — Amendments C5, C18, C19, C24, C25 and C26.

Maroondah Planning Scheme — Amendments C20 and C24.

Melbourne Planning Scheme — Amendments C19 Part 1 and C52 to C55.

Melton Planning Scheme — Amendment C16.

Mildura Planning Scheme — Amendment C4.

Mitchell Planning Scheme — Amendments C21 to C24.

Moira Planning Scheme — Amendment C5.

Monash Planning Scheme — Amendments C18 and C30.

Moonee Valley Planning Scheme — Amendment C27.

Moreland Planning Scheme — Amendments C1 Part 1, C5, C10 Part 2, C19 and C22.

Mornington Peninsula Planning Scheme — Amendments C18, C19, C37 to C39 and C41.

Mount Alexander Planning Scheme — Amendments C8 Part 1 and C14.

Nillumbik Planning Scheme — Amendments C7, C8 and C16.

Port of Melbourne Planning Scheme — Amendment L33.

Port Phillip Planning Scheme — Amendments C6 and C33.

Queenscliffe Planning Scheme — Amendments C7 and C9.

Shepparton — Greater Shepparton Planning Scheme — Amendments C15 and C16.

Stonnington Planning Scheme — Amendment C26.

Swan Hill Planning Scheme — Amendments C3 to C5.

Warrnambool Planning Scheme — Amendment C14.

Wellington Planning Scheme — Amendments C4 and C5.

Whitehorse Planning Scheme — Amendments C12, C16, C19, C26, C34 and C39.

Whittlesea Planning Scheme — Amendment C15.

Wodonga Planning Scheme — Amendments C5 and C10.

Wyndham Planning Scheme — Amendments C25, C29 and C33.

Yarra Planning Scheme — Amendments C22, C23, C32, C33, C35 and C38.

Prevention of Cruelty to Animals Act 1986 — Code of Practice for the Welfare of Horses at Horse Hire Establishments.

Statutory Rules under the following Acts of Parliament:

Agricultural and Veterinary Chemicals (Control of Use) Act 1992 — No. 143/2001.

Alcoholics and Drug-dependent Persons Act 1968 — No. 7/2002.

Audit Act 1994 — No. 148/2001.

Building Act 1993 — Nos. 171 and 176/2001.

Cancer Act 1958 — No. 16/2002.

Chinese Medicine Registration Act 2000 — No. 133/2001.

Chiropractors Registration Act 1996 — No. 138/2001.

Conservation, Forests and Lands Act 1987 — No. 165/2001.

County Court Act 1958 — No. 157/2001.

Crown Proceedings Act 1958 — No. 2/2002.

Dental Practice Act 1999 — No. 134/2001.

Essential Services Commission Act 2001 — No.166/2001.

Evidence Act 1958 — No. 13/2002.

Fair Trading Act 1999 — No. 162/2001.

Fisheries Act 1995 — No. 145/2001.

Flora and Fauna Guarantee Act 1988 — No. 147/2001.

Food Act 1984 — Nos. 149 and 169/2001.

Freedom of Information Act 1982 — No. 161/2001.

Fuel Prices Regulation Act 1981 — No. 163/2001.

Fundraising Appeals Act 1998 — No. 144/2001.

Gaming and Betting Act 1994 — No. 167/2001.

Gaming Machine Control Act 1991 — No. 168/2001.

Gas Safety Act 1997 — No. 5/2002.

Gene Technology Act 2001 — No. 153/2001.

Health Act 1958 — Nos. 150/2001, 6 and 9/2002.

Health Services Act 1988 — Nos. 141 and 170/2001 and 15/2002.

Livestock Disease Control Act 1994 — 156/2001.

Local Government Act 1989 — No. 10/2002.

Lotteries Gaming and Betting Act 1966 — No. 155/2001.

Magistrates' Court Act 1989 — Nos. 131 and 142/2001 and 4/2002.

Marine Act 1988 — No. 8/2002.

Medical Practice Act 1994 — No. 139/2001.

Melbourne City Link Act 1995 — No. 174/2001.

National Parks Act 1975 — No. 146/2001.

Nurses Act 1993 — No. 136/2001.

Optometrists Registration Act 1996 — No. 140/2001.

Osteopaths Registration Act 1996 — No. 137/2001.

Pharmacists Act 1974 — No. 151/2001.

Physiotherapists Registration Act 1998 — No. 135/2001.

Pollution of Waters by Oil and Noxious Substances Act 1986 — No. 11/2002.

Reference Areas Act 1978 — No. 14/2002.

Road Safety Act 1986 — Nos. 172 and 173/2001 and 12/2002.

Subordinate Legislation Act 1994 — Nos. 154 and 164/2001 and 3/2002.

Supreme Court Act 1986 — Nos. 130 and 159/2001.

Supreme Court Act 1986 — Administration and Probate Act 1958 — No. 129/2001.

Tobacco Act 1987 — No. 152/2001.

Victorian Civil and Administrative Tribunal Act — Nos. 160 and 175/2001 and 1/2002.

Water Act 1989 — No. 132/2001.

Whistleblowers Protection Act 2001 — No. 158/2001.

Subordinate Legislation Act 1994 —

Ministers' exception certificates under section 8(4) in respect of Statutory Rule Nos. 129, 130, 142 and 175/2001 and 2 and 3/2002.

Ministers' exemption certificates under section 9(6) in respect of Statutory Rule Nos. 133 to 140, 143 to 145, 147, 149, 151 to 153, 156, 162, 163, 165, 169, 170 and 172 to 174/2001 and 1, 6 to 8 and 12 to 16/2002.

Terang and Mortlake Health Service — Minister for Health's report of receipt of the 2000–01 report.

Victorian Coastal Strategy, Report 2002.

Victorian Environment Assessment Council Act 2001 — Government response to the Environment Conservation Council's Box-Ironbark Forests and Woodlands Investigation Final Report, pursuant to section 25(1).

Wildlife Act 1975 — Notices of control of hunting, Nos. 1 and 2/2002, 13 February and 8 March 2002.

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

Auction Sales (Repeal) Act 2001 — Section 3(2) — 1 January 2002 *(Gazette No. G51, 20 December 2001), (Gazette No S239, 21 December 2001).*

Building (Amendment) Act 2001 — Sections 6 and 16 — 21 December 2001 (*Gazette No. S239, 21 December 2001*).

Film Act 2001 — Remaining provisions — 1 January 2002 (*Gazette No. G50, 13 December 2001*).

Fundraising Appeals (Amendment) Act 2001 — Remaining provisions — 1 January 2002 (*Gazette No. G50, 13 December 2001*).

Health Records Act 2001 — Sections 7, 8, 13 to 17, 19, 85, 86 (except sub-section (1)), 93, 95 to 99, 103(1), 103(2) (except paragraphs (a) and (c)), 109 and 111 (1) — 1 March 2002 (*Gazette No. G9, 28 February 2002*).

Livestock Disease Control (Amendment) Act 2001 — Whole Act (except sections 15 and 18(b)) — 1 January 2002 (*Gazette No. G51, 20 December 2001*).

Marine (Further Amendment) Act 2001 — Remaining provisions, other than Part 4 — 7 February 2002 (*Gazette No. G5, 31 January 2002*).

Marine (Hire and Drive Vessels) Act 2001 — Remaining provisions — 1 February 2002 (*Gazette No. G5, 31 January 2002*).

Melbourne City Link (Further Amendment) Act 2001 — Whole Act — 1 January 2002 (*Gazette No. S226, 11 December 2001*).

Melbourne City Link (Miscellaneous Amendments) Act 2000 — Sections 4(2), 14, 22, 23, 33, 34, 38, 39 and 40 — 1 March 2002 (*Gazette No. S37, 26 February 2001*).

Racing (Racing Victoria Ltd) Act 2001 — Remaining provisions — 19 December 2001 (*Gazette No. S233, 19 December 2001*).

Road Safety (Alcohol and Drugs Enforcement Measures) Act 2001 — Section 9(1) — (*Gazette No. G50, 13 December 2001*).

Road Safety (Further Amendment) Act 2001 — Remaining provisions (except for sections 4, 5(3), 7, 8, 10, 26 and 30) — 21 December 2001 (*Gazette No. G50, 13 December 2001*).

Statute Law Further Amendment (Relationships) Act 2001 — Remaining provisions — 20 December 2001 (*Gazette No. G51, 20 December 2001*).

Transport (Further Amendment) Act 2001 — Part 5 — 31 December 2001 (*Gazette No. S226, 11 December 2001*).

Wildlife (Amendment) Act 1990 — Remaining provisions — 28 February 2002 (*Gazette No. G9, 28 February 2002*).

COMMONWEALTH PARLIAMENTARY ASSOCIATION

Study tours

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! Following changes to the Commonwealth Parliamentary Association tour guidelines in September 2001, the Presiding Officers are now required to report to the houses on a six-monthly basis those members who have submitted study tour reports and any members exceeding the reporting deadline by one month.

Accordingly, on behalf of the President, I advise that the following members have submitted study tour reports since September 2001: the Honourable L. Asher, MP; the Honourable B. N. Atkinson, MLC; Mr C. Carli, MP (part 1); the Honourable P. R. Davis, MLC; Mr P. J. Loney, MP; Mr H. Lim, MP (part 1); Mrs J. Maddigan, MP; Mr B. Mildenhall, MP; the Honourable S. M. Nguyen, MLC; the Honourable Graeme Stoney, MLC; the Honourable C. A. Strong, MLC; Mr M. H. Thompson, MP; and the Honourable E. J. Powell, MLC.

All members of the Legislative Council of the 54th Parliament who have undertaken study tours to date have submitted their reports.

AUDIT (FURTHER AMENDMENT) BILL

Committee

Resumed from 6 December 2001; further discussion of clause 2.

Hon. D. McL. DAVIS (East Yarra) — I want to move a number of amendments from late last year. In doing so I want to circulate a series of slightly refined amendments.

Hon. M. M. Gould — I will grant you leave.

Hon. D. McL. DAVIS — I was going to ask for leave to circulate the refined amendments.

Hon. M. M. Gould — Leave is granted.

Hon. D. McL. DAVIS — In circulating these amendments I want to make the comment that a number of points of disagreement remain between the government and the opposition. The opposition remains open to discussion and negotiation with the government.

Clause agreed to; clauses 3 to 15 agreed to.

Clause 16

Hon. D. McL. DAVIS (East Yarra) — I move:

1. Clause 16, page 15, lines 8 and 9, omit "when the Parliament is in recess".

I want to make the point that the opposition seeks to have the most open and transparent arrangements here. It seeks to ensure that the most reasonable notice is given and that there is no possibility that reports and other matters can be brought forward without the community and the opposition, in particular, being aware of them.

Hon. M. M. GOULD (Minister for Education Services) — The opposition's proposal seeks to require the Auditor-General and the Clerks to undertake the notification process when Parliament is in recess and when it is sitting. Currently the bill provides the Auditor-General with that power when Parliament is in recess. The clear intention of the bill is to provide this power to the Auditor-General only to ensure that there is timely delivery of reports when Parliament is not sitting for extended periods of time.

An example would be over the recess periods, not like what will occur in a couple of weeks. The intention was not to provide an opportunity where questions of political manipulation could be raised about the Auditor-General's report being transmitted to the Parliament on non-sitting days to avoid immediate parliamentary debate. The government's objectives have strengthened the position of the Auditor-General as an independent officer of the Parliament and it will not politicise the process by which the Auditor-General's reports are delivered to the

Parliament. I advise the opposition that the government will not support its amendment.

Hon. R. M. HALLAM (Western) — I seek clarification from the minister. Is she arguing that the opposition's amendment represents a belt and braces approach to the question of the tabling of documents and on that basis it is therefore unnecessary? Is that the reason the government is not supporting it? If that is the case, I plead with the minister to have another look at the process. If it is simply putting an issue beyond doubt, I request that she thinks very carefully about the thrust of the amendment. Surely we are not going to let the entire bill fall to one side simply because we are going to put in words that the government thinks are unnecessary. That seems to be the thrust of your message. Would the minister like to comment?

Hon. M. M. GOULD (Minister for Education Services) — The government is of the view that its amendment with respect to notification is sufficient. It is not prepared to accept the amendments put forward by the opposition. The government believes the ability to give reports out of — and not between — parliamentary sessions is appropriate. The responsible minister in another place has spoken to the shadow minister and indicated that the government is not prepared to accept the opposition's amendments.

Hon. R. M. HALLAM (Western) — I thank the minister for her explanation but I would like her to comment on the reverse of the case she is putting. The question seems to be whether the thrust of the opposition's amendment represents some sort of detraction from the conditions relating to the tabling of reports. Is the minister telling the committee that she sees some inherent danger in the provisions relating to that period when the house is in session?

Hon. M. M. GOULD (Minister for Education Services) — The government's position is that the amendment it has put forward in respect of the bill as it stands now is adequate and generally supported by the Auditor-General. It believes its amendment goes far enough. The intention was always for members of Parliament to receive reports from the Auditor-General out of session. That is as far as the government is prepared to go. The opposition's proposed amendments are not acceptable. The tabling of Auditor-General's reports ought to occur out of session and not while the Parliament is in session.

Hon. D. McL. DAVIS (East Yarra) — To follow up on the points made by my colleague I ask the minister again, in reverse from the way she has put the case, in what way would the opposition's proposed amendment be inconsistent with the objectives of the Audit Act itself in providing the maximum information to the community and the greatest transparency?

Hon. M. M. GOULD (Minister for Education Services) — As I indicated in my comments earlier, the government believes one day's notice is sufficient. The proposed amendment would increase the notice from what is currently in the bill, which is from one day to two days notice. The government believes one day is an appropriate time to allow members of Parliament to be made aware that such a report is to be tabled. In the bill the government has gone to the appropriate lengths to tighten the Audit Act and ensure sufficient notice is given to members of Parliament that such a report is coming down. One day's notice is sufficient and the government does not accept the opposition's amendment.

Hon. R. M. HALLAM (Western) — I register my disappointment at the turn of events. This is a very important piece of legislation that has an enormous amount of background. It has been endorsed by an all-party parliamentary committee. It has the elephant tick from the Auditor-General. We are now talking about issues at the absolute margin. I find it disappointing that we have gone through an extensive parliamentary recess and not come any closer to a resolution of issues which are absolutely ancillary to the underlying structure of the bill.

I will not take any further part in the debate because we now have some sort of Mexican stand-off and that is sad because the issues are of little moment in the grand scheme of things. On my advice, none of the issues canvassed in this committee session would even raise an eyebrow of the Auditor-General. We are talking about issues at the margin and it is sad that the bill has got to this stage simply because of an inability to strike a compromise between the two major parties.

Committee divided on omission (members in favour vote no):

Ayes, 14

Broad, Ms	Madden, Mr
Carbines, Mrs	Mikakos, Ms (*Teller*)
Darveniza, Ms	Nguyen, Mr
Gould, Ms	Romanes, Ms
Hadden, Ms (*Teller*)	Smith, Mr R. F.
Jennings, Mr	Theophanous, Mr
McQuilten, Mr	Thomson, Ms

Noes, 26

Atkinson, Mr	Furletti, Mr
Baxter, Mr	Hall, Mr
Best, Mr	Hallam, Mr
Birrell, Mr	Katsambanis, Mr

Boardman, Mr	Lucas, Mr
Bowden, Mr	Luckins, Ms
Brideson, Mr	Olexander, Mr (*Teller*)
Coote, Mrs (*Teller*)	Powell, Mrs
Cover, Mr	Rich-Phillips, Mr
Craige, Mr	Smith, Mr K. M.
Davis, Mr D. McL.	Smith, Ms
Davis, Mr P. R.	Stoney, Mr
Forwood, Mr	Strong, Mr

Amendment agreed to.

Hon. D. McL. DAVIS (East Yarra) — I move:

2. Clause 16, page 15, line 10, omit "one business day's" and insert "2 business days'".

In so doing, I suggest two days is a more reasonable period. The opposition has taken the view that this will not enable the government, as it were, to slip things through and will ensure that interest groups and others will have sufficient time to be aware of the tabling of reports and other matters, and in the same way be able to prepare for that release and to have appropriate questions available rather than allowing the government to surprise the community in an unreasonable manner.

Hon. M. M. GOULD (Minister for Education Services) — The honourable member's comment that the government may slip things through is highly inappropriate. We are talking about an Auditor-General's report that could be tabled outside of the sessional sittings of Parliament. Honourable members would be given one business day's notice when such a report is presented when Parliament is not sitting.

Regarding the honourable member's comment about the government slipping things through, I suggest the same could be said that the opposition might use that opportunity to politicise and manipulate the outcome of an Auditor-General's report. As I indicated in my response to amendment 1, this would occur during a parliamentary recess. The notice of one day is new, and the Auditor-General was satisfied that one day's notice be given to allow honourable members to know that such a report is to be tabled, and would give them sufficient notice to ensure that they get access to the report. The government believes one business day is adequate notification to honourable members and is in line with new technology that is available. The government rejects the opposition's amendment.

Hon. D. McL. DAVIS (East Yarra) — In what way would a second day, or a slightly longer period, not be reasonable, and in what way would it be inconsistent with the overall aims of the Audit Act, which are:

> the conduct of efficient and effective financial performance audits in the Victorian public sector and the examination of bodies that receive public grants.

The point I make is that this could be at a time when many other matters are afoot publicly and it would be fairer and would enable greater preparation for wide public debate. I would have thought in the interests of maximum transparency, maximum fairness and maximum reasonableness, two days was a fairer time and would enable all parties — and by parties I do not mean political parties; I mean all those with an interest in a forthcoming report, whether it be about health services, education, or whatever the Auditor-General has examined — to make whatever preparations they could and, when they saw the report, to make appropriate comment, hence furthering public debate. I do not see that as a politicisation; I think it would enhance public debate and improve transparency and hence be consistent with the objectives of the act. I would have thought in the auditing of all areas the greater the transparency the more desirable, as a general principle.

Hon. M. M. GOULD (Minister for Education Services) — The government has gone to considerable lengths with this bill to enhance transparency of the Auditor-General and to allow for Auditor-General reports to be tabled outside the sessional times of Parliament. As I indicated before, it believes one day's notice is sufficient for the Clerks to inform honourable members of Parliament that the Auditor-General's report is about to be sent. The government believes one day's notice is sufficient. As I indicated previously, the government again does not support the honourable member's amendment.

Amendment agreed to.

Hon. D. McL. DAVIS (East Yarra) — I move:

3. Clause 16, page 15, lines 16 to 18, omit all words and expressions on these lines and insert —

> "(c) publish the report on the Auditor-General's Internet website —
>
> (i) as soon as practicable after it is first laid before a House of the Parliament; or
>
> (ii) if the report is given to the clerks when the Parliament is in recess — as soon as practicable after giving it to the clerks.".

Again the point I make is that this is designed to assist with transparency and accountability as far as possible, and is consistent with the objectives of the act. I ask the minister why the government would seek to object to such a reasonable and considered proposal.

Hon. M. M. GOULD (Minister for Education Services) — The government does not support this proposal being incorporated into the legislation. The government has indicated in another place and during the course of the debate that the Auditor-General reports will be put on the Internet. It does not believe it needs to be codified in the legislation; that undertaking has been given. The other part of the amendment refers to 'as soon as practicable', which will be adhered to, and, if the report is given to the Clerks when Parliament is in recess, as soon as practicable after giving details to the Clerk. We believe we have indicated to the chamber during the course of the debate that this will occur. We do not believe it is necessary to incorporate it in the legislation. Therefore, I oppose the amendment.

Amendment agreed to.

Hon. D. McL. DAVIS (East Yarra) — I move:

4. Clause 16, page 15, lines 24 to 30, omit all words and expressions on these lines and insert —

"(b) if the report is received when the Parliament is in recess — give a copy of the report to each member of the House as soon as practicable after the report is received.".

Hon. M. M. GOULD (Minister for Education Services) — I have indicated that the normal distribution of Auditor-General reports will occur. It is my understanding and I am advised that with respect to the circulation of the Auditor-General's reports, once the Clerk has notified that it will happen, they will be circulated to honourable members. Again we do not believe it needs to be codified in the legislation.

Amendment agreed to.

Hon. D. McL. DAVIS (East Yarra) — I move:

5. Clause 16, page 15, line 32, after "(4)(b)" insert "when the Parliament is in recess".

Hon. M. M. GOULD (Minister for Education Services) — The amendment is consequential on others that are proposed, and the government rejects that amendment.

Amendment agreed to; amended clause agreed to; clauses 17 to 20 agreed to.

Clause 21

Hon. D. McL. DAVIS (East Yarra) — I move:

6. Clause 21, lines 27 to 30, and page 22, lines 1 to 5, omit all words and expressions on these lines and insert —

"'(2) A person who receives a relevant document from the Auditor-General or who, in accordance with the Auditor-General's written authorisation, receives information contained in a relevant document must not disclose any information contained in the relevant document except —

(a) in accordance with the Auditor-General's written authorisation; or

(b) after the information the person discloses has been made public in a report by the Auditor-General.".

I want to again flag, as was flagged in the second-reading debate, the concerns the opposition has with aspects of this legislation, particularly to make clear the fact that we need to have an appropriate release of information. There have been examples, that this Parliament is aware of, where Auditors-General reports have been incorrectly or inappropriately released. The opposition supports the fact that there ought to be an orderly release of information, that there ought not be undue or unreasonable leaks, that persons who are given information in good faith by the Auditor-General or his officers ought to behave in an appropriate way in handling that information, that it ought not be released inappropriately, and that the Auditor-General ought to be able to go about his work with the confidence and security that the information — perhaps a draft report or other materials he has wanted to receive opinions or discussion about — is not inappropriately released.

Notwithstanding the opposition's support for that point, it expresses some concerns that the legislation as put forward by the government in its original form could compromise the proper public debate that flows in cases where information is released in some form of a leak — perhaps through a journalist — and could compromise members of the journalistic profession and perhaps others who have a legitimate role in public debate and disclosure. In that context we believe there is a possibility of a restriction of public debate and that the legislation as it was framed could catch, as it were, people whom the government claimed it had not intended to catch.

The issue is that people who have been given information ought to behave properly, but there are occasions when a journalist may have obtained information through a legitimate means or in some other way and the government may be able to use the provisions to prevent the publication of information by a journalist, thus exposing the journalist to penalties.

Freedom of the press is an important principle and is something that most honourable members would strongly support. It is a fundamental aspect of our system, and I do not believe it is necessary to go to the

lengths the government has gone to with this provision. People who have information for the Auditor-General ought to handle it appropriately, but at the same time the inappropriate use of this provision could compromise the proper public debate that will occur from time to time.

I seek leave of the committee to table a memorandum of advice. This issue was debated during the second-reading stage in the other place and in this house. Legal opinions on the application of the submissions were tabled in the other place by the government.

Leave granted; see page 51 for memorandum of advice.

Hon. D. McL. DAVIS — The shadow Treasurer in the other place, the honourable member for Box Hill, and I have had many discussions about this issue, as have other members of the opposition and more broadly the community. Issues that I wish to comment on have been raised in the memorandum of advice.

I refer to the fact that the operation of the Audit (Further Amendment) Bill as it stands without a series of amendments would potentially compromise some journalists. The important advice I have circulated is from Mr Robertson. I make the point that the advice concludes:

> Although the restrictive interpretation of the proposed subsection can be supported in the way set out by Mr Hanks and Mr Syme, the true meaning of the proposed subsection is, at least, unclear. In my opinion, the better view is that the proposed subsection (2) would prohibit the disclosure by any recipient of a proposed report or part of a proposed report of the Auditor-General (no matter how the report was received) of information contained in it, except as set out in the subsection. Thus a journalist who received a leaked copy of a proposed report would be criminally liable if he or she disclosed any of the information contained in it.

Although there have been discussions about the meaning of sections of acts and proposed acts until there is some case law behind them, there is good reason and reliable opinion that makes us believe this provision could make members of the press vulnerable and expose them to the use of these provisions, which may have the effect of shutting down appropriate public debate. It may mean that in certain circumstances members of the press would be reticent about using information they have obtained. The information may be obtained from a legitimate source.

I note the government may argue that whistleblowing is appropriate and that it has enacted legislation that enables legitimate whistleblowers to move forward. I am unconvinced about aspects of the act and the usage of that act. I do not think we have seen significant usage of the provisions in that act, but there may be occasions when information is released in the public interest, and not necessarily through those individuals but because the Auditor-General has circulated information in the proper course of his business, when this bill could be used. Anything that restricts press freedom in that way could be damaging to our democracy.

In that sense I believe the opposition has thought through these issues carefully. There is sufficient legal doubt for the opposition to move the series of amendments. The legal opinion that has been incorporated supports this series of steps.

Hon. M. M. GOULD (Minister for Education Services) — I have been advised that the opposition's proposal will limit the capacity of recipients to disclose information contained in a proposed report. The bill allows recipients to communicate information in the course of their official duties. The opposition's amendments, I am advised, would limit the disclosure of information to those circumstances where written authorisation has been given by the Auditor-General. The adoption of this proposal would make the process of government responses to proposed reports impracticable and would severely restrict the capacity of agencies to brief their respective ministers. The proposal undermines the consultative process under the existing legislation where agencies have a clear role in reviewing and commenting on proposed draft reports.

The government will not support the amendment because it believes the acceptance of the proposals will undermine the consultative process between the Auditor-General and the government. The proposal raises significant practical and operational issues for both the Auditor-General and the government. For example, if a proposed report raised issues of public resources being applied ineffectively or inefficiently, the secretary of the department could not instigate immediate changes to remedy the situation. Before any action could be taken by the secretary, he or she would have to obtain written authorisation to communicate the information to officers to address the situation identified by a draft report.

The government believes this would add unnecessary steps in the process and could result in action being delayed, with public resources being wasted because of the inability of the secretary of the department to act immediately if such an issue is drawn to his or her attention through a draft report.

For those reasons the government will not support the amendment moved by Mr David Davis.

Hon. D. McL. DAVIS (East Yarra) — The opposition believes the proposal is practical and reasonable and that it strikes the appropriate balance in giving the Auditor-General certainty and security in going about his work. The minister outlined the chain of events that occurs in compiling reports of the Auditor-General. They involve consultation and often the exchange of drafts or working documents between the relevant departments or agencies and the Auditor-General. The Auditor-General obviously needs security in doing so, which the opposition supports, and it believes this proposal will provide that security.

At the same time I do not believe the minister and government have really addressed the fact that other individuals may obtain the information through other means — even from the Auditor-General's own office. In that context it is interesting that the government has not been prepared to address the issue that there is a prospect that the government would be able to use this to stifle, close down or prevent public debate by journalists or comment from the public. This legislation seeks to strike a balance, certainly where there is any legal doubt that the government would be able to use this legislation to quieten or to frighten a journalist or media outlet into not publishing something they had obtained. In cases where there is legal doubt and where the information may go to a third or different party from those who can use it legitimately, by preventing the use of that information there is a risk that the press and others in the media will be stifled. I request that the minister perhaps address that issue of how others who have obtained the information, through whatever means, are protected by the government's proposals.

Hon. M. M. GOULD (Minister for Education Services) — I indicated the government's view in opposing this amendment. I highlighted an example of what we believe could be a process that would prevent a secretary taking immediate action if a draft report is identified. The honourable member refers to an example of a case where someone outside appropriate offices gets access to such information. I believe he would be aware of other provisions, both in the bill and in the act, where penalties are set out but relate to another clause so we will not go there. However, there are sanctions if people breach the provisions of this legislation. The government believes having to go through the process of getting written permission from the Auditor-General to take action on a draft report when such a report may identify inefficiencies taking place within a department adds another unnecessary step in that process and could result in action that could be taken to delay or could allow something that is inappropriate to continue for longer than necessary. The government believes there are sufficient safeguards and penalties already in the legislation and that the proposal put by the opposition is not appropriate. As I have already indicated, we would not support it.

Hon. R. M. HALLAM (Western) — I genuinely regret that we have come to this impasse. As I understand it, the committee confronts a circumstance in which the opposition amendment addresses the question of a penalty which might be imposed on someone breaching the conditions of an Auditor-General's report second-hand. It is very clear that those persons who receive such a report in the line of duty are required to adhere strictly to the conditions under which they receive it. But the question then arises of persons who receive such a report not at first hand and not in direct line with their public responsibilities. The instance that the Honourable David Davis brings to the chamber is that of an investigative journalist and the question of whether a journalist would be guilty of a breach if he or she used the advice they had received on a second-hand basis.

The National Party is inclined to support the amendment on two grounds. The first is because it is appropriate that someone who comes across that sort of information in those circumstances — that is, where there is no direct breach of the law of the land — should be able to use the information. It would stifle public debate if an investigative journalist was precluded from using advice secured under those circumstances, because it might well be that a journalist is not aware whether some provisions of the law have been breached in gaining access to that information. We are talking about a fairly tenuous connection. I am persuaded that we should not require a journalist to determine to their satisfaction that there has been no breach of the law in getting that information to them; otherwise we impose a very tough test indeed. So that is the first ground on which I am persuaded by the argument brought forward by the Honourable David Davis.

However, there is in my view another even more compelling argument — that is, that the committee has learnt of the need to refer to legal advice so that the question of whether the access by a journalist constitutes at least evidence of a breach of the law. For goodness sake, we are meant to be the law-makers! We should not be relying upon legal advice in the marketplace. We should fix the issue. On that basis, if no other, the committee would be well advised to determine the issue here rather than rely on external legal advice, notwithstanding the eminence of that advice.

As to the minister's argument to go one step further and raise concern about a breach that relates to those who gain access to relevant documents in the course of their duties and that therefore that may cause some additional workload on the public sector, I have no wish to do that — quite the reverse! However, I am not persuaded that we cannot find a relatively simple way around that in respect of proposed subsection (2)(a) to be inserted by amendment 6 moved by the Honourable David Davis, which states that that information is received in accordance with the Auditor-General's written authorisation. That would have been a covering clause.

That should be relatively simple. The Auditor-General should be able to devise a form of words that would cover the practical need for serving officers to gain access to a report in the circumstances described by the minister. I am not persuaded that the doom and gloom outlined by the minister in terms of practicalities would in fact apply in the real world. We would simply find a practical way around it.

But in any event, my plea to the committee would be that we solve this issue, rather than allow important legislation to languish simply on the basis of what one clause says. For goodness sake, I hope we do not have to resort to the notion that we get legal advice to determine what our bill means. Here is a golden opportunity for the parties to resolve what they intend with the bill and determine the practicalities of it. Let's get on with the making of the law.

Hon. M. M. GOULD (Minister for Education Services) — Currently in the act there are no penalties associated with disclosing. The government has introduced the legislation to put those penalties in place. It believes they are appropriate, and they are intended to ensure that those who breach the provisions concerning the release of documents they should not release are penalised if they are found guilty of such an offence. Penalties are associated with natural persons and bodies corporate.

With respect to this legislation the government has taken the view that there was an area that could be addressed and tightened up to ensure that if people breached the confidentiality clauses they would have appropriate sanctions imposed on them. This clause will ensure that any person who receives any information under the act does not disclose it, and if they do disclose it they will receive the appropriate penalties.

With respect to the amendment moved by the opposition requiring that there be written authorisation from the Auditor-General, the government believes that is cumbersome and is not necessary and that the clause being debated at the moment is adequate. For those reasons and others that I have expressed we will oppose the amendment.

Hon. D. McL. DAVIS (East Yarra) — I pick up a couple of points made by the minister, but particularly the point made by my colleague the Honourable Roger Hallam. He made the clear and sensible point that it ought not be beyond the parties to come up with some suitable conclusion to achieve the correct balance: a system that is not cumbersome — and I do not believe this one is, but the opposition is always prepared to talk to the government on these matters — but at the same time protects the right of third parties such as journalists and others and does not allow any gag or restriction of public debate that could be damaging to our democracy.

The Honourable Roger Hallam's point is exactly right. This is a small matter in the bill, but it could allow the inappropriate use by the government of the clauses to restrict public debate. That would be wrong. We support the right of journalists and the media generally to freely report matters. That applies particularly in the example given by the Honourable Roger Hallam of investigative journalists.

Hon. R. M. HALLAM (Western) — I hope we are all pursuing the same objective, that what we want is appropriate protection for the documents coming from the Auditor-General without stifling the use of those documents where they are received outside the legal process. I hope that is where we are heading. Given the concerns the minister has expressed about the requirement for the Auditor-General to provide written authorisation, which, to paraphrase, she says is over the top, I am prepared to acknowledge that, and maybe we can find another way, but we are so close I plead that we report progress, find a solution and fix it. I do so because it seems to me that we are arguing absolutely at the margin and that we have a bill swinging on the definitions involved. My plea would be that we take the opportunity to find some sort of compromise and we write that into the law in a way that gives both parties the protection for which they are looking.

Hon. D. McL. DAVIS (East Yarra) — Before we move on, and I am happy for the minister to say something further, I have heard nothing that would put my mind or the opposition's mind at rest about the use of the provisions of this legislation in a way that would compromise the operation of the press and the media generally. In that context, where there is doubt it is very concerning.

Amendment agreed to.

Hon. D. McL. DAVIS (East Yarra) — I move:

7. Clause 21, page 22, after line 9 insert —

"(3) In this section, "**relevant document**" means a proposed report or part of a proposed report of the Auditor-General under this Act.".

Hon. M. M. GOULD (Minister for Education Services) — That is a consequential amendment, and the government opposes it.

Amendment agreed to.

Hon. D. McL. DAVIS (East Yarra) — I move:

8. Clause 21, page 22, line 10, omit "(3)" and insert "(4)".

Amendment agreed to.

Hon. D. McL. DAVIS (East Yarra) — I move:

9. Clause 21, page 22, line 14, after "information" insert "the person discloses".

Hon. M. M. GOULD (Minister for Education Services) — That is a consequential amendment and is opposed by the government.

Amendment agreed to.

Hon. D. McL. DAVIS (East Yarra) — I move:

10. Clause 21, page 22, line 20, omit "corporate."." and insert "corporate.".

Amendment agreed to.

Hon. D. McL. DAVIS (East Yarra) — I move:

11. Clause 21, page 22, after line 20 insert —

"(5) For the purposes of sub-sections (2) and (4), information is taken to have been made public in a report of the Auditor-General when —

(a) the report is laid before a House of the Parliament under section 16AB(3); or

(b) the report is taken under section 16AB(6) to have been published by order, or under the authority, of the Houses of the Parliament.

(6) A person who contravenes sub-section (2) or (4) also commits a contempt of the Parliament and may be dealt with by the Parliament for that contempt.

(7) Despite sub-section (6), a person is not liable to be punished more than once for a contravention of sub-section (2) or (4).'.".

Hon. M. M. GOULD (Minister for Education Services) — As I understand it, the opposition's amendment seeks to extend the existing penalty provisions such that a breach would constitute a contempt of the Parliament. It would become the Parliament's prerogative to either invoke a monetary fine under the act or to impose its own sanctions, but not both, as I understand it.

The government cannot support this amendment. Its adoption will lead to a whole sanctions process being subject to political manipulation as to what will occur in the chamber rather than in the courts. Serious questions are raised by this proposal as to why the opposition wishes to remove the sanctions process from the established judiciary and put it into the system of politics in this place. As the Honourable Roger Hallam commented before, we make the laws but the judiciary interprets them as to whether they have been breached or not.

I am advised that according to this amendment a person would, in cases where breaches may occur, be entitled to know the penalty. Under normal circumstances in any legislation that has any penalties associated with it people would know the outcome of the penalty, the minimum and the maximum, and if they are going to spend time in jail as a result. They would know whether there was a jail sentence or whether monetary penalties were attached to it — or a bit of both. The amendment would make it a bit of an unknown quantity. If someone appears before the Parliament a penalty could range from less than what the government is proposing in the bill before the committee and nothing more than a simple 'Well, do not do that again. We will keep an eye on you and you can go'. In this democratic country of ours I am prepared to adhere to a decision of the courts with respect to interpreting the law and passing sentences on penalties as set out in the legislation.

The government is not prepared to accept the opposition's amendment. We believe it is appropriate to be dealt with by the judiciary, not in the Parliament. There are plenty of pieces of legislation that set out penalties, not one of which, if you breach it, I believe, requires you to appear before the Parliament. I do not believe that is appropriate and the government does not believe it is appropriate. It is for those reasons the government will not support the amendment proposed by the honourable member.

Hon. D. McL. DAVIS (East Yarra) — I am interested to hear the minister's response on these matters, but she did not deal with the fact that the amendment attempts to make the point that reports being tabled before the Parliament are reports for the

whole community and for the Parliament itself. To that extent we have had a number of cases recently where reports have been leaked ahead of time or released ahead of their tabling in Parliament. It must be argued that as a minimum that is a discourtesy to the Parliament. It is an unfortunate breach of what is an appropriate set of procedures and means that the Parliament is not the supreme or significant body in this matter of looking at the administration of government and examining and oversighting the administration in that sort of way. There is a jump or a second guess added on and I do not think any of us in this chamber would support that sort of activity.

The Parliament is, in its own way, entitled to express its displeasure. As the minister said, it may be that on some occasions it is something that she may not think is sufficient, but the fact is that the Parliament as a whole may well be unhappy that the information is released ahead of its tabling here. I think those protocols and conventions that require tabling here first ought to be upheld and I do not think the minister has addressed that aspect of this measure.

Hon. M. M. GOULD (Minister for Education Services) — The government has put this bill before the chamber now in part so that if anyone breaches the act there are penalties associated that can be dealt out by our judicial system. It is appropriate that that be the way any breach of the legislation ought to be dealt with. It is not appropriate for the Parliament to be the law-maker and also to be judge and jury. It is appropriate that the government has reacted to and responded to concerns that there were not sufficient penalties in place in the principal act. It addressed that issue and those concerns of the community on the occasion of someone reporting the contents of an Auditor-General's report before it had been tabled in this or the other place.

The government has responded to that in such a way that it has made it an offence with these penalties of 50 units for a natural person and 200 units for a corporation. That is the appropriate way to respond to people if they breach the act and that is what the government has done. It has responded appropriately by introducing legislation that imposes those penalties. The government believes the appropriate place to deal with any breaches of the act is through the courts. That is the appropriate way to go. It is for those reasons that we do not support the opposition's amendment.

Hon. R. M. HALLAM (Western) — The National Party shall be supporting this amendment proposed by the opposition. We are a bit bemused by the minister's explanation as to why the government is not persuaded. I make two points in that context. She says, for instance, that it is inappropriate for the issue of parliamentary contempt to apply in these circumstances and we should be rushing off to the courts to determine the penalty. I remind the minister that we are talking about an issue of parliamentary process. We are talking about documents being tabled in this Parliament and I cannot think of a more appropriate circumstance in which the issue of contempt should be applied. I am certainly not persuaded that an issue of contempt should not apply in these circumstances; I think it entirely appropriate. On that basis the National Party will be supporting the amendment.

In addition, the Minister for Education Services says the government thinks that not only should the issue of contempt be put to one side but that we should rely on the penalties applied by the courts of the land. However, on my reading of this amendment the Honourable David Davis is not suggesting that we trade one for the other but that we impose an issue of exposure to contempt over and above the question of any penalty under a decision taken by a court. In that respect it is really, in my view, belt and braces — it gives the Parliament another option as to how a breach of parliamentary privilege should be addressed.

I must say that I am a bit bemused by the minister's explanation, particularly given this government's claim in respect of openness and accountability. This is a good opportunity for the government to demonstrate that it is genuine and that it is prepared to include exposure to contempt in respect of contravention of a parliamentary process. The National Party shall be most assuredly supporting the amendment brought to the committee by the Honourable David Davis.

Committee divided on amendment:

Ayes, 26

Atkinson, Mr	Furletti, Mr
Baxter, Mr	Hall, Mr
Best, Mr (*Teller*)	Hallam, Mr
Birrell, Mr	Katsambanis, Mr
Boardman, Mr	Lucas, Mr
Bowden, Mr	Luckins, Ms
Brideson, Mr	Olexander, Mr
Coote, Mrs	Powell, Mrs
Cover, Mr	Rich-Phillips, Mr
Craige, Mr (*Teller*)	Smith, Mr K. M.
Davis, Mr D. McL.	Smith, Ms
Davis, Mr P. R.	Stoney, Mr
Forwood, Mr	Strong, Mr

Noes, 14

Broad, Ms	Madden, Mr
Carbines, Mrs	Mikakos, Ms
Darveniza, Ms	Nguyen, Mr (*Teller*)
Gould, Ms	Romanes, Ms

Hadden, Ms
Jennings, Mr
McQuilten, Mr
Smith, Mr R. F. (*Teller*)
Theophanous, Mr
Thomson, Ms

Amendment agreed to.

Amended clause agreed to; clauses 22 to 24 agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Hon. M. M. GOULD (Minister for Education Services) — I move:

That this bill be now read a third time.

In doing so I thank all honourable members for their contributions to the debate.

The PRESIDENT — Order! As there is not an absolute majority of the members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

SENTENCING (AMENDMENT) BILL

Second reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a second time.

The Sentencing (Amendment) Bill delivers on the government's election commitment to establish a specialist drug court program for Victoria.

As we are all acutely aware, the drug epidemic affects all echelons of society. We all know of the tragic and destructive effects of drugs on children, parents and families. Many times in this house we have heard stories of those who begin by stealing from their family and friends to feed a drug addiction, and then spiral into more serious offending and enter the revolving door of the criminal justice system. These individuals are now the offenders in a system which punishes their offending without addressing the cause of that offending — drug addiction. Clearly, traditional sentencing options for drug offenders are not equipped to deal with the complex needs of these offenders.

The drug issue is not simply a criminal justice issue. It is a community issue. Together, the government and the community must be prepared to experiment with innovative and modern approaches to help these offenders reduce their drug use and offending. The drug court represents a fundamental shift in the way in which we deal with drug offenders. This initiative seeks to protect the community by focusing on the rehabilitation of offenders from drug addiction and drug-related crime, with the ultimate goal of bringing stability to offenders' chaotic lifestyles and reintegrating them into the community.

The government does not pretend that the drug court is the answer to Victoria's drug problems. Rather, it is one element of the government's comprehensive drug strategy, which spans the areas of prevention, treatment and rehabilitation, saving lives and law enforcement. The drug court will complement a number of existing criminal justice drug initiatives such as police cautioning programs and the Magistrates Court CREDIT program for lower end drug offending.

Drug courts are currently operating in New South Wales, Queensland, South Australia and Western Australia. They have also been established in many overseas jurisdictions including the United States, Canada, England, Ireland and Scotland. While drug courts have a number of common features, no two drug courts are identical. The Victorian drug court has been developed after extensive analysis of the effective features of drug courts both in Australia and overseas. The Victorian model is unique to Victoria, encompassing the best features of existing drug courts.

The Victorian drug court will be piloted over three years, commencing at Dandenong. Dandenong has been selected as the first location for the drug court because of the availability of services for drug court participants, such as drug treatment and housing. The government anticipates that the drug court will commence operation by the end of March 2002.

How will the drug court work?

Rather than being a new court, the drug court is a fundamentally new way of approaching and dealing with offenders who commit crimes to feed a drug addiction. The bill establishes the drug court as a new division of the Magistrates Court. Magistrates will be

assigned to the drug court division by the Chief Magistrate.

A key feature of the drug court is that the drug court magistrate will have responsibility for the supervision of offenders placed on the drug court program. This means that rather than simply sentencing an offender, magistrates will have a role in monitoring the offender's progress on the drug court program and encouraging their compliance with the program. Magistrates assigned to the drug court will receive training to develop and enhance their understanding of the nature of drug and alcohol dependency, treatment options, and offender motivation.

The drug court magistrate will be assisted by a multidisciplinary drug court team. The drug court team will include a case manager, a clinician, specialist community corrections officers, and a dedicated police prosecutor and defence lawyer. This team will work with the drug court magistrate in managing and supervising offenders on the drug court program.

The drug court will require the development of new partnerships between judicial officers, lawyers, law enforcement agencies, correctional authorities, treatment providers and government departments, particularly the departments of Justice and Human Services. These organisations and individuals will need to adopt new roles and embrace a collaborative, team-oriented approach in working together to manage drug court participants and reduce their drug use.

Key features of the bill

I now turn to some of the key aspects of the bill.

The bill introduces a new sentencing order, to be known as a drug treatment order (DTO). The specific purposes of the DTO are:

> to facilitate the rehabilitation of the offender by providing a judicially supervised, therapeutically oriented, integrated drug or alcohol treatment and supervision regime;
>
> to take account of an offender's drug or alcohol dependency;
>
> to reduce the level of criminal activity associated with drug or alcohol dependency; and
>
> to reduce the offender's health risks associated with drug or alcohol dependency.

These purposes make it very clear that the DTO is different in nature from existing sentencing orders. The bill emphasises the role of the DTO in protecting the community through the rehabilitation of offenders who commit crimes to feed a drug or alcohol addiction and the consequent reduction of drug-related crime.

The DTO is a custodial order which will be included in the sentencing hierarchy in the Sentencing Act 1991, between the combined custody and treatment order and the intensive correction order. For the purposes of the drug court pilot, only the drug court will have the power to make a DTO. This is necessary to ensure that drug court programs are properly resourced.

Not all drug-dependent offenders will be suitable for the drug court and a DTO. The target group of offenders for the drug court pilot is a specific group whose needs are currently not being met. This group is comprised of individuals who are drug or alcohol dependent, whose dependency contributed to their offending, and who have an extensive criminal history. Most importantly, if not for the DTO, these offenders would have received a sentence of immediate imprisonment in respect of their offences.

Individuals will be eligible for a DTO where they plead guilty to offences within the jurisdiction of the Magistrates Court, other than sexual offences, or violent offences involving the infliction of actual bodily harm. The most likely offences considered by the drug court will be property offences such as theft and burglary.

Potential drug court participants will undergo a detailed and comprehensive assessment by members of the drug court team to determine suitability for a DTO. This assessment will play an important role in determining whether a drug-dependent individual is sufficiently motivated to address that dependency and the problems associated with it. The assessment report will include a case management plan for each individual assessed as suitable.

It will be vital that drug court participants reside in an area in the vicinity of the drug court to enable them to make frequent court appearances and to allow ease of access to services provided in connection with a DTO. This will facilitate participants' compliance with the order. For this reason the bill provides that an individual can only be referred to the drug court if he or she resides within a postcode area specified in the *Government Gazette* (which will be an area near a venue of the drug court). The flexibility of publishing relevant postcode areas in the *Government Gazette* is necessary for the purposes of extending the drug court to different locations during the pilot.

The two parts of a DTO

The DTO will be composed of two parts. The first part of the order is the treatment and supervision part. This part consists of conditions which are intended to address an offender's drug or alcohol dependency. The treatment and supervision part of every DTO lasts for two years, in recognition of the time necessary to address the problems flowing from serious drug dependency. However, the drug court will have the power to reduce this period by cancelling the DTO if the offender successfully completes the program before the expiry of two years. This confers a certain responsibility on offenders for their own wellbeing, by encouraging them to work towards their rehabilitation and the cancellation of the order.

Like other sentencing orders, the treatment and supervision part of the DTO consists of compulsory core and optional program conditions. Key core conditions of every DTO will be that, while on the order, the offender must not commit further offences punishable on conviction by imprisonment, and that the offender must attend the drug court when required.

However, the bill departs from the traditional one-size-fits-all approach to sentencing, by giving the drug court the ability to tailor programs to address offenders' drug or alcohol dependency and meet their complex individual needs. The drug court team will develop a case management plan for each participant which will include matters such as drug treatment and accommodation where necessary. The case management plan will assist the drug court in determining which program conditions, whether it be drug testing, detoxification, vocational programs or other conditions, are attached to each DTO.

The second part of the DTO is the custodial part. The custodial part is a term of imprisonment of up to two years which the drug court must impose on the offender as part of the DTO. This is the term of actual imprisonment which the offender would have received had he or she not been placed on a DTO. The length of the custodial part need not correspond to the length of the treatment and supervision part. For example, an offender could be on a DTO with a treatment and supervision part of two years length, and a custodial part of 12 months.

An important aspect of the bill is that an offender will not in fact be required to serve the custodial part of the DTO until the drug court activates the custodial part following a breach or cancellation of the DTO. In other words, like a suspended sentence, the custodial part is the term of imprisonment which the offender may ultimately have to serve if he or she is unsuccessful on the order.

The two parts of the DTO are equally important — the first in addressing the offender's rehabilitative needs, and the second in posing as a Damocles sword or a clear indication to the offender of the potentially punitive consequences of failing on the order.

Responding to non-compliance

A further key feature of the bill is that it establishes a comprehensive yet flexible and discretionary regime for responding to an offender's compliance and non-compliance with the order. The drug court has been developed on the basis of a harm-minimisation approach, which recognises that recovery from drug addiction takes time and is likely to involve relapse. Consistent with this notion, and central to the operation of the drug court, the bill gives the court the power to vary the DTO as a response to an offender's failure to comply with a condition of the DTO. Possible variations of a DTO could include increasing or decreasing the frequency of drug testing of an offender, and increasing or decreasing the degree of supervision to which the offender is subject.

In addition to the power to vary a DTO, the bill establishes a hierarchy of internal sanctions on which the drug court may draw if it considers that variation is not a sufficient response to non-compliant behaviour. For example, in responding to a serious episode of non-compliance, the drug court will have the power to order that the offender serve up to seven days in custody, by activating the custodial part of the DTO. These sanctions are intended to provide the drug court with a range of flexible responses to episodes of non-compliance which fall short of warranting cancellation of the program.

The bill sets out clearly the circumstances in which the drug court may cancel the DTO. These include circumstances in which the offender has committed further serious offences, or where the continuation of the order is not likely to achieve the rehabilitative purposes for which it was made. Upon cancellation, the drug court will have the power to sentence the offender to a term of imprisonment by activating the custodial part of the order, or impose any other sentencing order.

Other features of the bill

The bill limits appeals to the County Court against certain decisions made by the drug court (such as the variation of the treatment and supervision part of a DTO). These special appeal provisions are essential due to the intensive nature of the DTO and the likelihood of

constant variation of the order to increase or decrease obligations. Allowing appeals in relation to every decision of the drug court would make the drug court program unworkable. Appeal rights are almost non-existent in the New South Wales and Queensland drug courts for similar reasons. The government has consulted extensively with these jurisdictions.

Limited appeals are also appropriate given that offenders must consent to the making of the DTO. If an offender does not agree to a variation, he or she may elect to have the order cancelled and submit to re-sentencing. However, the bill strikes a balance between workability and fairness by allowing appeals against any drug court decisions involving imprisonment.

In recognition of the experimental nature of the drug court pilot, the bill provides for the repeal of the drug treatment order amendments four years after their commencement. This will allow sufficient time to undertake and complete evaluation of the drug court pilot scheme.

Conclusion

Some may describe the drug court as a soft option. However, this would be short-sighted and simplistic. The DTO is a custodial order which is an alternative to imprisonment. While on a DTO, an offender will have the custodial part of the order as a constant reminder of the likely term of imprisonment which awaits him or her upon failure. As I have already described, the bill's strict regime of sanctions gives the drug court the power to imprison offenders for short periods of time. The drug court will be an extremely onerous and intensive program. Indeed, in other jurisdictions where drug courts have been established, many offenders seem to prefer imprisonment to drug court programs.

The effective and appropriate resourcing of the drug court is critical to its success. The government understands this and has committed funds for drug treatment programs and housing for drug court participants. This funding will not detract from existing programs.

The drug court pilot will be evaluated to determine whether it has been effective in reducing drug dependency and related crime and has ultimately made a difference. If the evaluation is successful the drug court could be extended to further locations throughout Victoria.

This bill is the culmination of a period of public consultation on Professor Arie Freiberg's discussion paper on drug courts. The government is indebted to Professor Freiberg for his tireless efforts on this initiative. I am pleased to say that the community has expressed strong support for a drug court and a new approach to the sentencing of drug-dependent offenders. I would like to thank those individuals and organisations who responded to the discussion paper and who generously gave up their time for consultation.

This government refuses to turn a blind eye to the problems caused by drugs in our community. It is committed to trying creative new sentencing options which look beyond drug-related offending to address its underlying causes. The drug court is a bold and exciting initiative to reduce drug dependency and its destructive effects on the Victorian community.

I commend the bill to the house.

Debate adjourned on motion of
Hon. P. A. KATSAMBANIS (Monash).

Debate adjourned until next day.

ROAD SAFETY (ALCOHOL INTERLOCKS) BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

Drink-driving continues to be a scourge on our community, taking or ruining many lives, causing economic loss and an untold amount of grief and emotional distress.

This bill provides another tool for fighting drink-driving, one directed at prevention rather than punishment. It aims to improve road safety by putting alcohol interlocks in the vehicles of the worst drink-drivers — namely, repeat offenders and those first offenders who are very drunk.

These interlocks are devices designed to stop a vehicle being started by a person who has been drinking. A car fitted with an interlock will not start unless the person trying to start it provides a breath sample and is sober.

The current approach and the current problem

Since 1969 the approach has been that drink-drivers, other than certain first offenders, should lose their licences. Once disqualified, most have to apply to a Magistrates Court to get their licences back. This enables the court to assess whether the person's

drinking is under control to the extent that they are safe to drive.

Following a 1988 report by the Parliament's Social Development Committee, all convicted drink-drivers, other than first offenders with a blood alcohol content, or BAC, of under .15, must also provide the court [with] two alcohol assessment reports. The assessments should generally be at least a year apart, to allow time for treatment and to measure whether there has been any long-term change in the person's behaviour.

In addition, everyone seeking a licence restoration order must first undertake an accredited drink-driving education program.

There is no doubt that this package of programs has had positive effects. But more needs to be done, particularly in relation to problem drinkers.

Alcohol is still one of the main causes of road accidents. About 400 people are killed on the roads each year. Alcohol is a factor in about 80 of these. About 22 fatalities and 220 serious injuries each year involve a drink-driver who has been convicted of a drink driving offence before, sometimes many times. Most of these people have a serious drinking problem.

What the bill proposes

This bill will require interlocks for all repeat offenders who regain their licences. In addition, the courts may impose an interlock requirement on a first offender whose drink-driving offence involved a BAC of .15 or more. Convictions more than 10 years old will not be counted for the purpose of treating a person as a first or a repeat offender. The program will also involve people convicted of certain offences under the Crimes Act, such as culpable driving, where alcohol is involved.

The bill will enable, and in more serious cases require, an alcohol interlock condition to be imposed on a person's driving licence. The alcohol interlock condition will make the licence valid only for vehicles fitted with approved alcohol interlock devices that have been installed and maintained by an approved alcohol interlock supplier.

An alcohol interlock condition will remain in place until a court removes it. Where alcohol interlock conditions have been imposed, they must stay in place for certain minimum periods that will vary for different groups depending on the severity of the circumstances. But the court will always have discretion to fix a longer period.

When that period has expired, the alcohol interlock condition will not automatically be removed. The purpose of a minimum interlock period, whether required by the legislation or fixed by a court, is to facilitate rehabilitation and to enable a reliable assessment to be made of any long-term changes in the person's behaviour pattern, or of a lack of any change. A problem drink-driver should stay on an interlock after the minimum period has expired unless and until he or she can convince a court that he or she can be safely trusted not to drink and drive.

Repeat offender drink-drivers will no longer need alcohol assessments to get their licences back after the period of disqualification. However, alcohol assessments will be required as part of any application for removal of the interlock condition, plus a report from an approved interlock supplier on at least six months use of the interlock by the applicant.

A new offence will be introduced of driving in breach of an alcohol interlock condition. This will cover driving a motor vehicle without an interlock fitted or circumventing the interlock in some way. Penalties will include the option of imprisonment, or immobilisation of the vehicle used.

Interlocks will be paid for by the drink-drivers who use them. Experience in other jurisdictions is that interlocks are generally leased rather than purchased, with the costs being for the installation of the interlock, the monthly lease cost, the cost of calibrating it at regular intervals, and the cost of removing it from the vehicle.

A person who should have to use an interlock should not be able to avoid that requirement merely on grounds of cost. In the community's interest the person will have to bear the additional cost if they wish to drive. However, the government recognises that the cost of an interlock may be burdensome on drink-drivers with low incomes. For this reason it is intended that interlocks will be provided on concessional terms for those with a health care card. The conditions of approval of the interlock suppliers will require them to provide interlocks to such people at a lease cost that is around $50 per month lower than would otherwise be charged. Provision will also be required for interlock users to be able to spread the payments for the installation and removal of the interlock, to avoid the requirement for a large lump sum payment at any one time.

The program will be monitored carefully following its introduction, with a view to finetuning the requirements if it becomes necessary.

A new approach: minimising harm

Standing back from the detail, what this bill is about is recognising that whilst the traditional legal mechanisms of punishment and deterrence have done much, they can go only so far in reducing the number of deaths and injuries caused by drink-drivers.

We need to use other tools, ones oriented towards rehabilitation and harm minimisation. This bill is not about punishment but harm minimisation and rehabilitation.

People who have not been able, or willing, to exercise self-discipline in relation to drinking and driving will be required to have interlocks to impose some external control over their behaviour. They will have to demonstrate that they have their drinking under control to the degree that they can be trusted to exercise the self-discipline not to drive after drinking. Until they can do that, the interlocks will remain.

The fair administration of this scheme will require the careful and realistic assessment of the circumstances of each individual. This is why the bill places such emphasis on rigorous assessment procedures, and confers wide discretion on the courts to have regard to individuals' circumstances. In exercising this discretion it is expected that the courts will need to consider the interests of the individual drink-driver, and also the interests of the wider community. In particular, we all need to keep in mind the rights of those placed at risk of death or serious injury by reckless drink-driving, and of their families and friends.

I commend the bill to the house.

Debate adjourned on motion of Hon. G. B. ASHMAN (Koonung).

Debate adjourned until next day.

WILDLIFE (AMENDMENT) BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

There is growing community interest in watching wildlife and a commercial market is developing to provide tourism services whereby people can view whales and dolphins. It is important to ensure that the appropriate checks and balances are in place to manage the industry on an ecologically sustainable basis.

All cetaceans, which include whales and dolphins, are protected under the Wildlife Act 1975. This act provides a mechanism for overseeing ecotourism activities in Victoria. At present there are two main industries.

The first industry involves the viewing of southern right whales at Logans Beach near Warrnambool, where whale watchers contribute substantially to the local economy. Figures supplied by Tourism Victoria indicate that whale watchers could contribute as much as $18 million in a good whale-watching season.

To minimise disturbance to the whales that come to Logans Beach to calve, the whale watching is land based only. This ensures that the cows and calves are in the best possible condition for their return journey to Antarctic waters.

The second industry involves dolphin sightseeing and dolphin swim tours in Port Phillip Bay. Currently in Victoria, four permits have been issued for permit-holders to approach closer than the minimum prescribed distance to dolphins for the purpose of conducting swim tours.

The present powers of the Wildlife Act do not make it mandatory for operators to have a permit to undertake swim tours involving dolphins or whales. This is inconsistent with the national guidelines for cetacean observation, which recommend that swim tours should only operate under permit conditions because of the risks of injury or harm to swimmers and cetaceans.

This bill will make it an offence to conduct commercial swim tours involving cetaceans in Victoria, without having the appropriate permit.

The bill also provides additional protection for whales and dolphins by allowing the declaration of tourism areas and setting ecologically sustainable thresholds for permits for these areas, which take into account the best available information about likely impact on cetaceans. However, it does not mean that tour operations in new areas cannot take place. It simply means that any new proposals will be considered in line with the precautionary principle to ensure there is minimal risk of adverse impact on whales or dolphins.

In accordance with national competition policy, the bill also provides for the tendering of permits, once the ecologically sustainable threshold has been established, so that there is equal opportunity for access to permits by those who wish to work in the industry. Successful tenderers may be issued with a permit for a period of up to two years, instead of the current maximum of one year. This change provides an obvious benefit for the

permit-holder whilst allowing the appropriate management of swim-tour areas in response to information on the impact of the swim-tour industry on whales and dolphins in the future.

Currently, approaching a whale at closer than the minimum prescribed distance is considered to be interfering with whales. This is an indictable offence and a maximum penalty of $100 000 applies. It is unreasonable for this to apply in all situations.

The bill separates the offence of approaching closer than the minimum prescribed distance from the more serious offence of interfering with whales. This will not diminish the protection of whales but will provide the flexibility to deal with more minor offences by more appropriate means. If approaching the whale leads to interference, then the more serious provisions will apply. However, offences at the minor end of the scale will be able to be dealt with by a small court penalty or, once appropriate regulations are in place, by the issue of an infringement notice.

The bill also makes a range of other minor amendments to the Wildlife Act, to provide for improved administration of the act.

I commend the bill to the house.

Debate adjourned on motion of Hon. ANDREA COOTE (Monash).

Debate adjourned until next day.

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

ADJOURNMENT

Hon. M. M. GOULD (Minister for Education Services) — I move:

That the house do now adjourn.

Snowy River

Hon. P. R. HALL (Gippsland) — I refer the Minister for Energy and Resources, representing the Minister for Environment and Conservation in the other place, to a matter raised by my good friend and constituent Peter Nixon, AO, of Orbost. Peter Nixon is a much-respected man across Victoria and any advice I receive from him I take seriously.

On a recent visit to Orbost I met with Peter and he expressed some concerns he has with policies employed by the Department of Natural Resources and Environment in its program to rehabilitate the lower reaches of the Snowy River. Peter did not use the term ‘rehabilitate’; rather he referred to what he thought were dangerous policies being employed by the department on this project. He raised some of these concerns in correspondence to the Premier dated 5 February this year in which he described his lifelong experiences of floods on the Snowy River. I quote from his letter:

> What has been demonstrated repeatedly in those floods is that it is essential that the water be given an unimpeded run to escape as quickly as possible, by the pruning of willows and trees from the banks because they impede the flow.

Mr Nixon expressed concerns he has with current policies, especially the indiscriminate planting of trees along the banks of the Snowy River; the use of kilometres of barbed wire fences along the river bank which invariably in times of flood will be swept away and cause debris from the river flood to coagulate and therefore prevent the water getting away quickly; but worse still the proposal to lay large dead trees in the river bed supposedly to improve the native fish habitat but which invariably at a time of flood end up being like matchsticks and are swept across the Snowy River flood plain causing damage to property.

The views of Mr Nixon are shared by most land-holders along the river. In fact the advisory committee chairman, Mr Gil Richardson, has resigned in protest over these policies. My request of the minister is to consider those views expressed by Mr Nixon and land-holders along the Snowy River, and I ask the minister whether, in considering those views, a review of the current policies being employed in the lower reaches of the Snowy River could be reconsidered.

Port of Melbourne: Web Dock

Hon. ANDREA COOTE (Monash) — I refer the Minister for Energy and Resources, as the representative of the Minister for Transport in another place, to the volume of traffic in and out of the port of Melbourne, particularly Webb Dock. I am concerned about the amount of traffic and trucks that are coming in and out of the port. I know the minister is also aware of this issue. A range of groups has done studies, including the government, the Department of Infrastructure and the City of Port Phillip. I have been made aware that Vicroads conducted a six-month traffic study at the port of Melbourne at a cost of $130 000. I continue to get many reports of complaints about the trucks and the range of traffic and the noise et cetera. I ask the minister if the port of Melbourne Webb Dock traffic study has been completed, and if so

what are the short and long-term traffic management measures recommended.

Marine and Freshwater Resources Institute

Hon. E. C. CARBINES (Geelong) — I refer the Minister for Energy and Resources to speculation in the Geelong press recently concerning the future of the Marine and Freshwater Resources Institute, also known as MAFRI, which is a highly regarded institute of international renown that enjoys much local community support. Indeed, we are very proud to have MAFRI located in Queenscliff and consider it to be a significant asset to our community. The speculation has centred around the government's intention to retain MAFRI in the Borough of Queenscliffe. Therefore, I would appreciate the minister's advice concerning the government's commitment in relation to this matter.

Women: small business

Hon. M. T. LUCKINS (Waverley) — I refer the Minister for Small Business to her answer to a dorothy dixer during question time today reannouncing the Showcasing Women in Small Business strategy. I have had the opportunity to peruse a cornerstone of this strategy, a guide called 'Show me the money', which claims to be a women's guide through the financial maze. The guide appears to be little more than a dictionary of definitions and falls well short of providing real assistance to women in business. Indeed, while it may provide a vague overview of how to start a business, it does nothing for women in business, whose real challenge is accessing finance for business ventures through major financial companies and corporations, including the Bank of Melbourne.

Today in question time the minister quoted an endorsement for the strategy from the chief executive officer of the Bank of Melbourne, Ann Sherry, and lauded this as indicative of the support provided to Labor's so-called initiative by women in business. I ask the minister if this is the same Ann Sherry who was an integral adviser to the failed Cain–Kirner government, who was general manager of the Labor government's Office of Preschool and Child Care and director of the primary care division of Labor's health and community service department, the same Ann Sherry who was appointed by Labor Prime Minister Paul Keating as the head of the Office of the Status of Women? Does the minister expect women to take this endorsement from a Labor mate seriously?

Mistletoe

Hon. W. R. BAXTER (North Eastern) — I raise a matter with the Minister for Energy and Resources for reference to her colleague the Minister for Environment and Conservation in another place.

I refer to the increasing incidence of the parasite mistletoe affecting trees, particularly in north-eastern Victoria. I believe the incidence has been increasing quite rapidly in recent years, and my colleague the Honourable Graeme Stoney says the incidence of infestation is quite shocking. I am sure the Minister for Environment and Conservation would have noted that for herself when she came up to Kiewa last week as she travelled along the Hume Freeway. The infestation is bad now, particularly in the vicinity of Chiltern amongst the ironbark trees, where the road was duplicated less than 20 years ago and new roadside trees were planted. That is an indication that mistletoe is infecting young trees as well as old growth trees.

Mr President, I think everyone in the chamber acknowledges the importance of maintaining tree cover in Victoria. I understand fully, of course, that mistletoe is spread by native birds, the mistletoe bird I believe, and to that extent is part of the natural environment. It seems to me, however, to be getting out of hand. I inquire of the minister whether any work has been done in recent times on mistletoe and the damage it is doing to native trees. If not, will she institute research into some control measures?

Somerville secondary college

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Education Services, in her capacity as the minister representing the Minister for Education and Training in the other place, with a request from the community of Somerville for urgent consideration of the establishment and construction of a secondary college in Somerville itself on land that is readily available in the town.

I am reliably informed by several residents and by media and other inputs that approximately 900 students per day are bussed out of the Somerville area to other secondary colleges. The community has held this issue as a matter of concern for many months. Will the minister take urgent steps to look at the feasibility and practicality of establishing a secondary college for Somerville and take a longer range view, because there is adequate land and there is the opportunity to have a primary school, which already exists at Somerville Rise, co-located with a secondary college? There is certainly the quantity of students and a vibrant

community that could lead to a more enhanced educational precinct.

Stamp duty: concessions

Hon. C. A. STRONG (Higinbotham) — My question is to the Minister for Energy and Resources, representing the Treasurer in the other place. It concerns stamp duty concessions for concession card holders. Mr Chris Theodor of Glencairn Ave, East Brighton, tells me his parents-in-law, both of whom are pensioners and have lived in Geelong for many years, have moved into my electorate as a result of declining health so they can be closer to their families and be looked after. Mr Theodor points out that moving from Geelong to Melbourne is an expensive exercise considering real estate price differentials.

My constituent expresses his disappointment at the level of concession for stamp duty. This concession applies to houses up to a value of $100 000 with a sliding scale that tapers off at $130 000. My constituent makes the fairly obvious point that to get a house for $100 000 these days is not that easy and that in fact this level is really a bit of an insult.

I seek the attention of the Treasurer to review this scale and bring it more up to date with escalating real estate values.

Yarra Junction: swimming pool

Hon. E. G. STONEY (Central Highlands) — I raise an issue for the attention of the Minister for Sport and Recreation regarding an application for a new pool at Yarra Junction. I know my colleague the honourable member for Evelyn in another place has been very involved over the last couple of years assisting the community and the shire with an application for a new pool at Yarra Junction. The health of Yarra Valley residents would be assisted by a pool there. I know the minister has a standing invitation to visit Yarra Junction, and I ask, firstly, how the application is going and, secondly, when the minister will visit Yarra Junction.

Rosebud Hospital: waiting lists

Hon. E. J. POWELL (North Eastern) — I raise a matter for the Minister for Small Business, representing the Minister for Health. A constituent from my electorate contacted me recently seeking my urgent assistance. Her elderly mother needs urgent knee surgery. The mother is 77 years of age and lives in Rosebud. She was put on a waiting list at Rosebud Hospital for the knee operation two years ago and was told she would not have to wait too long. The hospital has sent her a letter every six months asking if she wishes to stay on the waiting list and she has replied that she does.

Her knee is now so bad that she is compensating by using her other knee, and that one is now getting extremely painful as well. She recently had a fall because of her weak knees and sustained severe bruising and a large lump on her head. Her doctor told her to write to the hospital saying she needed the urgent operation. He said that if he wrote the hospital would not take notice and that is why he asked her to write. The letter was sent by her almost five weeks ago and there has been no response from the hospital since. Her daughter has also contacted the hospital advising of the mother's fall and the urgent need for the operation.

It is appalling that someone of this age has had her quality of life diminished for so long because of a waiting list and the length of delay for surgery. The concern is how long she will have to wait for the second operation on the other knee.

I ask the minister to investigate the reason for the waiting list delay at the hospital and why this lady has had to wait for two years. I also ask when she will be able to have her knee operation. I will be happy to pass on the lady's name and address to the minister.

Burwood Highway–Terrara Road, Vermont South

Hon. G. B. ASHMAN (Koonung) — I direct a matter to the Minister for Energy and Resources for the Minister for Transport. It relates to a no-right-turn rule recently introduced at the corner of Burwood Highway and Terrara Road. It operates in the morning peak hour period and is proving to be particularly unpopular with residents. It is effectively preventing people not only from doing right-hand turns but also from doing U-turns at this intersection on Burwood Highway. The intersection is the midpoint between a couple of other major intersections and it is a turn used by people taking children to school and heading off to work at Knox City to the east.

As I understand it, the no-right-hand turn implies that there is no U-turn under the road regulations. In the last week or so police have started to issue infringement notices for people making this U-turn. I am seeking the abandonment of the trial period for this no-right-hand turn and the restoration of a right-hand turn in this area. The road services between 1000 and 2000 homes, so a significant number of local residents use this intersection. It is not a through road; it goes through to

Canterbury Road but it is not a practical through road in that sense.

The signage is confusing because 300 yards east of this intersection there is a sign erected by the City of Whitehorse which says 'U-turn 300 metres for the Vermont Winery', so it encourages you to make the turn at that point. It is very confusing. The road law does not need changing, but the residents require the removal of the trial period and the restoration of the right-hand turn.

Women: small business

Hon. W. I. SMITH (Silvan) — I raise a matter with the Minister for Small Business. Given Labor's election policy in 1999 to assist women in business with better access to financial loans, the media release of 6 March headed 'Showcasing women in small business' and the acknowledgment that fewer Australian women are starting their own businesses and that the idea was to give women a range of financial options to start or run their own small businesses, what criteria has the minister set to assess the success of the government's strategy?

Online services: government commitment

Hon. P. A. KATSAMBANIS (Monash) — I raise an issue with the Minister for Information and Communication Technology. It relates specifically to a Bracks government commitment to make all government services available online by the end of 2001 and the fact that the Bracks government has failed to fulfil another of its promises. I note with interest a press release issued by the Minister for Health titled 'Free Internet terminals have better health down pat'. In that press release the Minister for Health was talking about a particular initiative and said that:

> The human services department's Better Health Channel is part of Bracks government moves to provide online access to all government services by 2001.

The only problem is this press release was dated Tuesday, 26 February 2002. Here is an initiative in 2002 professing to fulfil a promise that the government suggested would be fulfilled by 2001. I understand that that defies logic for most of us but the Bracks government has defied logic on all sorts of things until now. In this particular case, given the clear indication in this press release, will the Minister for Information and Communication Technology, on behalf of the government, acknowledge that the government has failed to fulfil its promise to make all transactions with government available online by the end of 2001? That is one more Bracks government broken promise.

Banyule: mayoral election

Hon. BILL FORWOOD (Templestowe) — I have an issue I wish to raise with the Minister for Sport and Recreation, representing the Minister for Local Government in another place.

Hon. I. J. Cover — The Nillumbik result?

Hon. BILL FORWOOD — Don't get me started on Nillumbik.

Last night with my colleague Mr Furletti I was fortunate enough to attend the mayoral election meeting of the City of Banyule council along with the honourable member for Ivanhoe from the other place. Honourable members would know that I have talked about Banyule in the past. Colin Brooks, that council's last mayor, is the electorate officer of the Minister for Police and Emergency Services in the other place. The mayor before him was Dale Peters, and he is also an electorate officer for the Minister for Police and Emergency Services. Banyule council also features Dean Sheriff who used to work for the honourable member for Keilor in the other place and where Greg Ryan is a factional ally of the Minister for Small Business, as we well know. There is a pamphlet going around Banyule which has on it the puppet-master, the honourable member for Ivanhoe, and pictures underneath of Crs Ryan, Mulholland and Sheriff.

Last night we went to the meeting called to elect the mayor. There were seven councillors and two nominations. Cr Peters was nominated — it is his turn as the nominee of the Minister for Police and Emergency Services — and Mr Ryan, the factional ally of the Minister for Small Business, was nominated. There were seven councillors and two candidates, and they called for a vote. Three hands went up for Cr Ryan and three hands went up for Cr Peters. What happened to Cr Brooks? He was sitting on his hands. It was pointed out that he could not be in the room and not vote so he got up and left. The ex-mayor left the room so the vote was held again and the result was again three all. They then drew the name of the new mayor out of a hat. There was a council of seven and the electorate officer of the Minister for Police and Emergency Services, Cr Brooks, decided he would not vote and fled the room. There is a factional problem in the Labor Party! We need an inquiry by the Minister for Local Government as to whether it is appropriate — —

Honourable members interjecting.

The PRESIDENT — Order!

Hon. BILL FORWOOD — There was a fiasco last night caused by the Labor Party. It is an insult to the citizens of Banyule, and the Minister for Local Government should have an inquiry into circumstances in which a city council member leaves the council chamber to avoid the responsibility of voting for the mayor. It is an outrage and an insult, and the Minister for Local Government should do something about it.

Commonwealth Games: triathlon venue

Hon. I. J. COVER (Geelong) — It is a great pleasure to follow my leader after his most enlightening contribution. The matter I raise tonight is with the newly named Minister for Commonwealth Games. I congratulate him on that appointment, knowing what an onerous task it is. As he well knows, the Commonwealth Games enjoy bipartisan support, particularly as the 2006 Commonwealth Games to be held in Melbourne were originally secured by the previous government.

I refer the minister to the recent announcement that St Kilda and not Geelong will host the triathlon at the 2006 Commonwealth Games in Melbourne. Will the minister produce evidence of the Premier and/or himself having made representation on behalf of Geelong as the triathlon venue to the Commonwealth Games organising committee?

Dandenong: saleyard development

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise a matter with the Minister for Education Services for the attention of the Premier. It relates to last week's announcement that the City of Greater Dandenong is to be the recipient of a $250-million redevelopment by the Urban and Regional Land Corporation, a development I welcome in my electorate. The issue relates to the process by which the government made this announcement.

I refer to the City of Greater Dandenong council meeting which took place on 12 March, the evening following the announcement. It is apparent from the council minutes of that meeting that the council had virtually no idea that the Premier was going to make this announcement. The nature of the questions asked by Cr John Kelly and the responses provided by the chief executive, Warwick Heine, are very telling.

When asked when he became aware of the decision Mr Heine said:

> I was contacted on a Saturday morning two weeks ago by the officer of the Department of Infrastructure requesting council's participating in sending some material for an announcement. I was not advised as to the details of the announcement. I was advised that it was to do with infrastructure in Dandenong. I've kept council informed of these discussions. I have sought details from the Premier's department and Department of Infrastructure as to the nature of the announcements, but with no success.

He continues:

> No specific details have been made available to me. There have been no discussions with me and the most detailed information I have received was a press release sent to me by the media today, after the announcement.

That relates to the announcement itself. There is also the issue of the joint partnership on the Dandenong saleyard site where this project is to be developed. In response to a question from Cr Kelly about the development proceeding on the site, the chief executive said:

> I agree with Cr Kelly, I think it is interesting that we have had an announcement of a joint venture when one of the joint venture partners hasn't even signed the document.

The Urban and Regional Land Corporation has announced the redevelopment of the Dandenong saleyard site and the council has no knowledge of the project taking place. So it is with the announcement of the Dandenong Development Board. When asked about that, the chief executive said:

> I have no idea, all I have read is the press statement. I have had no discussions with anyone in terms of its composition. I have had no discussions with anyone regarding what its powers or role will be.

It is completely unacceptable for the Premier to come to Dandenong, make this announcement, tell the City of Greater Dandenong that it is going to have this development and what the terms of the development are and impose a Dandenong Development Board on the city without giving it any knowledge, prior notice or without any consultation with the government. I ask that in the future the Premier conduct himself properly.

Rail: Narre Warren crossing

Hon. N. B. LUCAS (Eumemmerring) — I raise an issue to do with a broken promise by the Australian Labor Party. When it issued a document under the heading 'Living Suburbs' — —

The PRESIDENT — Order! Which minister?

Hon. N. B. LUCAS — Sorry, the Minister for Transport, through the Minister for Energy and Resources. The document said:

> Labor will —

and I assume the word 'construct' should be there —

> a $10 million grade separation and duplication of the Narre Warren–Cranbourne Road from Princes Highway to Fleetwood Drive to address the City of Casey's no. 1 road priority, removing the dangerous and congested rail level crossing.

That was prior to the last election. Since then nothing has happened. There has been no construction whatsoever. We have seen a growing bottleneck at the rail crossing which is a huge problem.

I raised this matter in this house on 1 March 2000. I got a response from the Minister for Transport which said:

> The government is committed to proceeding with the duplication … including grade separation at the railway crossing. The project will be given a high priority when funding for the 2000–01 works program is being determined.

In spite of the minister's assurance we have no works whatsoever. I have raised the matter on a number of occasions by taking it up through the local press. On 5 July 2000 the local paper contained a statement by John Pandazopoulos, the honourable member for Dandenong. Last week he said the state government had allocated $1.5 million in the 2000–01 budget to begin the works, but if you go down there today or tomorrow you will find absolutely no works. The people of my electorate are sick of this Labor government that promises to do a whole lot of things but never actually does anything. The community will be condemning this government for doing nothing about this crossing during the whole of its term of government. I raised this issue again in a media release in January this year. It has been nominated as a crossing that needs something done with it.

I ask the Minister for Transport to give serious consideration to this hopeless traffic bottleneck and the continuing growth in the residential areas that generate traffic through this crossing and advise when the works will commence.

Sale College

Hon. PHILIP DAVIS (Gippsland) — I raise a matter for the attention of the Minister for Education Services. It relates to Sale College, which was created as a result of a long period of community consultation. In 1995 the then Minister for Education gave a commitment to the Sale community that the Sale high school and the Macalister secondary college merger to form Sale College would be supported by a significant capital works program to upgrade the facilities on the two campuses. There has indeed been some significant work. So far three of the four stages of the project have been completed at a cost of about $4.9 million, but stage 4, which is critical to the finalisation of the project, has been put on hold.

Recently in correspondence on behalf of the former Minister for Education, the then parliamentary secretary of education wrote:

> I am advised that the college has been made aware by the department's Gippsland regional office that the proposed stage 4 capital works project is unlikely to proceed in the immediate future …

In other words it has gone off into the never-never because the government is failing to meet the commitment that was made seven years ago.

This has been an ongoing problem for the college. It is uncertain about when the work will be complete. The facilities of the college are inadequate and the commitment given to the Sale community has not been honoured by the government. I feel the letter that was recently sent to the now Minister for Education and Training summarises the position of the community associated with the college in that it says the community:

> … feels betrayed by a department and a ministry that are not prepared to see through obligations made now seven years ago — obligations that were the basis of our original merger.

Will the minister investigate this matter and respond in terms of when will this redevelopment project of the Sale College be completed?

Drugs: chroming

Hon. B. C. BOARDMAN (Chelsea) — I pose a query for the attention of the Minister for Youth Affairs and refer her to an article in the *Frankston Independent News* of 19 February 2002 under the heading 'Chroming divides Labor', written by the Honourable Bob Smith, an honourable member for Chelsea Province, which deliberately targets and tries to refute some of the comments of his colleague in the other place, the honourable member for Frankston East, Matt Viney, in relation to the chroming debate. They will have a tremendous relationship because Mr Viney is the endorsed Labor candidate for Chelsea Province, and I am looking forward to the Honourable Bob Smith singing his praises at every opportunity. The article states:

> Matt Viney is wrong. Harm minimisation is failing our youth. He and Cameron Boardman, who is the chairperson of the joint parliamentary committee on drugs, have failed the people of Frankston. By doing nothing but accepting the appalling situation, especially with regards to chroming, they have sent the wrong message to our youth. I say our youth deserve better.

I am happy to cop that from the Honourable Bob Smith. For the record, he has not made a submission to our inquiry, discussed his concerns over this specific issue or raised this issue in the media prior to 19 February. He has not even discussed this issue with his Labor colleagues. I find his comments opportunistic. I know that his real target in this situation was Matt Viney and that he was using me as a scapegoat to try to create some degree of equilibrium.

Apart from some of the accusations and the comments in the article, which is totally littered with errors, he says that:

> Less heroin = less deaths, more policing = less heroin.
>
> In the USA, as a direct result of stricter policing, they have halved their drug problem by 50 per cent.

I challenge the Honourable Bob Smith to highlight where that has been documented, because I have been researching this subject for some time. I believe it is an inaccurate comment. He also goes on to applaud the federal government initiatives by applying greater resources for the Australian Federal Police and its law enforcement activities. He concludes by saying:

> I will continue to seek a review of harm minimisation here in Victoria. We owe it to our kids.

Considering that Mr Smith is specifically implying that young people — inaccurately, our kids — are the main problem affecting the drug issue in Victoria, has the minister received a submission from Mr Smith on this issue, and does she agree with Mr Smith's sentiments that harm minimisation is not an appropriate response to the drug issue that challenges young people in Victoria?

Buses: Ringwood–Croydon service

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Energy and Resources in her capacity as the representative in this house of the Minister for Transport regarding bus services along Maroondah Highway on Sundays between Ringwood and Croydon. Recently a constituent of mine, Mrs Porter, complained that no services were available on Sundays, particularly affecting the significant number of elderly citizens in that area.

The current service operates only from Monday to Saturday, and many of the elderly and retired residents who live in the area feel isolated and shut in as a result of the lack of public transport on Sundays. In addition, between 300 and 400 elderly people live in the Cherrytree Grove Retirement Village on the Maroondah Highway.

The Croydon Bus Service known as Invicta agrees that services are inadequate and would like to extend them, but it would require the transport division of the Department of Infrastructure to provide extra funding for an extension of services. In a letter dated 9 March 2002 the manager of the service, Frank Mercuri, states:

> … we may be able to forward a proposal to the department for a few services along Maroondah Highway utilising buses that are travelling to or from other destinations. This will keep the relative costs to an absolute minimum but I stress that it will only be a very skeleton service. Perhaps no more than two services in each direction initially.

I subsequently contacted residents at Cherrytree Grove village and they say that this would be more than acceptable to them. Will the minister favourably receive the proposal from Invicta at this level and approve funding for an extension to services for the Cherrytree Grove residents?

Responses

Hon. M. M. GOULD (Minister for Education Services) — The Honourable Ron Bowden raised a matter for referral to the Minister for Education and Training in the other place with respect to undertaking a feasibility study into establishing a secondary college in Somerville. I shall pass that matter on to the minister and ask her to respond in the usual manner.

The Honourable Gordon Rich-Phillips raised a matter with the Premier because he is disappointed that the government made a fantastic $250 million announcement in Dandenong and he and members of the local council did not know about it. I shall pass that on to the Premier and ask him to respond.

The Honourable Philip Davis raised a matter about Sale College, the fact that it is up to stage 4 and that he has received a letter from the department on behalf of the previous parliamentary secretary indicating that stage 4 was not proceeding. I shall get back to him on that issue. The answer may not be much different from what he has already been told by letter, but I shall investigate it and respond.

The Honourable Cameron Boardman raised a matter about chroming. The government is responding in a responsible and caring way. I note that the honourable member has been quoted in the media as saying that this is a complex issue and cannot be dismissed as something that can be resolved overnight. That is why the government has a reference before the Drugs and Crime Prevention Committee asking it to examine the issue in an appropriate manner. That is the appropriate way for this matter to be dealt with — by an all-party

committee. I know I and other government members look forward to the response of that committee.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Peter Hall requested that the Minister for Environment and Conservation consider views of his constituents and land-holders regarding rehabilitation of the lower Snowy River, and I will pass that request on to the minister.

The Honourable Andrea Coote requested that the Minister for Transport advise her of traffic management arrangements proposed for Webb Dock, and I shall pass that request on to the minister.

The Honourable Elaine Carbines requested advice from me regarding the government's commitment to the proposed Queenscliff site for the Marine and Freshwater Resources Institute. The Bracks government announced the relocation of MAFRI facilities to the Queenscliff site at the Narrows in February 2000. I am aware of some local media reports suggesting that the project has stalled, which could mean that the government is no longer committed to the Queenscliff site. I am happy to offer the honourable member and her constituents an assurance tonight that this is not the case and that planning for the development is going through due process. The government is also committed to due process in resolving the outstanding issues which are currently before the Victorian Civil and Administrative Tribunal; however, the financial commitment of some $14 million by the government to the project as outlined in the budget stands.

The Honourable Bill Baxter requested the Minister for Environment and Conservation to advise him of any work and research on controlling mistletoe. I will pass that request to the minister.

The Honourable Chris Strong requested the Treasurer to review and update the scale for stamp duty concessions, and I will pass that request to the Treasurer.

The Honourable Gerald Ashman requested the Minister for Transport to consider certain traffic control arrangements at an intersection in his electorate. I will pass that request to the minister.

The Honourable Neil Lucas requested the Minister for Transport to advise him when works are due to commence on a certain traffic bottleneck in his electorate. I will pass that request to the minister.

The Honourable Andrew Olexander requested the Minister for Transport to favourably consider a request for an extension to funding for bus services for residents of Cherry Tree Grove in his electorate. I will pass that request to the minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Maree Luckins raised the launch of 'Show me the money', the publication which gives women access to information about financial options available to them. I believe she then proceeded to demean herself by the way she launched criticisms at the CEO of the Bank of Melbourne, a highly respected businesswoman. Her endorsement of this document is as the CEO of the Bank of Melbourne and, might I add, is welcomed by women who have had an opportunity to look at it.

The Honourable Jeanette Powell raised for the Minister for Health the matter of a constituent's elderly mother who is in need of knee surgery and has been on the waiting list in Rosebud for two years. She asked the minister to investigate the reasons for the delay. She also suggested that the doctor had raised with her the possibility that she, not the doctor, should write to the hospital, which the daughter has also raised. I will follow it up, and I thank the honourable member for providing the name of the constituent so that I can pass the matter on to the minister.

The Honourable Wendy Smith raised the criteria for assessing the success of 'Show me the money'. 'Show me the money' is part of an initiative that will be available to women. The initiative, which will include workshops, will give women access to the kinds of information that they otherwise find hard to get hold of. The success of the initiative will be measured on the number of women who make contact with and access workshops as well as the number of women who find that the publication is useful and assists them in progressing their financial requirements for business start-ups or extensions.

The Honourable Peter Katsambanis raised a question about government services online. I indicate to Mr Katsambanis that we are very pleased with the progress of government services online and do not feel anything other than proud of the achievements that have been made with the services that have been put online.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to the question raised by the Honourable Graeme Stoney regarding the Yarra Junction pool application, at this time Sport and Recreation Victoria has received a total of 43 applications from councils for consideration under this year's round of the Better Pools funding program. I

understand that 9 of the applications are for developments for the provision of new aquatic facilities and that 34 are for the redevelopment of existing traditional outdoor pool facilities to bring them up to current industry standards.

To date this government has made a total contribution of $15.7 million to stimulate swimming pool project development, providing developments valued at — and I reinforce that we are delivering as a government — in the order of $46.9 million for all Victorians. The developments will deliver to the value of $46.9 million for all Victorians, regardless of where they choose to live.

It is worth noting that of this funding contribution the total project value for country Victoria — and I highlight this based on perceived criticisms made by the opposition — is estimated to be in the order of $28.2 million. Much of that comes about because of our adjustment of the ratios that give long-needed advantage through the application processes to rural and regional communities.

I am very conscious of the Yarra Junction pool application because I believe this is not the first year it may have made application. I look forward to announcing the outcomes of the Better Pools program in May 2002. In the assessments delivered to me by the department I will be very conscious of making a recommendation of the Yarra Valley junction's application.

In relation to the question — I think it was a question, I am not sure whether a question mark was in the statement — from the Honourable Bill Forwood regarding the new City of Banyule, I am happy to refer that issue to the Minister for Local Government in the other place.

In relation to the question by the Honourable Ian Cover regarding the recent announcement of the location of St Kilda over Geelong for the Commonwealth Games triathlon, I want to reinforce that this was a decision and recommendation made by the Melbourne 2006 board. I want to compliment the Honourables Elaine Carbines and Ian Trezise and the honourable member for Geelong North in the other place, Peter Loney, for their continued interest in this issue and their persistent lobbying of the Melbourne 2006 board, especially of the chairman, Mr Ron Walker.

I reinforce that the bidding for and gaining of the Melbourne 2006 Commonwealth Games was conducted in a bipartisan manner. Both sides of Parliament agreed to deal with it in a non-political manner. Of course it is appreciated that the triathlon is one of the events that will make up the games. A number of sites were considered to host the triathlon; Geelong and St Kilda were among those options. The options were assessed by the board against an agreed set of weighted criteria as follows: approval of sanctioning bodies, consistency with bid documents, contribution to games atmosphere and vision, financial, course layout, athlete security, and safety and preparation. The St Kilda option was selected. I reinforce that this was a decision by the Melbourne 2006 board, and the government believes this selection process was appropriate.

I also say that I was stunned that the very first opportunity the opposition had to endorse in a bipartisan way a significant decision and recommendation by the 2006 board it has chosen to make statements in the *Geelong Advertiser*.

Hon. I. J. Cover — On a point of order, Mr President, I appreciate that some of the remarks the minister has made about the Commonwealth Games being obtained for Victoria in a bipartisan nature, and I admit that I did mention that during my preamble in a generous manner — perhaps I will not be so generous to the minister in future during this session — but my question was quite specific. I acknowledge that he has made reference to the lobbying done by the Labor members of Parliament in Geelong, but I do not recall my question asking anything about the contribution they made to the process. My question was quite clear, concise and short: I asked the minister to produce evidence of representations that he or the Premier made on behalf of Geelong.

The members from Geelong may well have made representations to him, but I am asking whether in turn he or the Premier made representations on behalf of Geelong to the Commonwealth Games organising committee. I appreciate all the things he says about the decision processes that they went through but, as I say, my question was quite specific in asking him to produce evidence that he or the Premier made representations on behalf of Geelong. If he is not prepared to answer that quite specific question the only conclusion that can be drawn is that he did nothing, and so did the Premier.

The PRESIDENT — Order! The rules at this stage of the evening are very clear. Unless the minister wants to speak to the point of order, his response disposes of the matter. What inferences can be drawn from that is a matter for individual members.

Hon. J. M. MADDEN — I again reinforce that I am stunned not only that at the very first opportunity the opposition has chosen to make statements in the *Geelong Advertiser* saying that a Napthine government would shift the event to Geelong but that the opposition

has failed to recognise the relationship between the government and the 2006 Commonwealth Games board. It also fails to recognise that the board was appointed by the previous Kennett government. At the first opportunity to support and endorse a board the former government appointed, the opposition has failed the test.

I reinforce that if it understood the relationship between the government and the board it would also appreciate the ignorance the honourable member has displayed in making his remarks tonight.

Motion agreed to.

House adjourned 8.56 p.m.

IN THE MATTER of the **Audit (Further Amendment) Bill**

MEMORANDUM OF ADVICE

I am asked to advise Mr. R. W. Clark, MLA, the Shadow Treasurer of Victoria, about the meaning of a particular amendment to the Audit Act 1994 proposed by clause 21 of the Audit (Further Amendment) Bill. The relevant amendment is the insertion of a new sub-section (2) in section 20A of the Act. The proposed sub-section (2) reads as follows:

> "A person who receives a proposed report, or part of a proposed report, of the Auditor-General *under this Act* must not disclose any information contained in it except —
>
> (a) in the course of performing the person's official duties; or
> (b) after the information has been made public in a report by the Auditor-General.
>
> Penalty: 50 penalty units, in the case of a natural person;
> 250 penalty units, in the case of a body corporate."

(my emphasis).

I am asked to advise whether the proposed sub-section (2) would make journalists criminally liable if they disclosed information contained in a proposed report of the Auditor-General which was leaked to them.

This question was addressed in the Advice of Mr. Peter Hanks, QC dated 28 November 2001 and the opinion of the Victorian Government Solicitor, Mr. James Syme, contained in his letter of 28 November 2001 addressed to the Minister for Finance. Both Mr. Hanks and Mr. Syme concluded that a person, such as a journalist, who receives a leaked proposed report and then discloses information contained in it, would not breach the proposed sub-section because he or she would not have received the proposed report "under this Act". According to Mr. Hanks and Mr. Syme, the only persons whose conduct would be regulated by the proposed sub-section are the persons who receive proposed reports or parts of proposed reports of the Auditor-General in accordance with the requirements of the Audit Act 1994 (as amended by the Bill). This approach to the significance of the words "under this Act" is to be understood in the context of other amendments to the Audit Act 1994 proposed by the Bill. Section 16 of the Act (as amended by the Bill) relates to audit reports generally and will contain the following sub-section (3):

> "After preparing a proposed report, the Auditor-General must —
>
> (a) give a copy of it, or part of it, to —
> (i) any authority to which the proposed report or part relates or that, in the Auditor-General's opinion, has a special interest in the proposed report or part; and
> (ii) in the case of a proposed report or part of a proposed report on a performance audit referred to in section 15(1)(b) — the department head of the department for which the Minister administering that section is responsible; and
>
> (b) ask the authority or department head (as the case requires), in writing, for submissions or comments before a specified date, being —
> (i) in the case of a proposed report on a performance audit — at least 10 business days after the proposed report or part is given to the authority or department head; or
> (ii) in the case of a proposed report on any other audit — at least 5 business days after the proposed report or part is given to the authority."

Section 16A of the Act (as amended by the Bill) relates to annual financial statements and will include the following sub-section (3):

> "After preparing a proposed report, the Auditor-General must —
>
> (a) give a copy of it to the Minister; and
> (b) ask the Minister, in writing, for submissions or comments before a specified date, being at least 10 business days after the proposed report is given to him or her."

It is sub-section (3) of sections 16 and 16A of the act (as amended by the Bill) which provide for the Auditor-General to give a copy of a proposed report to the designated person.

This restrictive approach to the interpretation of the proposed sub-section (2) is only possible if the phrase "under this Act" is interpreted as relating to and modifying the meaning of the verb "receives" in the sub-section. In the ordinary use of the English language, it is more natural to interpret a phrase such as "under this Act" as modifying or qualifying the immediately preceding words of the sentence rather than some earlier antecedent. Thus the ordinary meaning of the words of the proposed sub-section is that the phrase "under this Act" qualifies or is descriptive of the concept of a proposed report. It would have been easy for the draftsman to put the words "under this Act" immediately after the word "receives" rather than in their present position. This would have been the natural way of expressing a narrow prohibition of the disclosure of proposed reports of the Auditor-General.

In my opinion, the correct interpretation of the proposed sub-section is the one based on the ordinary meaning of the words used. On this view, the sub-section applies to proposed reports (or parts of proposed reports) provided under section 16(3) or section 16A(3) and prohibits disclosure by *any* recipient, except as permitted by paragraphs (a) and (b) of the sub-section. The restrictive interpretation favoured by Mr. Hanks and Mr. Syme would leave unregulated the conduct of:

(a) a subordinate of a recipient designated by the Act (the subordinate having lawfully received the proposed report pursuant to paragraph (a) of the proposed sub-section);

(b) a third party to whom a proposed report was provided by a designated recipient pursuant to paragraph (a) of the proposed sub-section;

(c) any unauthorized recipient of a proposed report who might dispose of it for private commercial advantage.

If persons such as these were not prevented from disclosing information contained in a proposed report, they could disclose it to the mass media, to persons or businesses financially interested in the content or even, secretly, to persons whose misconduct was the subject of the proposed report. I doubt whether a Court, in considering the meaning of the proposed sub-section (2), would conclude that Parliament intended to exclude these kinds of situations from the prohibition contained in the proposed sub-section.

Under the restrictive interpretation, the only persons whose conduct would be regulated by the proposed sub-section are the persons to whom proposed reports are required to be given by sub-section (3) of sections 16 and 16A of the Audit Act 1994 (as amended by the Bill). These persons could easily evade the prohibition by the provision (pursuant to paragraph (a) of the proposed sub-section) of the proposed report to a third party who would not, on this hypothesis[1], be subject to the prohibition. Again, I doubt whether a Court would hold that Parliament intended such a result.

Since a consideration both of the intention of Parliament and of the ordinary meaning of the words of the proposed sub-section suggests a wide interpretation of the scope of the sub-section, I think it probable that this interpretation is correct.

A wide view of the meaning of the proposed sub-section (2) is, in my opinion, further supported by comparing the proposed sub-section (2) with the further sub-section (3) of section 20A which clause 21 of the Bill would insert in the Act. The proposed sub-section (3) is as follows:

"A person to whom information is given under section 16F must not disclose it except —

(a) in the course of performing the person's official duties; or
(b) after the information has been made public in a report by the Auditor-General."

[1]The words "under this Act" are not apt to include acts excluded from prohibition by paragraph (a) of section 20A(2) as distinct from things required to be done by section 16(3) or section 16A(3): see *Barbaro v. Leighton Contractors Pty. Ltd.* (1980) 30 A.L.R. 123 in relation to the words "under this Ordnance" and see also the cases relating to the meaning of the word "under" cited by Wilcox J. in *Elmslie v. Federal Commissioner of Taxation* (1993) 118 ALR 357 and compare the meaning of "under an enactment" in *McLean v. Gulliver* (1994) 121 ALR 537 at 544, *Dallikavak v. Minister For Immigration & Ethnic Affairs* (1985) 9 FCR 98 at page 103 and *General Newspapers Pty. Ltd. v. Telstra Corporation* (1993) 45 FCR 164 at 172.

This sub-section is expressed in a way which makes it clear that only recipients of information pursuant to the relevant section of the Act are subject to the prohibition. The different form of language used in the proposed sub-section (2) suggests that a different result was intended.

Mr. Syme supports his view of the meaning of the proposed sub-section by reference to the principle that a penal provision should be construed restrictively. The present rule, according to the High Court of Australia in *Waugh v. Kippen* (1986) 160 CLR 156 (per Gibbs C. J., Mason, Wilson and Dawson J. J. at 162 to 164) is that stated by Gibbs J. (as he then was) in *Beckwith v. The Queen* (1976) 135 CLR 569 at 576 as follows:

> "The rule formerly accepted, that statutes creating offences are to be strictly construed, has lost much of its importance in modern times. In determining the meaning of a penal statute the ordinary rules of construction must be applied, but if the language of the statute remains ambiguous or doubtful the ambiguity or doubt may be resolved in favour of the subject by refusing to extend the category of criminal offences."

The principle that a penal provision should be construed restrictively does not displace the primary rule of statutory interpretation that the intention of Parliament must be ascertained from the words used in the legislation. In Victoria, section 35(a) of the Interpretation of Legislation Act 1984 provides that:

> "In the interpretation of a provision of an Act or subordinate instrument … a construction that would promote the purpose or object underlying the Act or subordinate instrument (whether or not that purpose or object is expressly stated in the Act or subordinate instrument) shall be preferred to a construction that would not promote that purpose or object;"

I do not think, therefore, that the rule preferring a restrictive construction of penal provisions is sufficient to overcome the arguments set out above for preferring the ordinary meaning of the proposed sub-section (2).

Paragraph (b) of section 35 of the Interpretation of Legislation Act 1984 provides for the consideration of extrinsic material in considering an Act of Parliament. It reads as follows:

> "In the interpretation of a provision of an Act or subordinate instrument … consideration may be given to any matter or document that is relevant including but not limited to —
>
> (i) all indications provided by the Act or subordinate instrument as printed by authority, including punctuation;
> (ii) reports of proceedings in any House of the Parliament;
> (iii) explanatory memoranda or other documents laid before or otherwise presented to any House of the Parliament; and
> (iv) reports of Royal Commissions, Parliamentary Committees, Law Reform Commissioners and Commissions, Boards of Inquiry or other similar bodies."

I have looked at the Explanatory Memorandum relating to the Audit (Further Amendment) Bill in relation to clause 21 of the Bill. It reads as follows:

> "New section 20A(2) imposes a requirement on the recipient of a proposed report or part of a proposed report of the Auditor-General not to disclose its contents except in the course of performing the person's duties or after the information is made public by the Auditor-General. A person cannot release information contained in a proposed report if the information is not made public by the Auditor-General in his final report."

This suggests, if anything, that the phrase "under this Act" is not intended to restrict the operation of the proposed sub-section.

Although the restrictive interpretation of the proposed sub-section can be supported in the way set out by Mr. Hanks and Mr. Syme, the true meaning of the proposed sub-section is, at least, unclear. In my opinion, the better view is that the proposed sub-section (2) would prohibit the disclosure by any recipient of a proposed report or part of a proposed report of the Auditor-General (no matter how the report was received) of information contained in it, except as set out in the sub-section. Thus a journalist who received a leaked copy of a proposed report would be criminally liable if he or she disclosed any of the information contained in it.

D. G. ROBERTSON

Owen Dixon Chambers
7 December 2001