PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

20 March 2002

(extract from Book 1)

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By authority of the Victorian Government Printer

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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Hadden, Hon. Dianne Gladys	Ballarat	ALP	Thomson, Hon. Marsha Rose	Melbourne North	ALP

CONTENTS

WEDNESDAY, 20 MARCH 2002

Wednesday, 20 March 2002

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.05 a.m. and read the prayer.

HOUSE CONTRACTS GUARANTEE (HIH FURTHER AMENDMENT) BILL

Council's suggested amendment

Returned from Assembly with message relating to Council's suggested amendment.

Ordered to be considered in conjunction with report from committee.

ABSENCE OF MEMBER

Hon. P. R. HALL (Gippsland) — I seek by leave the opportunity to clarify issues surrounding the medical condition of the Deputy President and my colleague the Honourable Barry Bishop.

Mr Bishop contacted me this morning and would like to clarify the advice given to honourable members yesterday and the article appearing in today's *Herald Sun*, which reported that he had been diagnosed with cancer.

In the confusion of the whole process there may have been some indication of a complete diagnosis of cancer. However, the truth of the matter is that the diagnosis is not complete or confirmed and that Mr Bishop is undergoing further tests.

I can report that Mr Bishop is currently upright, well, as chirpy as ever and working from his Mildura electorate office while he consults with resident specialists. He also wants it known that he is looking forward to returning to the house in his role as Deputy President and to representing the electorate of North Western Province as soon as possible. He has warned us all in the house to watch out because, in his own words, 'I ain't finished yet'.

QUESTIONS WITHOUT NOTICE

Liquor: licences

Hon. W. I. SMITH (Silvan) — Will the Minister for Small Business introduce legislation to overcome the loophole that Woolworths is exploiting in the current liquor licensing legislation so as to maintain the 8 per cent cap on liquor licensing and protect small business?

Hon. M. R. THOMSON (Minister for Small Business) — People will be aware that there was in legislation presented to Parliament by the then — —

Hon. M. M. Gould — On a point of order, Mr President, the question the honourable member asks is calling for legislation. I do not believe one is allowed to do that, and I ask you to rule on it.

The PRESIDENT — Order! As I understood it, the question was whether the honourable member intends to introduce legislation.

Hon. W. I. Smith — Will the minister introduce legislation?

The PRESIDENT — Order! Do you intend to? 'Will' means a future intent. Are you going to introduce legislation?

I think the minister has mixed up the rules for questions and the adjournment. The only exemptions here are that a member cannot ask a minister for an expression of an opinion, a legal opinion, whether press statements are accurate, or for information which is unavailable or inaccessible. In this case the question was, 'Will she?', which I gather is, 'Do you intend to?', and the minister started to reply to it, and she is entitled to reply to it.

Hon. M. R. THOMSON — Thank you, Mr President. As honourable members are aware, legislation that was brought in by the previous government on the liquor industry and an 8 per cent cap was in fact flawed, and it was known to be flawed by the Kennett government when it was introduced into Parliament. It was going to turn a blind eye to it and allow the majors to circumvent that legislation with a nod and a wink and then use national competition policy as an excuse to do away with the 8 per cent. The majors were told, 'Just go quietly until after the election and then you will be looked after'.

We came into the Parliament and closed off a loophole that existed that had been taken advantage of by one of the majors. We did that because of our commitment to the industry and to ensure that we have a vibrant small business sector in the liquor industry. We stand by that commitment to ensure we have a vibrant small business sector in the liquor industry.

Hon. W. I. SMITH (Silvan) — I have a supplementary question. I am amazed at the minister. She changed the legislation last year — it is not 12 months old — to close a loophole that Woolworths was trying to overcome. The minister knows as well as I do that she is negotiating a deal at the moment to broker it up to 10 per cent. She is out there with the

major retailers trying to broker a deal to 10 per cent. My question is: is the reason for not defending small business and enforcing her own legislation that she is a member of a do-nothing government that capitulates to the big end of town?

Hon. M. R. THOMSON (Minister for Small Business) — We are a very up-front and open government — unlike the opposition, which took the back door and was going to allow Woolworths and Coles Myer to go hell for leather to take up licences in this state. It is no secret that discussions have been occurring between the industry players.

It is no secret that discussions have been going on for many months about an alternative to the 8 per cent cap, which can provide some certainty to small businesses in this industry. I am pleased that the negotiations are continuing and that they are looking fruitful. But I — —

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

Geelong Arena

Hon. E. C. CARBINES (Geelong) — I refer my question to the Minister for Sport and Recreation. Given the minister's strong statements to the house about supporting regional centres to grow as sporting hubs, will the minister advise the house of the action he has taken in Geelong to implement this objective?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for her question. I am pleased to announce that the government has supported the City of Greater Geelong to the tune of $1 million to ensure that the Geelong Arena can be purchased by the City of Greater Geelong so the venue can be placed into community hands.

There was great concern in the Geelong community about the facility, because it had been privately owned and the owner was threatening to sell the facility for the best price. The concern was that it would not be used as a community sporting facility. It is the home of the Supercats, and enormous numbers come through the facility — somewhere in the order of 3000 players a year. It has been the home of Geelong basketball since the mid-1980s, and the venue attracts around 140 000 visitors each year.

This has come about because of the strong lobbying of the local members — the Honourable Elaine Carbines, and Ian Trezise and Peter Loney, the honourable members for Geelong and Geelong North respectively, in the other place, who raised the issue with the Premier and ministers to ensure that the Community Support Fund would contribute money to the facility to ensure its long-term viability.

The money will help pay for urgent capital works and enhance the venue as a major regional sports facility. The government's $1 million contribution will secure the future of the Geelong Arena and places Geelong in a strong position to potentially host the preliminary rounds of the 2006 Commonwealth Games basketball program.

Its $1 million contribution to secure the future of the Geelong Arena is another example of the Bracks government commitment to strengthening and revitalising our regional cities and encouraging locals to stay and others to visit — again, showing its commitment to growing the whole of the state.

Liquor: licences

Hon. B. N. ATKINSON (Koonung) — My question is also to the Minister for Small Business. This morning the minister made mention of the industry agreement that she is negotiating to phase out the cap on liquor licences, which I understand will start with the relaxation of the current 8 per cent cap to a 10 per cent level on 1 July 2002. Can the minister advise the house whether or not she has sought assurances from Coles Myer and Woolworths, which owns Safeway, that they will not engage in predatory pricing practices as part of those negotiations and whether or not undertakings on predatory pricing will be incorporated in the industry agreement she is brokering?

Hon. M. R. THOMSON (Minister for Small Business) — Let me reiterate: the Bracks government is committed to a very strong and viable small business sector in the liquor industry. The 8 per cent over time was always going to become ineffective. The industry is aware of that, and that is why discussions have been ongoing. The most important thing in these discussions is to ensure that the small businesses in this sector have the capacity to compete in this industry, and that is the basis under which discussions have been undertaken between the industry players and all those interested. I reiterate: we will not change from the 8 per cent — we will not change from the 8 per cent — unless there is industry agreement, as was stated when we brought the legislation into the Parliament initially. It has always been the intention of the government to allow the industry to determine its own future to ensure that small businesses can be confident of the direction the industry is going in rather than waiting for the backdooring of legislation by the majors.

Hon. B. N. ATKINSON (Koonung) — I have a supplementary question for the minister. I wonder whether when she answers the question the minister might repeat the phrase about what the conditions were under which the 8 per cent would be varied, because unfortunately my side was a bit noisy at the time and I did not hear. That was an important point the minister was making, and I would like to understand that. My concern, though, is that the minister's answer to my question did not at all consider predatory pricing. I wonder if she actually knows what that means. But certainly in terms of the agreement she is brokering, she talks about protecting small business, and it is very important to protect the investment that many small businesses have in the liquor stores. Therefore this agreement needs some certainty on whether or not predatory pricing practices will be outlawed by her as part of this process.

Hon. M. R. THOMSON (Minister for Small Business) — Let me make it very clear again. The government is facilitating these discussions for an industry-wide agreement in relation to it. We are facilitating those discussions. We are pleased that the industry players want to participate in those discussions. It is important that the future is secured for those small businesses and that there is an understanding of what this industry will look like in the future. It is important that those discussions take place, and we welcome discussion and the attitude the participants have brought to the table.

Hon. Bill Forwood — On a point of order, Mr President, this is outrageous! The question deals with predatory pricing. Twice my colleague Mr Atkinson has asked the minister specifically about predatory pricing; twice she has ducked the issue. I ask you, Mr President, to tell her to answer the question properly.

Hon. B. N. Atkinson — Further on the point of order, Mr President, because I had a supplementary question I chose not to take a point of order on the answer to my first question, but my first question was specific. I asked whether the minister will or will not include restrictions on predatory pricing as part of the agreement. There was no mention of predatory pricing and no indication by the minister whether that had been part of discussions or an agreement.

The PRESIDENT — Order! The house knows the rules. In other words, the answer has to be responsive to the question, even if it is not necessarily the answer that the questioner was seeking in a specific sense. One of the things the house has done is adopted a procedure, which we shall see shortly, in relation to taking note of answers that gives the house the opportunity to pursue those matters in some detail. The minister had finished her answer, and although it could be said it was not directly responsive to that supplementary question, I do not believe I can take the issue any further.

Boating: licences

Hon. JENNY MIKAKOS (Jika Jika) — Will the Minister for Ports advise the house of the progress made in regard to the recent introduction of recreational boat operator licensing?

Hon. C. C. BROAD (Minister for Ports) — I thank the honourable member for her question. I would like to report to the house that the 2001–02 boating season has been a successful season for most recreational boat operators, and I emphasise 'most'. However, it is disappointing to see that there has been unnecessary loss of life in tragic circumstances. The Bracks government believes this underscores the importance of recreational boat operator licensing. It will assist in improving safety on Victorian waterways by ensuring that all boat operators have at least demonstrated a basic knowledge of waterway rules and safe boat operation.

Honourable members interjecting.

Hon. C. C. BROAD — Are you right there?

Honourable members interjecting.

The PRESIDENT — Order! Stop the clocks! The house will settle down while the minister continues her answer!

Hon. C. C. BROAD — I am happy to advise that the computerised database and licence-testing systems are operating successfully in all Vicroads offices, and there are backups in case there are any glitches with computers. More than 11 000 licences have been issued as of the end of February, with the take-up rate increasing within the last month.

Holders of interstate licences are able to transfer their licences to Victorian ones without having to sit a test. This includes approximately 70 000 Victorians who now hold New South Wales licences. I am also pleased to report that the current pass rate for general boat licences is 84 per cent and for jet skis or personal watercraft the pass rate is around 94 per cent. Clearly the latter applicants are a little more motivated!

The introduction of boat operator licensing by the Bracks government demonstrates how we are turning things around by delivering on our vision for a safer marine environment through improved operator

competencies and related safety measures. We are also delivering on our vision by reinvesting the funds raised through operator licensing back into the boating community. That means that $15.9 million will be reinvested over a five-year period in making our waterways safer.

The government is very proud of its commitment to improving boating safety for all Victorians and saving lives. I look forward to seeing continued support for this important safety initiative by the Victorian recreational boating public. I can only say that it is very disappointing that some members of the opposition continue to make negative, carping attacks on this important safety initiative. I look forward to those members reconsidering their position when it comes to saving Victorian lives.

Electricity: charges

Hon. W. R. BAXTER (North Eastern) — Will the Minister for Energy and Resources explain to the house how the $118 million electricity price set-off will be apportioned to large users of off-peak power, especially seasonal users such as irrigators?

Hon. C. C. BROAD (Minister for Energy and Resources) — As I outlined to the house yesterday, unlike the open-slather approach to pricing which this government inherited, the Bracks government has intervened to prevent unjustified price increases and to put in place the $118 million special power payment to ensure that country, regional and outer metropolitan Victorians are not paying for those people on equivalent tariffs more on average than Victorians in metropolitan areas.

The government has gone to particular pains to target those payments to the sorts of users identified by the honourable member so that large off-peak users, including users such as dairy farmers and irrigators, are receiving the highest payments under the special power payment to allow for the fact that they are heavy users of electricity, and therefore it is expected that their payments will be higher, but they are also receiving higher increases because of the particular tariffs they are on. The payments have been targeted to particularly take those factors into account.

The government is also encouraging those particular groups of users to carefully shop around to take advantage of the government's introduction of choice of electricity supplier. We are also actively pursuing the rollout of interval metering to those types of users which will also provide them with further opportunities for greater benefits from choice of electricity retailer.

Hon. W. R. BAXTER (North Eastern) — I seek some further elucidation. Will the Minister for Energy and Resources advise if there will be an upper limit on the consumption of off-peak electricity or will all consumption be eligible for the price set-off?

Hon. C. C. BROAD (Minister for Energy and Resources) — There are some very large users at the upper end of the scale and some of those users would be more appropriately on different tariffs which apply and have applied for some time prior to the introduction of choice for smaller consumers in the contestable market, so there is no cap. However, there is a limit in the sense that those consumers who are over a certain level of consumption are not on the off-peak tariffs that are of most concern for most dairy farmers and irrigators. In that sense those users are already in the contestable market. Those users have been in the position where they have needed to — —

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

New Realities program

Hon. R. F. SMITH (Chelsea) — Last year a technology skills team visited students at the Frankston Secondary College, which is in my electorate, as part of the Bracks government's New Realities program. Will the Minister for Information and Communication Technology inform the house about the New Realities program and how it is progressing?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I particularly thank the honourable member for his question because in fact 250 young people from Frankston participated in the New Realities program that is run out of Multimedia Victoria. The program enables young people to become aware of how information technology can assist them in their career options for the future. The program is a result of research that indicated young people really did not see technology as being necessary for their future careers. This result was a serious concern for the government. Unfortunately the previous government saw no need to engage young people in such research and provided no options for young people to address those issues.

The previous government's only contact with young people was through jeff.com — that is the way it communicated with young people. The Bracks government is turning that around with programs such as the New Realities program, which is geared to young people aged between 15 and 18 years.

Technology skills teams are made up of people with industry experience. They go out and talk about how they use new technologies in their jobs and they emphasise the importance of new technologies in young people's careers. The research indicated that what young people actually wanted to hear was how it would apply in a real job situation and with real job experiences.

To date the technology skills teams have visited more than 100 schools and addressed almost 11 000 students. To complement the program, a resource kit has been prepared for use by career teachers. It has been incorporated into work experience and career education workshops, and has been welcomed by the schools and career teachers.

The program is a good example of how the Bracks government is delivering for the future of our young Victorians. It not only broadens the career horizons for young Victorians, but also helps to ensure Victoria continues to be bolstered by young people with strong information and communication technology skills.

Consumer affairs: predatory pricing

Hon. B. N. ATKINSON (Koonung) — I ask the Minister for Small Business what she understands the term 'predatory pricing' to mean?

Hon. M. R. THOMSON (Minister for Small Business) — That is an unusual question coming from the opposition, which was going to allow Coles Myer and Woolworths to circumvent the legislation with a nod and a wink so that small businesses had nowhere to go. There is not an honourable member in this house who does not know what predatory pricing is. I am insulted by the question. This government has shown more genuine concern for small business in the liquor industry than the opposition ever did.

Hon. B. N. ATKINSON (Koonung) — I have a supplementary question. I would like to assist the minister. Predatory pricing is the manipulation of prices with a view to unfairly competing or abusing market power in order to damage a competitor. Usually it involves below-cost pricing and very often pricing that is different from the schedule of a particular business compared with what a chain, for instance, would use in another market. Will the minister — —

Honourable members interjecting.

The PRESIDENT — Order! It is not permissible for three honourable members to shout at a questioner while he is trying to get the question out. I ask honourable members to desist.

Hon. B. N. ATKINSON — I find it particularly unfortunate because I was trying to help the minister. Now that I have explained what predatory pricing is, will the minister include undertakings by the chains on predatory pricing in the agreement that she is, to use her words, facilitating with the industry?

Hon. M. R. THOMSON (Minister for Small Business) — I have already said discussions are taking place between the industry players. The honourable member will also be aware that predatory pricing is a matter for the Australian Competition and Consumer Commission and is a matter that it has to attend to with any complaint that is registered with it. The parameters of the discussion — —

Honourable members interjecting.

The PRESIDENT — Order! I am trying to hear the minister's response and I am being interrupted by the Minister for Education Services, who is responding to remarks from the opposition. I ask both sides of the house to settle down and allow the minister to respond.

Hon. M. R. THOMSON — The matters before the industry groups that are represented and participating in these discussions are confidential. Until they are concluded I am not in a position to outline — —

Honourable members interjecting.

The PRESIDENT — Order! Mr Atkinson asked the question of the minister. We are entitled to hear her reply. The minister, in 5 seconds.

Hon. M. R. THOMSON — I am not in any position to outline those discussions.

Push On event

Hon. T. C. THEOPHANOUS (Jika Jika) — My question is to the Minister for Youth Affairs. In the light of the minister's recent appointment to this portfolio I ask whether she will advise the house of her involvement in youth projects and representative groups, and in particular the Push On event, which the government sponsors.

Hon. M. M. GOULD (Minister for Youth Affairs) — I thank the honourable member for his question. One of the first things I have discovered since becoming the Minister for Youth Affairs is that in the last two years, since the Bracks government came into power, there has been a massive turnaround in the youth sector. That turnaround comes from the time when the previous government was in, when they did all the sniping and made all the funding cuts to the

youth sector. The opposition does not care about young people — —

Honourable members interjecting.

The PRESIDENT — Order! A conversation across the chamber between a minister and the Honourable David Davis is not helpful to the house and certainly does not allow honourable members to hear the minister's response.

Hon. M. M. GOULD — So, Mr President, there is now some optimism across Victoria with respect to the youth sector. I have witnessed this first-hand in my new role, and since starting in the position I have spent a lot of time talking to youth service providers as well as young people themselves to get an idea of where they are at and where we are heading.

On my first official day as Minister for Youth Affairs I met with all the chairs of the 15 regional youth committees that we established and supported — not like the opposition, who did not want anything to do with them when they were in government. These committees play a very important role in advising the government about youth needs and issues in both urban and regional areas. While they existed under the previous government, it was not terribly interested in hearing what their views were, nor did it support them.

In contrast, we have supported these committees with seven youth liaison officers that help the committees out, and as the new minister I have met with all of them as a priority. I was impressed with the regional committees and their ideas and with the liaison officers.

I have also visited and attended a wide range of youth services and programs. The biggest of these was the Push On event held on the Labour Day long weekend at Moonee Valley racecourse. I know the opposition is not interested in what young people are doing, but that Push On event was presented by The Push organisation, which is sponsored by the government to an amount in the order of $200 000. The event is organised for young people by young people, and in that one event alone over 200 young people are involved in volunteering. People come from far and wide to attend the Push On event. A bus even picked up people at Mansfield at 7 o'clock and also brought people from Benalla to the event.

I attended the Push On event on Labour Day and announced the winners of the Battle of the Bands competition. I know the National Party would be interested in that, because the winner of the competition was a band called Omeo that came from Mildura. The second prize went to 13 Monkez and the third prize went to Carnage.

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

Liquor: licences

Hon. W. I. SMITH (Silvan) — Now that the Minister for Small Business has acknowledged that there are confidential negotiations going on around the 8 per cent cap and also knows there are elements in this deal which are deal breakers and may or may not make it, will she guarantee in the deal she is negotiating that no new liquor licences will be issued to Coles or Woolworths or any of their entities in this agreement?

Hon. M. R. THOMSON (Minister for Small Business) — As I have said before and will reiterate, these discussions have been going on for some time. They are discussions about finding some long-term solutions for this industry that secure a strong and vibrant small business sector. Let me say again that the opposition when in government gave a nod and a wink to the big guys, to Woolworths and Coles Myer: 'Wait until after the election and we will allow you to get licences'.

Honourable members interjecting.

Hon. M. R. THOMSON — Opposition members don't like hearing the truth, but it is the truth. They gave them a nod and a wink and were going to let them have open slather after an election because they did not care about the small business sector after an election; they only cared about it before an election. We have a different attitude. We care about small business — —

Honourable members interjecting.

The PRESIDENT — Order! I ask those on my left to desist and allow the minister to be heard. Then she will not have to shout.

Hon. M. R. THOMSON — Before an election, after an election and at all times throughout the life of our government we will make sure that whatever is put in place to replace the 8 per cent will ensure a viable and strong small business sector.

Hon. W. I. SMITH (Silvan) — This is the minister's legislation. The government introduced this 8 per cent, and the Minister for Small Business is not protecting it. The government is not legislating to change it. Why are the Minister for Small Business and the Premier brokering a deal with the second-largest

retailer in Australia instead of protecting small liquor retailers?

Hon. M. R. THOMSON (Minister for Small Business) — I am not brokering any deals with the second-largest retailer. What I am in fact doing is assisting in facilitating an outcome that secures a very strong and vibrant small business sector in the liquor industry.

Melbourne Port Corporation: partner port agreement

Hon. G. D. ROMANES (Melbourne) — Can the Minister for Ports advise the house of the expected benefits of the recent signing of an agreement between the Melbourne Port Corporation — —

Honourable members interjecting.

The PRESIDENT — Order! The honourable member is trying to ask a question and I cannot hear it. I ask the house to settle down and ignore the peregrinations of others.

Hon. G. D. ROMANES — The question is: can the Minister for Ports advise the house of the expected benefits from the recent signing of an agreement between the Melbourne Port Corporation and the Philadelphia Regional Port Authority?

Hon. C. C. BROAD (Minister for Ports) — I thank the honourable member for her question. I am pleased to advise the house that on 7 March on behalf of the Bracks government I signed an agreement between the Melbourne Port Corporation and the Philadelphia Regional Port Authority. This follows a visit I made last year with representatives from the Philadelphia Regional Port Authority. We discussed a number of matters at that time, including the importance of the port of Philadelphia to Australian trade through the port of Melbourne. I was pleased to again meet these representatives of the Philadelphia Regional Port Authority on their recent visit to Melbourne.

I am pleased to inform the house that as a direct result of my visit there last year and the port agreement signed during their visit here, the Governor of Pennsylvania announced last week an investment of some $8 million in port infrastructure. This will be of direct benefit to beef exports from Victoria. This partner ports agreement is similar to a sister city agreement. It will help to deliver closer working relationships and cooperative trade and marketing opportunities between the two ports.

The port of Philadelphia is the most significant port on the east coast of the United States, given that it provides access to around 70 per cent of the North American market. This will be of tremendous economic benefit to Victoria. There are many similar issues facing the ports of Philadelphia and Melbourne, and by forging partnerships like this we can better understand these issues and better meet the expectations of our many stakeholders.

This link also supports the government's vision of an even better port of Melbourne which delivers benefits for the whole state and all Victorians. Of course, this is in contrast to the previous government, which had no vision for the port of Melbourne save to privatise it. The government is turning things around to ensure that the port of Melbourne remains one of Australia's premier ports.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Liquor: licences

Hon. W. I. SMITH (Silvan) — I move:

> That the Council take note of the answers given by the Minister for Small Business to questions without notice asked by honourable members relating to the liquor industry.

It is a shame that the Minister for Small Business has left the chamber, that she cannot stand the heat in the kitchen. This is a government that came in with a policy to protect small business and retain the 8 per cent liquor licensing cap. When Woolworths found a loophole in the legislation last year the government brought in the current legislation to close the 8 per cent loophole. This is the government's own legislation. It proclaimed it very loudly last year with press release after press release. A 19 January press release headed 'Government closes liquor loophole' says:

> The 8 per cent rule will be strengthened by amending the act early this year …

On 18 April, in a release headed 'Government cracks down on liquor loophole', the Minister for Small Business said:

> The Bracks government is taking immediate legislative action to stop major liquor chains from circumventing liquor laws designed to protect the small independent retailers …
>
> …
>
> Had the government not acted, the acquisition would have taken Woolworths' holdings well over the 8 per cent limit.
>
> …

When the Bracks government said in January that we would enforce an effective 8 per cent cap, we meant it.

Why does the minister not mean it now? Where is she now? The 8 per cent cap is not working.

Four times in the past 12 months in question time the minister has answered questions without notice in Parliament and guaranteed that the 8 per cent cap would be retained. Four times the minister has committed the Bracks government to ensuring that it will protect small business by keeping that 8 per cent cap until the end of 2003. The minister stressed in her answers to Parliament that the government has a commitment to maintaining the 8 per cent cap and expects it to remain in place until 2003. When asked on 27 November whether there was any existing loophole in the legislation the Minister for Small Business responded that there was none that she knew of, that there was absolutely no loophole in the current legislation. Members should not forget that this is the legislation the government introduced.

The minister said that the legislation states that all licences will be forfeited after a 12-month period if anyone is found to be outside the 8 per cent rule. What happened? Other people knew about it. The *Australian* knew about it. It was writing about it and talking about the fact that there was a political crisis in Victoria. It ran headlines of 'Liquor licences sold for $1: Woolies avoids ownership cap', 'Liquor loophole gives retailers a nasty hangover' and 'Woolies goes on a liquor licensing bender to protect outlets', yet the minister said she did not know about it. She gave that response to Parliament and she has done nothing to close this loophole in the 8 per cent rule.

The Minister for Small Business has committed time and again, but she has not been able to respond. She is now conducting a salvage operation. The minister and the Premier have sat down with the big end of town, with Woolworths, and discussed increasing that 8 per cent to something much higher. The minister has capitulated, she has given in, she cannot stand the heat in the kitchen.

The minister should have come into this house yesterday and introduced legislation to close the loophole to protect small business and enforce her policy. She should have immediately suspended the issuing and transferring of all liquor licences. The minister should have set up an industry task force and sat down in a cool, sensible environment and discussed without any pressure where to go, but she gave in to the second-largest retailer in Australia. She could not protect small business by keeping the 8 per cent cap, and she has been unable to enforce her own legislation, which is not even a year old.

No wonder the unions are leaving town. No wonder they do not support the ALP. They have it right — the Bracks government does not support the interests of small business and the average Victorian. What guarantee has small business that this minister will protect the 10 per cent she is trying to bring into the deal? The small liquor retailers do not understand why the minister is brokering the deal. They are sorry for her. This minister reflects her government: unable to make a decision, cannot be relied upon when the going gets tough and does not represent the interests of small business. The Minister for Small Business is a do-nothing minister in a do-nothing government, and I condemn her for her inaction.

Hon. T. C. THEOPHANOUS (Jika Jika) — This is another pathetic attempt by the opposition. This procedure under the sessional orders is becoming an absolute joke. Members opposite come in here with speeches prepared before they ask the questions. They have already identified what they are going to deal with in the responses.

Hon. Philip Davis — How do you know?

Hon. T. C. THEOPHANOUS — She was reading a prepared speech! So much for accountability. Far from this government going around doing deals, the only deals that were done in relation to this issue were done during the administration of the previous government. It did the deals with Ron Walker and it did the deals with Lloyd Williams. It did all the deals that were shameful in this state.

In relation to the liquor issue, when the previous government was in power, the then opposition tried time and time again to get the then Minister for Small Business, the Honourable Louise Asher, to defend small business and to do something about the 8 per cent cap because a number of loopholes had already been identified. What did we get from the previous minister? Deafening silence. She was not interested. What did we hear from the Honourable Bruce Atkinson at that time? Absolutely nothing. What did we hear from the Honourable Wendy Smith at that time? Absolutely nothing. Honourable members opposite were not interested in the liquor industry; they were not interested in small business, but suddenly, having left the problem for this government to deal with, honourable members opposite come in here and pretend that somehow they are interested in small business and in the liquor industry in particular.

This is yet another example of the way in which the opposition is totally hypocritical when comparing its actions in government to those in opposition. The government has dealt with this issue responsibly. At the last election the Labor Party had a policy to maintain legislation that provides for an 8 per cent limit on the number of packaged liquor licences that any company or person could hold. The government undertook a review and during the review, Woolworths, Safeway, and Coles Myer acquired additional licences, which caused them to exceed the 8 per cent cap. To meet the government's policy commitment legislation was passed to ensure the 8 per cent limit was maintained and that there would be a phase out from the end of 2003. There was never any secret that the legislation passed in this house to maintain the 8 per cent cap was done in the context of a phase out, which was made clear at that time.

The Honourable Wendy Smith believes she has suddenly discovered something. It is not new; it was made clear at the beginning. This government said it would protect small business whatever the changes turn out to be, unlike its predecessor, which had no interest in small business. The Liberal opposition failed to look after small business. It is one of the reasons it has been kicked out of government. In liquor and in other areas when talking about small businesses in Melbourne or regional Victoria this government is committed to looking after small businesses and it will look after them in the normal way. I can tell you one thing: small businesses would much rather have the Labor government negotiating with Coles Myer or any other company than the Liberal opposition.

Hon. B. N. ATKINSON (Koonung) — I support the motion to take note of the answer of the Minister for Small Business during question time this morning. The opposition has indicated on a number of occasions that this government is the laziest government ever. It is a do-nothing government, a government that is weak and vacillating and a government that cannot say no and instead of saying no says 'We will look into it'. On the rare occasions when the government does say no it always means may be. This is the sort of government we have. This is the sort of government we have and the example this morning in the answer of the Minister for Small Business demonstrated its colours admirably.

The Minister for Small Business is a classic example of a minister who is out of her depth, who has no understanding of her portfolio and no understanding of one of the critical issues impacting on small business. Why did this happen this morning? The ministers in this place are good at reading set speeches, reading from briefing notes and keeping to the one-line quick grab, but when opposition members probe their performance and ask them what they are talking about they have no idea.

This morning the minister demonstrated to the house that she had no idea what predatory pricing was. She had no idea what it meant. Having had it explained to her the minister was not prepared to take up the issue of predatory pricing in terms of the agreement she might have with the industry. The minister says the government is open, while at the same time she describes her talks as confidential and will not tell the house anything she is doing. In our view the minister is not fully appreciative of the talks she is having with the industry. The talks with the liquor industry have been driven, in our view, by Woolworths. Woolworths has already overstepped the 8 per cent cap on liquor licences. Although the opposition is being berated about what it did in government, I urge the government to give just one instance where the 8 per cent cap was exceeded. That has happened during the period of a Labor government, and despite the fact that the minister says she will protect the cap, she has stepped back from the cap on every occasion.

The minister has indicated that negotiations have been continuing for many months and I wonder whether the minister has misled the house because she previously told the house that the 8 per cent is sacrosanct. Go back and check the minister's answers and you will find that the minister has constantly said that the 8 per cent cap is sacrosanct and that the government will not walk away from it. The minister told this house this morning that for many months — —

Hon. T. C. Theophanous interjected.

The ACTING PRESIDENT (Hon. C. A. Strong) — Order! Mr Theophanous has had his turn so he should have the good manners to let other members have their turn.

Hon. B. N. ATKINSON — The minister said this morning that for many months negotiations have been going on with players in the liquor industry who have walked away from the 8 per cent cap — a direct contradiction of what she has told this house.

As I said, the minister has no understanding of her portfolio, no understanding of predatory pricing and is not prepared to negotiate on an agreement that will be in the interests of small business.

Hon. J. M. Madden interjected.

The ACTING PRESIDENT (Hon. C. A. Strong) — Order! I ask the minister to

show some decorum and let the honourable member finish his contribution.

Hon. B. N. ATKINSON — The minister is driven by the interests of the chains. Even today when the minister knows that the chains have exceeded the 8 per cent cap on packaged liquor licences she is negotiating with them about the cap being relaxed from 1 July 2002. The minister knows the chains are contravening the cap, but she still does nothing about it. She will not make them divest their licences or give an explanation to the house why she has walked away from the commitments and assurances she has given to the house. It is on that basis that she has misled the house. The fact is that the 8 per cent cap has been exceeded. She knows it but because of her bumbling in her portfolio she has no steel to say no to the chains and to represent the interests of small business, which is what her portfolio is all about.

Hon. JENNY MIKAKOS (Jika Jika) — We have seen in the last two days the opposition's continued abuse of this house. Not only have opposition members sought to set up Star Chambers to pursue government ministers, but they have sought to introduce changes to the sessional orders, which they do not even have the courtesy to use in the way that is intended and in the way they are used in the Senate. We have seen opposition members come in here for prearranged debates on matters which they do not have the courtesy of preparing properly. We have had an absolutely ridiculous debate so far on an issue to which they did not have any commitment when they were in government. The Bracks government introduced legislation last year to fix up the previous government's mistakes. The now opposition was in government for seven years. It had absolutely no interest during those seven years in protecting Victorian small businesses. It allowed the major players in the liquor industry to take control of that industry.

Hon. Bill Forwood — They have got more now than they ever had!

Hon. JENNY MIKAKOS — It was under your government that they were able to abuse the 8 per cent rule, and it was for that reason that last year the Bracks government introduced legislation to fix it.

Honourable members are aware of the context in which we introduced legislation last year. We were required to address this issue under national competition policy requirements to review the 8 per cent, and we introduced legislation to bring about a situation where the 8 per cent could be enforced and where major players that had exceeded the 8 per cent would over a 12-month period have to divest themselves of any licences that exceeded the 8 per cent.

We should remember that we have not arrived at the end of that 12-month period, but nevertheless the government has been engaged in discussions with players in the industry to bring about the eventual phasing out of players that have exceeded the 8 per cent cap. The government is committed to engaging in dialogue with players to ensure that small businesses in the liquor industry are protected.

Unlike the Liberal Party, which has a newly found commitment to small businesses in this state, we have been genuinely interested in protecting the interests of small business since we were elected two and a half years ago, and we have been engaged in discussions with them during that time to ensure that the 8 per cent rule can be enforced.

I remind the Honourable Bruce Atkinson that an article he wrote for *Foodweek* on 21 May 2001 — another bit of moonlighting by the honourable member — states:

> The cap on licences and amendments before the Victorian Parliament will effectively block any attempt by Woolworths or Coles to acquire any Franklins liquor licences unless they divest existing licences.

Honourable members interjecting.

The ACTING PRESIDENT (Hon. C. A. Strong) — Order! Honourable members on my left! Please let Ms Mikakos use her remaining time effectively.

Hon. JENNY MIKAKOS — This article is not only an endorsement of the government's legislation, but a recognition that the legislation would only be workable when the licences were divested by Woolworths and Coles. That is what we are seeking to achieve. We are seeking to bring about a situation where we can make the legislation workable, and that is why we are pursuing discussions with players in the industry to make sure that these issues can be sorted through.

Hon. G. B. ASHMAN (Koonung) — I support this take-note motion. In doing so I draw the government's attention to its press release of 8 September 2000, in which the Minister for Small Business recommended that the present 8 per cent limit should be retained. She went on to say that it was good news for small business and operators across Victoria and also that the government is committed to retaining the 8 per cent cap. We in the opposition support those views. We believe the 8 per cent cap is quite important for small business.

The minister produced an inquiry. We are still waiting to know what is happening with that inquiry. From what is occurring at the moment it would be an indication to us that the minister is intending to remove the 8 per cent cap. That removal will destroy many small businesses out there. It will destroy the family businesses.

Hon. M. T. Luckins interjected.

Hon. G. B. ASHMAN — You are right, Ms Luckins, it goes straight to the big end of town — to the Coles, the Safeways and the Woolworths.

We need the 8 per cent cap, not only to protect small businesses but because it provides a protection for consumers in that it creates competition in the marketplace. If we have only two major players in the marketplace there will not be too much competition out there. What do honourable members think will happen to product diversity in the liquor stores? The majors only buy from the majors. The boutique wineries, like Mr McQuilten's, will not be supported by the majors. He will not see any product going to those stores. There will only be the major wineries who will be supplying retailing product in this country.

The 8 per cent is important for a whole range of reasons. At the moment Safeway-Woolworths controls Harrys, Dan Murphy, Big Bomber and Franklins, although I understand the Franklins licences are going to be converted to Dan Murphys. At the moment it is 32 licences over the limit.

Coles at least is divesting itself of its half dozen or so outlets that has put it over the limit. It is playing by the rules that were set and seeking to abide by the intent of the legislation.

Currently the majors control between 40 per cent and 50 per cent of the market, so they are almost dominant now. When one looks at the grocery share of the market they are even more dominant. Do we need to reduce diversity and competition? No, we do not. The cap also protects the investment that small business people have made in those businesses. The goodwill paid for liquor licences is high so why should somebody who has put their hard-earned dollars into the business, worked hard and built up the goodwill, lose it because the government decides it will have a 10 per cent or 12 per cent cap on licences, or indeed no cap on licences. These small business people would then be wiped out. The 8 per cent is essential; it is there to protect the consumer, the small business operator and diversity of product.

What has not been explored in this debate is the range of product available. But one would have to guess that if the product range is reduced then a number of the small wineries would be swallowed up and there will only be the big labels. Will the government act against Woolworths and its plethora of holdings and small companies? Will the government take action and consider all licences as held by one entity? It appears at this stage that the minister is not prepared to do that. If you come up with a new name you can get a new set of licences and come under the 8 per cent rule for each new name. The minister stands condemned — —

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

Motion agreed to.

Electricity: charges

Hon. W. R. BAXTER (North Eastern) — I move:

> That the Council take note of the answer given by the Minister for Energy and Resources to a question without notice asked by the Honourable W. R. Baxter relating to the electricity industry.

I want to express my concern that the government seems to have taken a policy decision that ministers will not remain in the house for these take-note motions, despite proclamations in the public arena that they wish the Legislative Council to act in a more responsive manner. They are demonstrating by their own actions the hypocrisy of those proclamations they make.

Hon. J. M. Madden — On a point of order, Mr President, I point out to the honourable member that there is a minister in the house, and we are setting the ground rules. Yesterday I raised the point about the opposition setting the guidelines and the standing orders based on the Senate form of guidelines. In the Senate ministers do not stay for this part of the program, and that is the case today.

Hon. Bill Forwood — On the point of order, Mr President, some people, including you, Mr President, me and my colleague Mr Furletti, the Leader of the National Party, Mr Hall, two Clerks from this chamber and two members of the Labor Party — not you, Minister, but Ms Romanes and Mr Theophanous — visited Canberra on Tuesday of last week for the purpose of studying the Senate in action. We met with Senate members and met individually with Harry Evans, Clerk of the Senate, and Senator John Faulkner, the Labor Party leader in the Senate.

A number of things came out of the meetings and observance of Senate question time in Canberra on 12 March. One was that some ministers stay in the chamber. It is entirely appropriate for ministers to stay in the chamber. They can choose to stay in the chamber and answer these questions and participate in the debates. There is absolutely no rule that they should not. I make the point that you were not there, Minister, but my colleagues and your friends on your side will also say that Mr Faulkner, your leader in the Senate, told us that it had worked better under them because they made a point of staying in the house, and it was only the current government that has changed the manner of doing it.

The PRESIDENT — Order! We have heard both views of that argument. It is not a point of order in that sense. Mr Baxter started off by not relating to the motion, but he wanted to get a particular point on the record, which he did. We have heard both sides of an argument, so I invite Mr Baxter to continue on the take-note motion.

Hon. W. R. BAXTER — I simply say to the minister that he should not perhaps base too much on what he thinks are Senate precedents because he might find that some things the Senate does will not exactly suit him here in the future.

I express concern about the answer given to me by the Minister for Energy and Resources because there is no doubt that in country Victoria there is grave concern and confusion about increases in electricity prices. There is also a great deal of confusion about the hiatus that exists between when prices rose on 13 January and the coming into place of the $118 million price assistance program which will not commence until April. Victorians cannot understand why that is so and do not believe it will help them much at all.

What I want to particularly deal with is the off-peak situation. Many people in country Victoria, in particular primary producers, made large investments in irrigation pumps and the like because they were under the impression that it was cheaper power and that it would always be cheaper because the base-load power stations in the Latrobe Valley are operating in any event and have to be kept going through the night when electricity demand is very low and power should therefore be very cheap to produce. They cannot understand why this extraordinary price increase has gone ahead.

It is stressful to be organising your business to use off-peak power because it means you have to be up during the night to switch on pumps, to change irrigation bays and the like. Of course they would rather do it during the daylight hours when everyone else is working. To take advantage of off-peak power because of the price pressures they are under, they are prepared to put in management practices accordingly, but they cannot understand why there would be such a significant price increase.

Country people welcomed the privatisation of the electricity industry by the previous government because not only did it deliver better reliability and cheaper power prices — that has certainly been the circumstance — it paid off the state debt, enabled farmers to be much more price competitive and improve their terms of trade, and the previous government put in a rigid regulatory regime. Country people cannot understand why that regulatory regime under this government seems to have failed them on off-peak power prices altogether.

What I really want to express concern about in the short time I have is the answer to the supplementary question I asked as to whether there was to be a cap on which consumers of off-peak power would be eligible for the $118 million price assistance. I am concerned by the minister's answer because it indicated to me that there will be an attempt by the government to push people away from off peak power tariffs — off tariff D if you are in the TXU area so you will not be eligible for this particular assistance — and on to a higher tariff regime.

That is the only conclusion I can draw from the minister's supplementary answer. Another explanation is that she did not have a clue what I was talking about and was beating around the bush. That might be the circumstance, but the inference I drew was that there will be an attempt to look at the large users. Large users were not defined. Is it to be annual use, quarterly use, or what? Some irrigators who are just about to irrigate their sub-clover paddocks will have substantial quarterly electricity bills at this time of the year. Will there be an attempt to push them off tariff D, to push them away from off-peak because they will get, in the government's view, a bigger proportion of the $118 million than what it thinks they are entitled to?

I ask the minister — and I am very sorry she is not here to provide this clarification — what her intention is for off-peak users of electricity in country Victoria?

Motion agreed to.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Education Services) — I have answers to the following questions on notice: 2432, 2460–1, 2481–2, 2492–3, 2613, 2626, 2629–35, 2681, 2690.

PETITION

Rail: Nunawading station

Hon. G. B. ASHMAN (Koonung) presented a petition from certain citizens of Victoria requesting that the state government take action to prevent Connex Trains from removing staff from Nunawading railway station and leaving it as an unmanned station (553 signatures).

Laid on table.

SELECT COMMITTEE ON THE URBAN AND REGIONAL LAND CORPORATION MANAGING DIRECTOR

First interim report

Hon. N. B. LUCAS (Eumemmerring) presented report, together with appendices and extracts of proceedings.

Laid on table.

Ordered to be printed.

Hon. N. B. LUCAS (Eumemmerring) — I move:

That the Council take note of the report.

Mr President, it is with some concern that I report to the chamber on behalf of the committee. Honourable members will note in the report that has been presented a conclusion which refers to delays in the provision of information by the government, to the placement of conditions on the release of information by the government, to the breach of summonses by ministers and ministerial staff, to the failure to provide the committee with any tangible legal advice in support of the many assertions made in the correspondence of the Attorney-General, and to the failure to provide typewritten transcripts of illegible material and the responses of the Premier that pre-empt the deliberations, both of the Legislative Council and of the Legislative Assembly, which to me and to the committee are evidence of a systematic attempt by the government to divert the select committee from the responsibilities given to it by this house.

The committee believes the responses from the government, mainly through the Attorney-General, represent direct executive interference into the affairs of this house of the Parliament of Victoria.

Finally, the committee asks this house for some direction in relation to how it sees the committee might now fully discharge the responsibilities given to it. It seems to me that a conspiracy of secrecy has been entered into by the government to frustrate the activities of the committee. No matter what one thinks about the background, the reason or the goals of the committee, it is a fact that the Parliament established the committee, the Parliament set up the terms of reference of the committee, and the Parliament also set, through the standing orders under which we operate, the means by which it should operate. In my view, then — and I think I am right — the committee is actually the Parliament at work; the committee is the Parliament investigating, through a process, an issue of concern. This conspiracy of secrecy the government has entered into is frustrating what the committee has been trying to do.

I wish to briefly refer to the concept of the separation of powers. The doctrine of the separation of powers has as its objective the protection of liberty and the facilitation of good government. The concept talks about the legislative arm of government — the Parliament — the executive arm of the state, and the judiciary. In this case the Attorney-General is ignoring the right of Parliament to lawfully go about its business and is standing in the way.

Honourable members will note in the report a number of items of concern that the committee draws to the attention of the Parliament — firstly, the intervention of the Attorney-General in its affairs. Indeed, it has received seven letters from the Attorney-General — all generated, in my view, in an attempt to frustrate what it has been trying to do in investigating a number of issues to do with the appointment of Jim Reeves to the Urban and Regional Land Corporation.

The Attorney-General has put in front of the committee a range of hurdles. He suggested that the committee should meet with him — and the committee has no business with the Attorney-General whatsoever — and he is the person who has advised ministers not to send it material, advised ministerial advisers not to attend and directed people not to provide it with information.

This is of serious concern. It is an orchestrated attempt to frustrate and interfere with the work of the committee. The direction I would hope for from this Parliament is to how the committee should now proceed.

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

Hon. R. M. HALLAM (Western) — This report does not go to the substantive charter given to the committee, but instead documents the systematic attempts by the government to divert and frustrate the functioning of the committee, and seeks the direction of the Council as to how the committee might now discharge its responsibilities given the interference of the executive.

Of course the inquiry is politically charged; of course the issues being canvassed are sensitive; and of course the questions being posed tend to embarrass the government. But I do not apologise for that, particularly given that this entire issue is entirely of the government's own making.

The bottom line is that a good friend of the Premier was awarded a plum job and was awarded that job under suspicious circumstances. The question of whether candidate Reeves won the job on merit, or a major qualification was his friendship with the Premier and therefore this became another case of jobs for the boys, is a legitimate question, particularly of a government which champions and proclaims openness and accountability.

The facts established thus far include: that Jim Reeves is a close personal friend of Premier Bracks — even though that was originally denied; he was awarded the position of managing director of the Urban and Regional Land Corporation; his name did not come forward originally from the executive search consultant but from the Minister for Planning; and the first round of interviews conducted by the committee of the Urban and Regional Land Corporation board from candidates short-listed by the professional search consultants selected another candidate, who was then formally adopted as the board's preferred candidate.

And we should note, Mr President, that it is the board which has the primary responsibility under the act for the appointment of the chief executive. Mr Reeves did not rank in the first three of the seven candidates interviewed the first time around.

Hon. T. C. Theophanous — That's a lie!

Hon. R. M. HALLAM — Thank you, Mr Theophanous!

When candidate Reeves was closed out — in other words, advised that he was not the board's preferred candidate — he did not ring the board or the headhunters to complain. He actually rang Professor Neilson, the Secretary of the Department of Infrastructure.

Hon. Gavin Jennings — On a point of order, Mr President, in its deliberations the select committee took advice about the appropriate nature of the debate that was going to take place during consideration of this report this morning. I was of the view — and I believe other members of the select committee were given advice — that we were not to err into discussing issues of evidence that are still before the committee. I seek your assistance, Mr President, in providing some direction for the Honourable Roger Hallam so that he complies with what the select committee believes was to be the nature of the discussion relating to this item on this morning's agenda.

Hon. Bill Forwood — On the point of order, Mr President, the motion before the house is to take note of the select committee's report. I have had a quick glance at the report and what I can say absolutely is that all of the issues Mr Hallam has raised are well on the public agenda. I have read the transcripts of evidence — all 310 pages of them, lots of them more than once. Mr Hallam has said nothing that is not already on the public record. In the course of this debate he is absolutely entitled to make those comments.

Hon. Gavin Jennings — Further on the point of order, Mr President, I refer you to paragraph 8 on page 3 of the interim committee report. This was a matter that the committee discussed as recently as yesterday morning in its final deliberations about evidence that was going to be attached to the report which has been tabled this morning. In fact there is a conscious statement that the report deals with the evidence. It was our clear understanding that in this discussion, as distinct from the motion we may be debating in general business later today, we would not refer to the evidence received by the committee.

Hon. Jenny Mikakos — It's privileged!

Hon. T. C. Theophanous — Further on the point of order, Mr President, I venture to say that not only is it inappropriate to speak on the substantive issues in the way that Mr Hallam has done, but I also bring to your attention two other facts. Firstly, the committee declined to attach to this particular document all of the Hansard transcripts from the public hearings, which was an option for the committee. Secondly, I point out that the comments made by Mr Hallam have been made in terms of conclusions by him or attributed to conclusions of the committee which do not appear in any of the transcripts — for example, his comment about being rated no. 3 out of 7 is not correct and it is a

matter for judgment which the committee has not reported upon.

Hon. R. M. Hallam — That's not what I said!

Hon. T. C. Theophanous — It is what you said.

Hon. W. R. Baxter — He said he wasn't in the first three.

Honourable members interjecting.

Hon. T. C. Theophanous — That's his view. It is not in any of the evidence and it is not — —

Honourable members interjecting.

Hon. T. C. Theophanous — Mr President, the point I am making is that this a matter on which the committee has not reported. The committee has not formed a view on this matter and there is conflicting evidence — and as a member of that committee I am able to say that there is conflicting evidence — in relation to the comment made by Mr Hallam. If Mr Hallam wants to have a full-scale debate as to the substantive issues that have been examined by the Reeves committee, then I am happy to accommodate him, but it should be on the basis of appropriate rules and not simply in the few minutes that are made available during the tabling of this report and which have nothing to do with the contents of the report. Indeed, as is seen in paragraph 8, the report says that it does not canvass issues referred to either in information and documents provided to the committee or in evidence presented by witnesses at public hearings, but instead reports to the Legislative Council certain matters that have arisen during the course of the inquiry thus far. Mr Hallam has not addressed his comments to the matters in this report and, as a consequence, I ask you to rule him out of order.

Hon. P. R. Hall — On the point of order, Mr President, it is my opinion that Mr Hallam is quite in order to headline some of the issues that the committee has considered in its deliberations. Yes, I have had a look at paragraph 8 in the report and, sure, it says that the committee has not canvassed those issues. But nevertheless, when an honourable members stands here — as the new standing orders provide for — they are quite at liberty to tell us the issues that surrounded the formulation and the work of a committee during its progress. Of course in 5 minutes Mr Hallam cannot canvass those issues in detail, but it is quite appropriate for him to headline some of the issues the committee is dealing with and that is part of an appropriate report that Mr Hallam, as a person who is presenting a report to the chamber, is entitled to make.

Hon. Bill Forwood — I rise to speak briefly on the point of order as well, Mr President. I fully endorse the remarks made by the Leader of the National Party. I make two further comments. The first is that is very dangerous habit for Mr Theophanous to get into if he puts words in other people's mouths.

Hon. T. C. Theophanous — You should talk!

Hon. Bill Forwood — One of the issues that this chamber takes very seriously is the issue of misinterpretation of what people say. My second point is that I wonder about the sensitivity of the government and why is it so concerned about Mr Hallam putting on the record in this place in this debate — quite properly — evidence that is already on the public record?

Hon. T. C. Theophanous interjected.

Hon. Bill Forwood — There is absolutely no point of order, Mr Theophanous! The real question is why the Labor Party is so sensitive about the issue.

The PRESIDENT — Order! The motion is a take-note motion — to take note of the report that most of us have in our hands. The debate is limited to that report and honourable members coming to this debate should not come to conclusions. They should not canvass in any significant way the evidence which came out in public but which is not reported on here. So it is a relatively limited debate. The fact is that there have been certain statements made here about evidence that was sought and not obtained for a number of reasons, including a report on intervention by the Attorney-General.

I invite honourable members following to keep to the matters within the report itself. That includes the documents that are attached to the report. I uphold the point of order.

Hon. R. M. HALLAM — Mr President, I acknowledge your ruling, but I simply want to put some of the facts on the table to demonstrate why the committee is very keen to get a direction from the Council as to how it might proceed. For instance, simply the prospect of the appointment of candidate Reeves was of such concern that senior members of the — —

Hon. Gavin Jennings — On a point of order, Mr President, Mr Hallam is desperately trying to provide the scope so that he can continue the trajectory he was on prior to your ruling. I suggest that he errs by providing the Council with his subjective assessment of the evidence before the committee. He certainly does

not have any right to represent the committee's evaluation of the evidence before it. I request that you, Mr President, immediately rule him out of order.

Hon. Bill Forwood — On the point of order, Mr President, this is getting to be ridiculous. The committee has tabled a report today. Mr Hallam is a member of the committee and has the benefit of some understanding of why the report appears before us today in the form it does. He is entitled, as part of his contribution to this debate and in explaining the report to the house, to put it in the context he chooses. No-one can come in here and gag Mr Hallam from saying the things he needs to say so that he can elucidate the recommendations that lie before us. I have had a quick look at the report, and it contains some important issues. For the life of me I cannot believe that the Labor Party is using these methods in this chamber to prevent him putting on the record the issues he wishes to raise.

Hon. C. A. Furletti — On the point of order, Mr President, the honourable member is receiving notes from his adviser.

Hon. Gavin Jennings — You can have them. Do you want them?

Hon. C. A. Furletti — You know what the protocol is in this place.

Hon. M. M. Gould — You are allowed to pass notes.

The PRESIDENT — Order! It is worth reminding the house just what the report contains and therefore the legitimate scope for the debate. Firstly, the background sets out the powers of the committee, the fact that the committee was established and that certain members were nominated to the committee. It then covers the appointment of the chairman; the fact that certain named individuals provided information; that Mr Jim Reeves, a resident of Queensland, declined to respond; and that the committee had five public hearings and heard evidence from a range of public servants and others, mainly department heads.

There is a recital under the heading, 'Intervention of the Honourable R. J. Hulls, MP, Attorney-General', which sets out the seven letters from the Attorney-General, only two of which were solicited from him. Then there are recitals on the delay in the provision of information and on the ministerial breach of summonses and information on that. There are then recitals under the headings, 'Ministerial advisers' breach of summons', 'Failure to provide transcripts' and 'Pre-emptive ministerial responses', and the conclusion.

It is probably worth reading the conclusion as it is fairly short:

> Delays in the provision of information, the placement of conditions on the release of information, the breach of summonses …

Et cetera — honourable members can read that. All those are matters of legitimate debate, and debate other than on those subjects would be out of order.

Hon. R. M. HALLAM — In acknowledgment of your ruling, Mr President, I understand why the government is so sensitive about the issues. This is a matter of great embarrassment to it. That might explain why it has been keen to have this experience shielded from public view. However, in terms of the complaint that the committee brings to the chamber, I simply highlight the extent to which this has been driven directly by the Honourable Rob Hulls, Attorney-General, because it seems to be absolutely relevant in respect of the ministerial advisers who were invited to appear before the committee — and I was hoping to demonstrate why their appearance was of such moment to the committee. In that respect the Attorney-General actually advised the committee that it was his decision that they should not appear. He went out on the public record and was prepared to make that statement in the public arena. When the advice came to the committee that the ministerial advisers would not attend, we were reminded again that their non-attendance was at the absolute direction of the Attorney-General.

I make this point because it is relevant to the debate that we will obviously be having at a future date. Here is the most senior legal officer of the community instructing other members of the community that they should not simply ignore but disobey a summons from the Parliament. I wonder where the next question will take us. To me that seems to be absolutely fundamental. We can talk about the refinements of the interference, but it seems to be appropriate to focus in on the fact that the Attorney-General instructed senior members of staff to disobey a subpoena of this Parliament.

Hon. GAVIN JENNINGS (Melbourne) — In the time that is available to me I want to ensure that we discuss the nature of the interim report. Let's start with the first issue, the resolution adopted on 5 December by this chamber. Amendments to that very resolution were put by the government to try to obtain a balance in the representation on the committee to ensure that it operated in a bipartisan fashion. We sought to amend the motion so that there was a quorum requirement to ensure there was government attendance required at each committee meeting. We seriously failed in both

those endeavours. The Legislative Council did not accede to those amendments. From day one, the first meeting of the select committee, we saw the committee operate in a partisan fashion. I alert the house to the extracts of proceedings attached to the interim report. Paragraph 4 contains a resolution standing in my name:

> The first of numerous abuses of process by Liberal–National members began at the committee meeting of 7 December 2002, when they used their numbers to ensure that they retained control of the deputy chairman's position and refused to allow the media to cover its deliberations.
>
> At the same meeting the Liberal and National party members of the committee used their numbers to refuse to seek information from the former Premier, Mr Kennett, and the former Treasurer, Mr Stockdale, concerning the process of appointment of the previous managing director, Mr Des Glynn.

It goes on:

> Liberal–National members of the committee have agreed to numerous abuses of process including (a) the failure to provide for any legal costs incurred by witnesses, (b) the decision to breach longstanding protocols to summons rather than invite witnesses to produce documents and to attend, (c) failure to provide witnesses with 'adequate notice' to attend.

While they agreed at that meeting that it was appropriate to consider the previous appointment processes, time and again the select committee members have not been prepared to analyse the process that led to the appointment of Mr Stockdale's friend Des Glynn at that time. In fact, they were prepared to invite Des Glynn as a witness to provide evidence as a hearsay witness. But they have not been prepared to invite or summons previous Premier Kennett or Mr Stockdale or former Minister for Planning and Local Government, the Honourable Rob Maclellan, to attend the select committee, and the committee has the capacity to invite those previous ministers to attend the committee.

However, there is something that the committee does not have the power to do. It does not have the power to summons the Premier, the Treasurer or the Deputy Premier to the committee. In fact, there has been much commentary in the public domain about whether the committee does have that power. Prior to the committee being established on 5 December the Leader of the Opposition in the other place said on public radio, 'We, the committee that is controlled by me, Dr Napthine, does have the power to subpoena the Premier, the Treasurer and the Deputy Premier'.

He said that on 29 November. It is arguable whether the committee had the power to summons ministerial advisers. There is much precedent in Australian parliaments throughout the nation, some as recent as a reference by the Prime Minister of Australia to insist that on the basis of protocols and agreed procedures and on the basis of his understanding of these matters his advisers will not appear before a Senate select committee, so I would suggest that it is a contestable issue whether ministerial advisers belonging to ministers in the Assembly or in the Council should be called before a committee.

In particular I draw to the attention of honourable members in this chamber the guidelines that apply to select committee hearings which say that even if they do attend they can claim privilege in relation to their employment relationship with their minister and could if they did so appear claim immunity from answering any questions on the basis of privilege.

A lot of attention has been drawn to the intervention by the Attorney-General. The Attorney-General has provided a legal framework for the committee to operate within for the calling of witnesses and the receiving of documents. A song and dance has been made about what has been denied to the committee. What has been denied to the committee is appendix 4 — one document! — the personal CV of Mr Reeves, who has been much maligned and abused by the Leader of the Opposition, members of the select committee and honourable members of this chamber. So why would he not withhold it until he gets undertakings that it is going to be used in a sensitive fashion?

Three other documents have been withheld — three only — and they relate to withholding the names of other individual candidates. There has been no withholding of — —

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

Debate adjourned on motion of Hon. BILL FORWOOD (Templestowe).

Debate adjourned until next day.

PAPERS

Property Leasing Ltd — Financial reports for the 12 months ended 30 September 2001 and for the period ended 6 December 2001.

SELECT COMMITTEE ON THE URBAN AND REGIONAL LAND CORPORATION MANAGING DIRECTOR

Assembly ministers

Hon. BILL FORWOOD (Templestowe) — I move:

> That this house requests the Legislative Assembly to grant leave to the Honourable S. P. Bracks, MP, Premier of Victoria, the Honourable J. W. Thwaites, MP, Deputy Premier and Minister for Health, and the Honourable J. M. Brumby, MP, Treasurer, to appear before the select committee of the Legislative Council on the Urban and Regional Land Corporation managing director to give evidence and to answer questions in relation to the committee's terms of reference.

At the outset, before I get into my speech proper, I should just pick up the last bit of the Honourable Gavin Jennings's contribution on the previous motion when he said that the Premier, the Deputy Premier and the Treasurer had been summonsed by a committee of this chamber.

Hon. Gavin Jennings — I didn't say that.

Hon. BILL FORWOOD — You did not say that? Okay.

Hon. Gavin Jennings — I said we did not have a right to.

Hon. BILL FORWOOD — Well, we do not have a right to, that is absolutely apparent, and we are not going to do it. I will deal with that in a moment.

Hon. Gavin Jennings interjected.

Hon. BILL FORWOOD — If he said something different he was wrong. This chamber does not have the capacity to summons ministers.

The starting point for this very important motion for this house, this state and the executive government, is of course the events that led first to the selection of Mr Reeves to the chief executive officer's position, subsequently his decision to step aside from that appointment and, thirdly, of course, to the establishment of the committee in this chamber on 5 December. It is worth reminding people that when moving that motion to establish the select committee we talked about whether or not the people of Victoria were entitled to know the truth behind the story, the real reasons why the government effectively relieved the board of its statutory responsibility, why the events occurred, and who was ultimately responsible for the events that led up to the establishment of this committee.

Since that time and during that debate members of the government accused the chamber of conducting a witch-hunt and acting in a way that is prejudicial to the operations of the Parliament. I would say without any risk of contradiction that one of the main functions of a chamber like this is to hold the executive government to account, to seek information and to make that information public. This is not a witch-hunt; it is a legitimate select committee established by this Parliament — —

Hon. T. C. Theophanous — It is a Star Chamber.

Hon. BILL FORWOOD — It is not, as the Honourable Theo Theophanous would have us believe, a Star Chamber. It is legitimate and designed to get to the bottom of this tawdry affair so that the people of Victoria will know the full story. As I pointed out, they are entitled to know the full story.

Considerable evidence amounting to 310 pages of transcript has been taken to date, and a list of people who have given evidence to date is contained on page 2 of the interim report.

It is worth putting on the record who they are: Mr Tabe, governance, Department of Treasury and Finance; Mr Hawkes, director, commercial management, Department of Treasury and Finance; Des Glynn, former chief executive officer of the Urban and Regional Land Corporation (URLC); Mr Carr and Ms Spinley from Heidrick and Struggles; several board members, past and present, of the Urban and Regional Land Corporation — Mr Davis, Ms Dickschen and Mr Petrovs; a number of public servants — Paul Jerome from the Department of Infrastructure, Bryce Moore, the acting chief executive officer of the Urban and Regional Land Corporation, Terry Moran, the secretary of the Department of Premier and Cabinet; another board member, Owen Lennie; Mr Ray O'Halloran from the Department of Infrastructure; various other public servants — Hesketh, Heywood and two senior public servants, Grant Hehir and Professor Neilson. Important people have attended this committee.

As I said, 310 pages of evidence have been taken by the committee to date, and I intend to touch on some of the matters covered in my contribution this morning. I make the point that the committee has yet to cease taking evidence. It is my understanding that Professor Neilson has been invited to again attend a committee

hearing later this week. Who knows who else will ultimately give evidence before the committee!

I invite honourable members in this chamber and the general public to read the 310 pages of evidence that are freely available; you can get copies from the papers office at the moment. You can, if you wish, get it on the Internet. The evidence is there for all to read. If honourable members read it, as I have, they will discover that there are agreements and disagreements, there are interpretations and there are opinions, there are accepted facts and there are disputed facts, there is comment and there is innuendo; there is a whole gamut of information interpreted in many different ways that lies before the public of Victoria at the moment.

I invite people to put it together as I have done. I think different people will come to different conclusions on the basis of the evidence that has been given to date. Sometimes things leap off the page at you. Others come through a process of osmosis, because you read the early evidence given by Treasury officials and then read Mr Hehir's evidence given a couple of weeks later and you can put together different bits of information that people have given. The same applies to Mr Petrovs, and it certainly applies to the evidence given by Mr Moore and Professor Neilson.

However, as I said, some things leap off the page at you. One of the things that leapt off the page at me was part of the contribution made by Professor Neilson. As honourable members would know, Professor Lyndsay Neilson is the Secretary of the Department of Infrastructure, and he was affirmed in giving his evidence on 15 March. He spoke for quite some time — 30 pages by the Hansard record — and as I said, he will be reappearing. His evidence starts off with a substantial statement which honourable members can read for themselves. It goes through in chronological order in many ways — on this date, on that date various things happened, date by date by date. It is, as honourable members would expect from a senior public servant, a comprehensive document. If honourable members read the 30 pages of Professor Neilson's evidence they will find that virtually the whole way through he comments with authority on his view of what was going on and, as I said, he provided a substantial statement at the outset. However, he got to a particular stage where he was asked some questions and he headed for the Carmen Lawrence defence — the old 'I can't recall' number.

One of the interesting things about this is that if you read Professor Neilson's 30 pages and then you read this little paragraph it leaps off the page at you. This is a senior public servant, the head of a major department in this administration, a very capable man by all accounts, who all of a sudden suffers from the old memory lapse. It is interesting to ask when did the memory lapse occur. What was the particular incident that led to the Carmen Lawrence defence being invoked? Let's have a look at it. There is no doubt from the evidence given to the committee that about 25 July a call was made by Heidrick and Struggles, the headhunters, to Mr Reeves saying he had missed out. Guess what happened? He got on the telephone and rang Professor Neilson.

Honourable members interjecting.

Hon. BILL FORWOOD — He rang Professor Neilson.

Hon. T. C. Theophanous — How do you know?

Hon. BILL FORWOOD — I have read the evidence, I have read Mr Petrovs's evidence.

Hon. T. C. Theophanous — On a point of order, I believe the Honourable Bill Forwood is either deliberately or unintentionally misleading the house. I ask you, Mr President, to ask him to identify where the evidence that he claims exists establishes the phone call to which he has referred. He is proceeding in his contribution to simply assert that evidence exists. Since the existence of such evidence is contested by honourable members on this side of the house, I ask you, Mr President, to ask him to identify where that evidence is.

Hon. BILL FORWOOD — On the point of order, Mr President, there are a number of ways I can respond to that. The first is that I could read the document kindly handed to me by the chairman of the select committee.

Hon. Gavin Jennings — A glorified note.

Hon. BILL FORWOOD — Yes. It is obvious to members of the chamber that some people sit on this committee; I do not sit on the committee. I have read the evidence and come to my own views about it. I have my own way of doing this, and I have put these things together in my own way, as most people would. I am quite happy to quote extensively, and I intend to do so. However, I would make the point very strongly that Mr Theophanous will have an opportunity to rebut anything he wishes during debate. I am happy to read into the record of the proceedings of the house as much of the committee transcript as I like, but I do not think I need to be instructed by Mr Theophanous on which bits to read.

Hon. T. C. Theophanous — On the point of order, Mr President, I have no problem with the honourable member placing on the record his view about certain matters as long as he says it is his view, his belief or what he thinks. However, it is a different matter to say that there is evidence for this and to assert it as a matter of fact based on evidence. When an honourable member does that, he is subject to being challenged and asked to identify the source of that evidence. To date the honourable member has not identified the source.

The PRESIDENT — Order! Of course the Chair is not in possession of the transcript and cannot comment directly on it, as sometimes you can pick up two bits of paper. I think the point made by Mr Theophanous is valid in the sense that if a member says the transcript says such and such then he can be asked to justify that statement. He can also make the point that it is his belief that such a phone call took place, which is a different category. I have to uphold the point of order, so I suggest that the Leader of the Opposition take the suggestion from Mr Theophanous. He is not saying that it is not in the transcript, just that he cannot designate it. He can just say he believes it is somewhere in the transcript, and in response the members of the government can put a counter point of view.

Hon. BILL FORWOOD — For the benefit of the house and Mr Theophanous, I read from page 105 of the evidence given by Mr Petrovs before the select committee. Mr Jennings asks Mr Petrovs:

> Can you indicate to us what your recollection is of those two file notes?

Mr Petrovs replies:

> Yes. My recollection is that I received a phone call from Lyndsay Neilson some time after that date — I think the 25th, I can't recall the date — advising me that he had received notice from Jim Reeves that he had been advised that he was no longer a candidate.

Hon. Gavin Jennings — That is second hand.

Hon. N. B. Lucas — That is first hand.

Hon. BILL FORWOOD — Mr Petrovs was advised by Mr Neilson. For the benefit of the house I read from page 294 of the transcript of the select committee of what I regard is a good summary by the chairman. The chairman states:

> He got a phone call one day on or around 25 July saying, 'Sorry, you have not got the job'. What did Mr Reeves do then? He rang you. I find it extraordinary that when he missed out on the job he did not get back to the members of the board. From what we hear he accepted that advice and he rang you. It seems to me you have got your fingerprints all over this one.

I agree. He continues:

> I wonder is it a huge coincidence that Mr Reeves rang you on or around 25 July to say, 'Hey, they have closed me out. I have not been given the job. What is going on?'. Would you like to comment on that?

We then start the Carmen Lawrence defence. Professor Neilson states:

> I do not recall him ringing me at all.

In response to the chairman again he states:

> I do not recall him ringing me.

The chairman then states that the chairman of the URLC says he had a call from you that Reeves had rung you to say he had not got the job. Professor Neilson's response was:

> I do not recall that, no.

The chairman asks:

> You are denying that?

He was asked to deny it and asked what did he do. He states:

> I do not recall that.

Excuse me! I invite honourable members to read the detailed contribution of Professor Neilson. When he is asked to deny the fact that he received the call immediately after Mr Reeves had been closed out he goes to the Carmen Lawrence defence, 'I do not recall that'.

That is just by way of indicating that I have read some of the transcript. The real point I wish to make about this is that the chamber has the absolute right to move the motion that is before it today. What comes out from reading the evidence is that there are links and gaps. There are issues that need to be explained. There are things that need to be elucidated and adumbrated — some issues that need more work. The best way of getting that is to have before the committee evidence led by three principal players. Those players are the Premier, the Deputy Premier, who was the Minister for Planning at the time, and the Treasurer, who is required by the act to be involved in the process. What is incontrovertible is that the attendance of these three people would enable the air to be cleared. It would enable the people of Victoria to better understand what happened, as they are entitled to do.

I now turn to the issue of the capacity of this house to move the motion before it. Standing order 226 at

page 54 of the Legislative Council standing orders states:

> If the council, or any committee thereof (not being a committee on a private bill), desire the attendance of a member or officer of the Assembly as a witness, a message shall be sent to the Assembly requesting that leave be given to such member or officer to attend to give evidence upon the matters stated in such message.

I refer to page 648 of the current edition of *May* where in relation to the attendance of members of the other house it states:

> Under Lords standing order no. 22 … any Lord requested by a committee of the Commons to attend as a witness before it or before any subcommittee appointed by it, is given leave to attend —

these words are important —

> if he thinks fit.

I refer to the *House of Representatives Practice* which at page 34 has a significant paragraph on the independence of the houses. It states:

> Each house functions as a distinct and independent unit within the framework of the Parliament. The right inherent in each house to exclusive cognisance of matters arising within it has evolved through centuries of parliamentary history and is made clear in the provisions of the Constitution.
>
> …
>
> The standing orders of both the house and the Senate contain particular provisions with respect to the attendance of members and officers before the upper house or its committees. Should the Senate request by message the attendance of a member before the Senate or any committee of the Senate, the house may immediately authorise a member to attend, if the member thinks fit. If a similar request is received in respect of an officer, the house may, if it thinks fit, instruct the officer to attend.

On page 640 in relation to this it refers to *May* and states:

> Standing orders of both houses set down procedures to be followed if a member of the upper house is to be called to give evidence before a committee …
>
> The house has several times resolved to grant such leave to members, adding the qualification that the member may attend and give evidence if the member thinks fit.

It is important for the house to understand that, firstly, it has the capacity to move this motion, and secondly, that the Legislative Assembly has the capacity to respond in a similar manner. I have some examples where this has occurred in the past.

Mr President, you would be aware that on 18 March 1992 you moved that the Legislative Council requested the Legislative Assembly to grant leave to the Honourable Peter Spyker, Minister for Transport, to appear before the select committee of the Council to give evidence and answer questions in relation to the committee's terms of reference. Although that motion was passed in this chamber and went to the other place, it was not brought on for debate at that time. A similar situation occurred on 29 October 1986 when the Honourable James Guest moved that the Council request the Assembly to grant leave for ministers of the Crown, members of the Assembly, to attend meetings of the Estimates Committee. That request went to the other chamber.

The issue that I particularly want to put to this house concerns a Privileges Committee hearing of the Legislative Assembly of 26 October 1977. The Legislative Assembly invited the Honourable V. O. Dickie and the Honourable Haddon Storey, QC, to attend the Legislative Assembly Privileges Committee to deal with a matter referred to that committee by resolution of the Legislative Assembly. Honourable members who check the *Hansard* record of that debate will find that virtually without debate in this chamber at page 10788 the President announced that he had received the message, read the message, and the Chief Secretary, Mr Dickie, moved:

> That the Honourable V. O. Dickie and the Honourable Haddon Storey, QC, be given leave to attend, if they think fit, before the Privileges Committee of the Assembly.

The motion was agreed to and it was ordered that a message be sent to the Assembly intimating the decision of the house.

The records of the Privileges Committee of the Legislative Assembly indicate that on page 6 the committee was presented with papers and documents for its consideration, and considered written submissions by many witnesses who had appeared before it. Mentioned amongst the persons who gave evidence before the committee were the Honourable Haddon Storey, QC, MLC, Attorney-General, and the Honourable V. O. Dickie, MLC, Chief Secretary. What is apparent is that there is capacity for ministers to attend committees of the other chamber simply by the passage of a resolution that enables members to do so if they see fit.

Hon. T. C. Theophanous interjected.

Hon. BILL FORWOOD — Mr Theophanous says that no-one is contesting that.

Hon. T. C. Theophanous — You haven't established a claim for why they should.

Hon. BILL FORWOOD — I am quite happy to do that. What I am doing, Mr Theophanous, is establishing that these three ministers in the Assembly absolutely have the capacity to appear if they see fit to do so. You are, Mr Theophanous, part of the government who trumpeted open, honest and accountable; you are the government that says you have got nothing tricky to hide. These three ministers have the capacity to attend if they see fit.

Hon. Gavin Jennings interjected.

Hon. BILL FORWOOD — They should be accountable to the people of Victoria, Mr Jennings. We, in the opposition, look forward to this motion passing this chamber today and going to the Assembly, where it will be debated — I do not care how long it takes. Then the ministers will have to make up their minds whether or not they see fit to attend before this house.

Hon. T. C. Theophanous interjected.

Hon. BILL FORWOOD — Mr Theophanous keeps asking me to establish my case. As I pointed out, I was going to first establish the capacity of the house, then I was going to go through all the reasons why they should appear. But it seems to me that there is another interesting wrinkle in this issue — that is, the role of the Independents. It seems to me crucial that the Independents have a view on whether or not these three ministers should take the opportunity to attend. The ministers have the capacity if they see fit.

I refer honourable members to a very good article in the *Herald Sun* of 1 December 2001 by John Ferguson. It is headed 'Independent, to a degree' and discusses the role of the Independents in some of these issues. Mr Ingram of course had gone out and said:

> I stand by my charter, and there are some people within the government who seem to have forgotten they are in a minority government.
>
> If they limp from crisis to crisis and there's another lot of damaging revelations I would consider my position.

'His words, not ours', says Mr Ferguson. The article goes on to say:

> Despite all the huffing and puffing about accountability and openness, both Mr Savage and Ms Davies have not shifted one bit in their support for the Premier.
>
> Mr Ingram, meanwhile, made plenty of noises on Thursday — across all media — but they are words that today seem hollow indeed.
>
> …
>
> The truth is now clear; that as much as the Independents knew the Premier and his government had behaved appallingly, they were never, ever going to do anything about.

Now the Independents have the opportunity to do something about it, because if this motion passes this chamber and the resolution goes to the other place the Independents will have the capacity without much debate to say that the Assembly gives leave if the members see fit for them to appear before the Council.

I hope to meet with the Independents — I will certainly seek a meeting with them — and will put to them in no uncertain terms that the evidence as it exists at the moment would be neatly rounded out if the Council had the capacity to talk to three key players — that is, the Premier, the Deputy Premier — the former Minister for Planning — and certainly the Treasurer. I will put to the Independents that they should, in line with their charter, agree with the resolution being debated in the Assembly so that the choice then rests firmly with the three ministers on whether they will or will not attend. I will point out that the ministers cannot then hide behind the fact that they are ministers of the Assembly and that the choice itself will come back to the individual attitude of each of the Independents. That is an issue the Independents should seriously think about as they approach the debate, as it will come. They have a crucial role in this, and I look forward to meeting with them.

Mr Theophanous has been challenging me for quite some time to give reasons why I think the Premier, the Treasurer and the former Minister for Planning should appear. I believe I could go to any page in this document and find a reason that would entitle me to ask for their attendance. So many issues come up, page after page, and I am happy to go through a number of them today.

Let me start with this one — it is a relatively simple issue based on an email and two letters. The email originates from Grant Hehir. Honourable members would be aware that Grant Hehir is the deputy secretary of the Department of Treasury and Finance, and he gave substantial evidence to the committee. On 18 September 2001 he sent an email to Lyndsay Neilson, with copies to Terry Moran and Jillian Wyatt at the Department of Treasury and Finance, although I do not know who Jillian Wyatt is. The email states:

> Lyndsay, this looks ok, however, should there be a process of bringing the Treasurer into the loop prior to the minister writing.

The circumstances as we have them at this time are that a draft report is being prepared after the second round of interviews, and it recommends that Mr Reeves be

given the job. As part of the consultation process the report has been sent to Grant Hehir, and he says that it looks okay, but there should be a process of bringing the Treasurer into the loop prior to the minister writing.

Hon. T. C. Theophanous — On a point of order, Mr President, I am not sure what document the Honourable Bill Forwood is reading from, but if it is a document which is an email that was made available to the committee that document certainly is not part of the interim report that has just been tabled.

It is not part of the Hansard transcript of the evidence that is publicly available, although there is a record of what witnesses said. If it is a document which has been made available to the committee in the form of evidence and is the property of the committee, then I would ask Mr Forwood to identify — —

Hon. BILL FORWOOD — Are you accusing me of that?

Hon. T. C. Theophanous — I ask Mr Forwood to identify where he got the email from and whether in fact it is an email that is part of the evidence that was provided to the committee.

The PRESIDENT — Order! If an honourable member is quoting from a document and another honourable member seeks confirmation of the nature of the document, then the honourable member is entitled to do so and should do so. But there is no requirement for the honourable member to say where he got it from. I am not aware of any such request before. Therefore I do not allow the point of order.

Hon. T. C. Theophanous — On a further point of order, Mr President, I would like you to clarify whether it is appropriate for documents which have been made available to the committee as part of its process of requesting documents to then be made available to other honourable members who are not members of that committee. I ask that you indicate to the house that that would be totally inappropriate. It is possible that Mr Forwood got this email from some other source, in which case he is at liberty to quote it. I want you, Mr President, to indicate to the house whether or not it is appropriate for documents which have been made available to the committee to be made available to other honourable members in this house, as that would be a breach of privilege.

Hon. BILL FORWOOD — On the point of order, Mr President, this is a bit rich. If Mr Theophanous wants to accuse me of a breach of privilege, he has methods for doing it.

Hon. T. C. Theophanous — Where did you get the email from?

The PRESIDENT — Order! The honourable member himself provided the answer. I do not know the nature of this document so I am relying on your description, but it is possible that a document could come to a member of this house through any number of means. Certainly in relation to the principal point — and this relates to all committee members — if information comes to them during the course of their proceedings, including documentation that is not part of the public processes, then that document should not be made available by members of the committee to any outsider. That applies to all sides of the house. There is still no requirement for any honourable member to identify where they got a particular document from, but Mr Theophanous is entitled to confirm that the document the honourable member is referring to is an email dated so and so.

Hon. J. M. Madden — Further on the point of order, Mr President, I seek that you clarify with the honourable member that this document has not been sourced inappropriately.

The PRESIDENT — Order! That is not a point of order.

Hon. BILL FORWOOD — A couple of issues come out of this — —

Hon. T. C. Theophanous — Where did you get it from?

Honourable members interjecting.

Hon. BILL FORWOOD — You guys! Mr President, Mr Theophanous and the minister are seriously very sensitive about this issue.

Hon. T. C. Theophanous — You have no respect for the committee system!

Hon. BILL FORWOOD — Mr Theophanous accuses me of having no respect for the committee system.

Hon. T. C. Theophanous — How many emails has Mr Lucas given you?

Hon. BILL FORWOOD — Mr President, let me pick up the interjection. Mr Theophanous has asked me across the chamber, 'How many emails has Mr Lucas given you?'. The answer is none.

Hon. T. C. Theophanous — What about Mr Rich-Phillips?

The PRESIDENT — Order! Mr Theophanous is on my list as one of the speakers. I now invite him to desist and allow the Leader of the Opposition to continue his speech.

Hon. N. B. Lucas — On a point of order, Mr President, I am greatly offended by his inference. Mr Theophanous has suggested in as many words by his question to Mr Forwood that I have given a document to the Leader of the Opposition. That is extremely offensive to me. If I had done such a thing I would be breaching parliamentary privilege and I demand that he withdraw and apologise.

Hon. T. C. Theophanous — On the point of order, Mr President, I did no such thing. I asked — —

Hon. R. M. Hallam interjected.

Hon. T. C. Theophanous — Of course you can debate a point of order, you dill! Mr President, I asked the question, 'How many emails?'. I did not refer to any particular email or even whether it was an email from the Reeves committee inquiry. I simply asked, 'How many emails has Mr Lucas given you? That is the only thing I said. I did not suggest that he had given Mr Forwood any. I simply said: 'How many has he given you?'. It is a simple question which Mr Lucas can clear up — and I understand that Mr Forwood has cleared it up by saying, 'He has given me no emails'. I am prepared to accept the position as outlined by Mr Forwood.

The PRESIDENT — Order! I think I have heard enough. Certainly any imputation against an honourable member that they have improperly released information from a committee would be offensive and would require an immediate withdrawal. In the context of the debate and the interjections that were made, that was the clear inference. Mr Theophanous has said that that was not his intention.

Hon. Bill Forwood interjected.

The PRESIDENT — Order! Hang on! Just let me run it. I invite and require Mr Theophanous to withdraw the comment and if he does that, that is the end of it.

Hon. T. C. Theophanous — The honourable member has not made it clear that he did not receive any emails from the committee, and in that context — —

The PRESIDENT — Order! I have put a requirement on the honourable member.

Hon. T. C. Theophanous — You got it wrong the last time, why should I accept your rulings this time?

The PRESIDENT — Order! I do not know to which you refer. I ask the honourable member to withdraw.

Hon. T. C. Theophanous — I have no respect for your rulings in these matters. I think they are absolutely wrong, but because I want to speak later I will withdraw what I consider to be a true statement.

The PRESIDENT — Order! You know the rules. You have been here long enough. Just stand up and say, 'I withdraw the inference that Mr Lucas improperly released documents to the Leader of the Opposition'. Just say, 'I withdraw', and then sit down.

Hon. T. C. Theophanous — It's about time you started giving proper rulings. I withdraw.

The PRESIDENT — Order! I point out to the house that for any honourable member who has an objection to any of my rulings a process is available.

Hon. T. C. Theophanous — I shall take it up.

The PRESIDENT — Order! No-one has done so in nine years. I look forward to the occasion.

Hon. G. K. Rich-Phillips — Also on a point of order, Mr President, following the comments of Mr Theophanous about Mr Lucas, he also attempted to make a similar inference about my conduct about the committee and emails, and I also ask that it be withdrawn.

Hon. Gavin Jennings — In fact, I may have made that reference to Mr Rich-Phillips. I am glad he has drawn attention to himself so I have the opportunity to withdraw. I withdraw.

Hon. BILL FORWOOD — It is extraordinary how sensitive the government is to this issue and trying to stop people from appearing. I invite people to read the report. Let me read to the house the email from Grant Hehir dated 18 September, which states:

> Lyndsay, this looks ok, however, should there be a process of bringing the Treasurer into the loop prior to the minister writing.

The top right-hand corner states:

> Released under the Freedom of Information Act.

As I said, the email states:

> Lyndsay, this looks ok, however, should there be a process of bringing the Treasurer into the loop —

and these words are important —

> prior to the minister writing.

On 20 September, two days after Grant Hehir says about bringing the Treasurer into the loop prior to the minister writing, the Minister for Planning writes to Mr Petrovs, chairman of the Urban and Regional Land Corporation, and says:

> Dear Mr Petrovs
>
> I refer to correspondence of the URLC of 4 July, 30 July and 17 August …
>
> Together with the Treasurer I have given careful consideration to this highly significant appointment.

We have just heard from Mr Hehir two days earlier that there is to be a process of bringing the Treasurer into the loop prior to the minister writing. Two days later the minister says:

> Together with the Treasurer I have given careful consideration to this highly significant appointment.

That letter goes on to say:

> Based on the advice from the secretary DOI… it is the firm view of both myself and the Treasurer that the URLC board should now consider the appointment of Mr Jim Reeves as managing director …

This letter, two days after Grant Hehir suggests bringing the Treasurer into the loop, says that Mr Reeves should be appointed. What is extraordinary to me is that five days later, on 25 September, the Treasurer wrote a short letter to Mr Petrovs stating:

> Appointment of chief executive officer and managing director
>
> Thank you for your letter of 17 August regarding the process of selection for the appointment of the new chief executive officer and managing director …
>
> As previously advised by the Department of Treasury and Finance, responsibility for the Urban and Regional Land Corporation 1997 rests with the Minister for Planning. I have noted the concerns of your board, and will consult with the Minister for Planning on this matter.
>
> Yours sincerely,
>
> John Brumby.

I can put those three events together — Grant Hehir on 18 September will bring the Treasurer into the loop, and on 25 September the Treasurer says:

> I have noted the concerns of your board, and will consult with the Minister for Planning.

That is not all that long — 18 to 25 September is a week. In the middle of it, on 20 September, the Minister for Planning says:

> Together with the Treasurer, I have given careful consideration …

He finishes by saying:

> … it is the firm view of both myself and the Treasurer that the board should now consider the appointment of Mr Reeves …

If there were any reason at all why at least the Minister for Planning and the Treasurer should appear before a committee to explain what is going on, it is that circumstance — —

Hon. T. C. Theophanous — What are you talking about?

Hon. BILL FORWOOD — Let me put it to you very clearly: on 20 September the Minister for Planning wrote to Mr Petrovs — got the date fixed? — saying:

> Together with the Treasurer, I have given careful consideration …

Then the minister goes on to say —

> … it is the firm view of both myself and the Treasurer that the URLC board should now consider the appointment …

That is two days after an officer of Treasury wrote about:

> … bringing the Treasurer into the loop …

Five days later they start the conversation. There is an absolute discrepancy between the time and content of the letters.

Hon. T. C. Theophanous interjected.

Hon. BILL FORWOOD — I have been through those quotes three times and I think I might cut my losses. It is obvious that you do not understand how the system works, and you are trying to confuse people. It is very simple: what I am saying bluntly is that if you so decided you could quite easily explain these issues by having the Treasurer, the minister and the Premier attend.

I turn to evidence given by two Treasury officials, Mr Tabe and Mr Hawkes, two senior bureaucrats in the Department of Treasury and Finance who said they wrote to Craig Cook, Mr Brumby's chief of staff, on 7 August. The memorandum states:

> … Mr Reeves lacked experience in the profit and loss environment to support his appointment …

It goes on to say:

> The memorandum raised the concerns held by the governance branch of the commercial division about the suitability of James Reeves to be appointed as CEO of a government business enterprise required by statute to operate on a commercial basis.

A significant part of the memorandum says that:

> It would not be possible for CD governance to support a recommendation to appoint Mr James Reeves to the position of chief executive officer and managing director of this business.

That evidence was led early on from Mr Tabe and Mr Hawkes. I invite honourable members to go to page 7 of the transcript where Mr Hallam is leading evidence in relation to this. The following exchange occurs:

> Mr HALLAM — You explained why that memorandum was sent to Craig Cook, chief of staff in the Treasurer's office, rather than to the Treasurer himself. Can I ask, firstly, whether you have had any response from Mr Cook?
>
> Mr TABE — We have had no response.
>
> Mr HALLAM — Did you have any response from Treasurer Brumby?
>
> Mr TABE — No, no response.
>
> Mr HALLAM — In the lack of any response did you consider addressing the same issues directly to Treasurer Brumby?
>
> Mr TABE — I consulted with the Department of Infrastructure, Mr Ray O'Halloran, who advised me that similar letters had come to the Minister for Planning and that the matter was being dealt with within the Department of Infrastructure and that we should hold off any action at that time, so we noted the letters, we drafted some acknowledgment letters.
>
> Mr HALLAM — So you are effectively telling the committee that you do not know Treasurer Brumby was put on notice at that time?
>
> Mr TABE — I don't know that.

That is another issue that perhaps Mr Brumby might care to share with the committee.

Later on Mr Hallam refers to the memo, which states:

> … we understand that the Minister for Planning is supportive of the appointment of another candidate, Mr James Reeves …

This is a memo sent by senior Treasury officers internally to the Treasurer's chief of staff. In it they say:

> … we understand that the Minister for Planning is supportive of the appointment of another candidate …

Mr Hallam puts on the record the whole sentence:

> The board has recommended the appointment of Mr Mark Henesy-Smith as the new chief executive officer and managing director of the URLC following an executive search and interview process. However, we understand that the Minister for Planning is supportive of the appointment of another candidate, Mr James Reeves.

Mr Hallam asks:

> How did you come to that conclusion?

Mr Tabe replies:

> I learnt it from Mr Hawkes.

Then Mr Hallam says:

> Then I address the question to Mr Hawkes.

Then Mr Hawkes replies:

> Indeed you may. I am not entirely clear of the exact person who told me this information — —

Hon. Gavin Jennings — But you are going to rely on his evidence!

Hon. BILL FORWOOD — Yes, we rely on his evidence, because he wrote it in a memo to the Treasurer.

Two things come out of this — again reasons why the Minister for Planning was quoted in the comment 'we understand that the Minister for Planning is supportive of … another candidate'. Let me make the point: this is before the second round of interviews; this is the time not long after Mr Reeves made his phone call to Professor Neilson which caused the whole process to be aborted and another one to be started. I can go somewhere in my documents to a statement that indicates that Mr Thwaites was the person who instructed that the process should start again. Surely that is another issue that Mr Thwaites should be happy to clear up for the people of Victoria, just as the Treasurer, Mr Brumby, should be very happy to clear up the issue that he did not respond in any way, shape or form to the original memos sent to him by Mr Tabe and Mr Hawkes.

Hon. Gavin Jennings — Was it to the Treasurer?

Hon. BILL FORWOOD — The first one went to the Treasurer. The second one, Mr Jennings — —

Hon. Gavin Jennings — The second one went to the Treasurer. The first one went to — —

Hon. BILL FORWOOD — By way of interjection, did he respond to the second one?

Hon. Gavin Jennings — Yes, he signed off the letter.

Hon. BILL FORWOOD — He signed off the letter. And he responded to the second one?

Hon. Gavin Jennings — Yes.

Hon. BILL FORWOOD — Which letter did he sign off?

Hon. Gavin Jennings — The letter of 25 September. You said so yourself.

Hon. BILL FORWOOD — Thank you very much. Is that the only letter he ?

Hon. Gavin Jennings — Good chance.

Hon. BILL FORWOOD — Good chance; thank you very much. The cabinet secretary now tells us that the only document we have a signature on from Mr Brumby is in fact the letter I read before. Okay.

There are a lot of questions we should ask the Treasurer about his involvement in this process. Under the act the Treasurer is required to be consulted in relation to this, but the level of consultation seems cursory at best at any stage in the process. His own department wrote to his chief of staff and suggested that there were issues that needed to be addressed. He raised it with the chief of staff.

Because the chief of staff has yet to appear, we do not know what the chief of staff's response was, but I will tell you what we can do. The minister can turn up and tell us whether he had a conversation with his chief of staff or whether he had a conversation with the Minister for Planning. All Mr Jennings has done is confirm for the record that the only document the Treasurer has ever signed on this is the letter we subsequently discovered, which says — I read it a few moments ago — that he will consult with the Minister for Planning on the matter.

An Honourable Member — It was a bit late, anyway.

Hon. BILL FORWOOD — It was a bit late anyway — five days after the letter had gone from his colleague. But if there is one issue alone that requires the attention of both the Treasurer and the Minister for Planning it is the issue of what discussions they had about this matter. What was the process that they followed?

I can pick up page after page of this transcript and find these issues. It seems to me that it is imperative that to clear these issues up there be some formal relationship between the Treasurer and the Minister for Planning — yet the cabinet secretary tells us that it gets down to one two-paragraph letter.

Hon. Gavin Jennings — No, I did not say that.

Hon. BILL FORWOOD — You said, 'Good chance'.

Hon. Gavin Jennings — 'Good chance', I said. If you are going to allow this, Mr President, there is also a piece of correspondence from Mr Hawkes saying that the Treasurer defers to the Minister for Planning as lead minister to take responsibility for this matter.

Hon. BILL FORWOOD — Thank you. I pick up the interjection by the cabinet secretary. I would think that would automatically be a question the committee would like to ask the Treasurer — under what circumstances does he defer to the Minister for Planning? He has a statutory responsibility — —

Hon. Gavin Jennings interjected.

Hon. BILL FORWOOD — He has a statutory responsibility under the act!

Hon. Gavin Jennings — Who is responsible for the act? Who is accountable to Parliament for the act?

Hon. BILL FORWOOD — Mr Jennings, it seems to me that the more you talk the deeper the hole you dig.

Hon. Gavin Jennings — No, there is only one minister accountable to Parliament for the act, and that is the Minister for Planning.

Hon. BILL FORWOOD — We have been dealing with two Treasury officials. I am keen to move to another Treasury official, Mr Grant Hehir, who is the deputy secretary of the Department of Treasury and Finance and who I understand was the acting secretary during the course of this issue. It really is interesting to read his evidence and to contrast it with that of Mr Tabes and Mr Hawkes, who gave evidence earlier.

Hon. Gavin Jennings — Who is the senior official?

Hon. BILL FORWOOD — Senior official?

Hon. Gavin Jennings — Who is the most senior official?

Hon. BILL FORWOOD — What becomes really apparent is that Mr Hehir is on the record at page 249 as saying:

> … it is a responsibility of the ministers to take decisions and actions.

So in a discussion about what was happening in relation to the issue, Mr Hehir says quite clearly:

> … it is a responsibility of the ministers to take decisions and actions.

I agree with that. What should happen in these circumstances is that the ministers who are responsible to take the decisions and the actions should appear before the committee to explain what those decisions and actions are and not hide behind the words of public servants.

Mr Hehir is on the record at page 247 and beyond talking in some detail about this issue and the original memorandum that I mentioned a few moments ago. Mr Hallam asked:

> Are you familiar with that memorandum?

Mr Hehir replied:

> Yes.

Mr Hallam asked:

> Were you consulted before that memorandum was framed?

The answer is:

> No.

Mr Hallam then went on to say that the memo says — and this is the one I read recently:

> … we understand that the Minister for Planning is supportive of the appointment of another candidate …

He went on to say:

> … under the heading 'Comments and issues' it goes to the basis upon which those concerns in respect of Mr Reeves's suitability should be brought to the attention at least of the chief of staff in the Treasurer's office.

He then went on to say that that memo says:

> It would be not possible for governance to support —

the recommendation. Mr Hallam then asked Mr Hehir whether he got a copy of it, to which Mr Hehir said no. Mr Hallam then asked him when he saw it, to which Mr Hehir replied:

> I received a copy of the memorandum as a result of a conversation I had with Craig Cook. That is my recollection. That occurred in one of two ways: either I mentioned to Craig that I was going to sit on the interview panel and he mentioned to me that he had this memorandum and showed it to me, or he mentioned he had the memorandum and I said I was on the interview panel and expressed an interest in seeing it — one of those two.

So we understand that at that stage a senior departmental official was in the loop. Mr Hallam asked Mr Hehir:

> Did you discuss the appointment of Mr Reeves with the Treasurer at any time before the interview process?

The answer, of course, was no. Right? So Mr Hallam later went on to say:

> So what you are telling the committee is that you agreed to participate in the second round of interviews, that you were aware at the time of the concerns being expressed by senior members of your staff, but that you did not discuss those concerns with anyone before you participated in the second round …?

And Mr Hehir replied:

> That is correct.

He later went on to discuss the relationship between the chiefs of staff and their ministers. But the issue then is: if we had the Treasurer in front of us we would be able to discover from him how he was involved in this stage of the process, when the senior official of his department was now going to sit on the newly reconstructed interview panel.

It is possible to talk further about the relationships that occur in the Department of Treasury and Finance surrounding this issue. A number of matters come through, particularly the email from Angie Dickschen which referred to Grant Hehir from the Department of Treasury and Finance. Through his questions during the interview process Mr Hehir identified key bits missing in Reeves's background. What becomes apparent as you follow this process through is that so much pressure was on — and you can read the evidence and see that other people have said much pressure was on — that the URLC board decided they needed to find a way of both accommodating Mr Reeves and protecting the organisation.

As a result of that Mr Hehir was involved in a mechanism for upgrading the role of Bryce Moore and getting him onto the board and into a more senior position. Obviously the Treasurer should be asked whether or not he was involved in the process of doing that, as one would have expected him to have been under the act.

Further, I refer honourable members to pages 264 and 265 of the select committee's transcript, where a number of questions were asked about what information the Treasurer received and what he did.

Mr Hehir says that he never discussed the issue with the Treasurer. The transcript states:

> The CHAIRMAN — What advice then do you believe the Treasurer was acting on in participating in this process with Minister Thwaites?
>
> Mr HEHIR — I believe he would have been acting on the advice received from the interview process, which I participated in.
>
> Mr CHAIRMAN — How did that information get to the Treasurer?
>
> Mr HEHIR — I am not aware of how that information got to the Treasurer.
>
> Mr CHAIRMAN — Are you saying to me that you represented the Department of Treasury and Finance on the interviewing committee and the Treasurer never asked you any questions or had any discussions with you about your participation on that interviewing panel.
>
> Mr HEHIR — Yes.

So the Treasurer can be asked a range of legitimate questions in relation to this matter. At the top of page 265 of the transcript it states:

> The CHAIRMAN — In terms of the Tabe and Hawkes memorandum, are you aware that the Treasurer got the document?
>
> Mr HEHIR — No.

Simple questions to ask the Treasurer would be: 'Did you get the document?'; 'If you did get the document what did you do with it?'; 'Weren't you concerned that you ultimately signed off and gave this job to a man who had been described by officers in your own department in this way?'; and 'Weren't you concerned, Mr Treasurer, that an artifice was put in place by your own permanent head to prop up a clearly inferior candidate?'.

Surely these are all questions that legitimately should be asked of the Treasurer. I say quite openly that it is absolutely up to the Legislative Assembly to give the Treasurer the choice whether he sees fit to go before the committee or not. In the end it is entirely up to the Treasurer, it seems to me, to make up his mind whether he wants to turn up or not.

I have another question, which is perhaps a bit cheeky, but I think it should be addressed seriously to the Treasurer: 'Did you know about the brewery?'. I wonder how the Treasurer, who is in charge of the finances of the state, would have taken it if he had known that a person who had presided over the collapse of a brewery was the most suitable person for the job. What springs to mind is the extraordinary discussion about an exchange of emails on 17 August between Ms Dickschen and Mr Petrovs. On page 109 of the transcript the Honourable Roger Hallam said to Mr Petrovs:

> Indeed, I have here an email message addressed, presumably by you, to Ms Dickschen which says that, 'Reeves, on reflection, would be incapable of doing the job unless he had a 24-hour-a-day nursemaid'.

This email was sent on 17 August. We now know that on 25 September the Treasurer signed a letter on the appointment of Mr Reeves, a man who had been described by a proper government appointment as someone who, 'on reflection, would be incapable of doing the job unless he had a 24-hour-a-day nursemaid'. It seems to me that among the many questions that the Treasurer — —

Hon. W. R. Baxter — How could anyone continue to support this government?

Hon. BILL FORWOOD — Surely, Mr Baxter, a question the committee should ask the Treasurer is, 'How do you feel about your signing off to support a person described by your own department in the memo from Mr Tabe and Mr Hawkes as not being up to the job and later on the basis of an email — which was provided to the committee, but which I have not seen — which says, 'Reeves, on reflection, would be incapable of doing the job unless he had a 24-hour-a-day nursemaid'.

Mr President, let me now turn to issues to do with the then Minister for Planning.

Sitting suspended 12.58 p.m. until 2.07 p.m.

Hon. BILL FORWOOD — Before lunch I was dealing with the reasons the Premier, the Deputy Premier and the Treasurer should consent to appear before the upper house select committee into the appointment of the Urban and Regional Land Corporation managing director. I bluntly made the point that the capacity exists for this house to send a message to the Legislative Assembly. The capacity exists for the Assembly to so do it in a way that would enable those ministers — the Premier, Deputy Premier and Treasurer — to appear if they saw fit.

I pointed out that this had in effect happened in 1976 or 1977 when two members of this chamber — Haddon Storey, then the Attorney-General, and Vance Dickie, then the Chief Secretary — had been given leave by this chamber to appear before the Legislative Assembly Privileges Committee if they saw fit. They did see fit and they attended and gave evidence in a committee of another place.

There is absolutely no reason why the Premier, the Deputy Premier, and the Treasurer should not appear before the upper house. There is a precedent for this and in those circumstances I believe they should — it is their choice but they should appear. I will be entering into discussions with the Independents in a way that I believe will encourage them to support a motion in the Assembly that will enable the three ministers, if they so choose not to hide behind the skirts of the Assembly, to appear before the committee.

Honourable members will recollect that I then went on to discuss in detail reasons why the Treasurer should appear here and I quoted extensively from the transcripts of evidence given to the committee to date. That has taken quite some time but I did it in response to a challenge from Mr Theophanous to justify everything I said. I can continue to do that all afternoon.

I believe I have established sufficient reasons why the Treasurer should attend, if he so desires, because the people of Victoria are entitled to know what was going on. I quoted from correspondence from the Department of Treasury and Finance which demonstrated that on 25 September the Treasurer wrote a letter to the URLC stating that he would enter into discussions with the then Minister for Planning — and that was five days after the then Minister for Planning wrote on both his own and the Treasurer's behalf indicating Mr Reeves should be appointed. That is a significant discrepancy with the stories that have been given to date and is of itself a sufficient reason why the Treasurer should appear before the upper house inquiry to answer questions into what he did or did not know.

I do not propose to deal any further at this time with the Treasurer but propose to turn to issues to do with the then Minister for Planning and what questions he might care to answer if he chose to appear before the upper house inquiry. I turn to the transcript of evidence dated 15 March that relates to evidence given by Professor Neilson. On page 293, in discussions with the chairman of the committee, Professor Neilson goes into the first trip — I think I can call it that. That was the trip made by the then Minister for Planning to Brisbane in November 2000. The chairman stated that evidence had been given that when they went to Brisbane in November 2000 they were in fact met at the airport by Mr Reeves. At page 294 the chairman said:

> … we have evidence of three or four emails direct from the minister's office to Mr Reeves. We have evidence that Mr Reeves met them at the airport. We have evidence that Mr Reeves was at the dinners and the meetings and was the chauffeur at the time.

I am not saying there is anything suspicious about the fact that when they got to Brisbane they met with Jim Soorley's chief of staff, Mr Reeves. I am saying there are questions going back some time about the relationship between a minister of the Crown — who is now choosing or likely to choose, or says he will not attend but has the option of appearing before the committee — and Mr Reeves, and what happened from then on. There is no doubt that at that meeting Mr Reeves spent a considerable amount of time with the group, and if honourable members so wish they could turn to the transcript of evidence from Mr Jerome which also raises issues about conduct at that time.

The evidence shows there was also a dispute about who was the person who actually put Mr Reeves's name on the headhunter's list. Evidence indicates that there was a real dispute between whether or not it was the then Minister for Planning who put forward Mr Reeves's name or whether it was Professor Neilson. At page 297 of the transcript Professor Neilson says quite bluntly:

> I suggested he be added to the list.

Whereas on the next page the chairman again says:

> One final question from me. The document that was given to us, which was a document prepared as I understand in Mr Thwaites's office, says this, and I invite you to comment on it, 'On 11 May, I met with Mr Jim Reeves; my chief of staff, Andrej Zamers; and my planning adviser Maria Marshall also attended that meeting. I' — the minister — 'advised Jim Reeves that I had put his name forward as a candidate for the position.'

On the page before it was Professor Neilson.

The minister goes on to say that he thought he had to be the best person for the job and come out that way through the proper process. Well, isn't that interesting! We know that a proper process was followed — Heidrick and Struggles ran it. We know the board at the end of the proper process made a recommendation that Mr Henesy-Smith should be appointed to the job. We know that the moment Mr Reeves was no longer required he was, in the parlance, closed out from the job, and that at that moment he rang Professor Neilson and the process started again all of a sudden, despite the fact that the proper processes had been gone through. So much for the position of the Minister for Planning at the time!

I would say there is absolutely a reason why the Minister for Planning should appear before the inquiry to answer questions in relation to this. It is very clear that a proper process had been followed, that the moment Mr Reeves was discontinued from the process he was on the phone to Professor Neilson and Professor

Neilson had started the whole process again, and the whole process was subverted. As I demonstrated earlier this morning what became apparent was that the Treasurer, who had responsibilities under this, was kept completely in the dark. They are issues which the Treasurer must answer himself.

There is no doubt that the then Minister for Planning has his fingerprints all over this. I return to a quote I used earlier this morning in relation to the Treasurer when Alan Hawkes told Geoff Tabe, a bureaucrat — this is also in the transcript of evidence I quoted earlier — that he had learnt that the Minister for Planning was involved in the appointment process and might be supporting Jim Reeves. This, of course, came after evidence had been given by them that Mr Reeves was not a suitable candidate and that he would, as someone said later, need a 24-hour-a-day nursemaid because he was not capable of doing the job.

So Mr Reeves was firmly placed in the minister's office in Melbourne on 11 May. We know that the process was just then about to start and that just before that, on 14 April from memory, an article had appeared in a Brisbane newspaper suggesting that Mr Reeves was going to get a top job down here. It is possible to follow through, and I can refer honourable members to evidence given by Mr Petrovs when the chairman said quite early on in the process:

> You are aware that there was a report in the Brisbane *Courier-Mail* of 14 April suggesting Mr Reeves had a job with his friend, Bracks, to use the words from the paper?

Petrovs said he was not aware of the article. The chairman said:

> That was around the time that you are saying the rumours were going around the URLC.

Mr Petrovs then said he:

> … thought the rumours were going around the URLC and out into the streets, if you like, well before that date.

Thank you for volunteering that! So, well before that date, the Minister for Planning was in Brisbane with Jim Reeves in November. We have Mr Reeves and family and the Premier and family on holiday near Brisbane on Stradbroke Island early in the next year, a couple of months later. Not long later, in April, we had newspaper reports that he had got the job. But, more than that, we had Mr Petrovs saying that in March or April — Mr Petrovs words — the rumours were around that he would be getting the job with the URLC. The chairman of the select committee goes on:

> … Were you concerned about the fact that the Premier had allegedly promised a job to a Mr Reeves when indeed you had heard that — on what you are saying … prior to URLC even beginning on a recruitment process?

Both the Minister for Planning and the Premier had connections with Mr Reeves well before, and then we went through a process which the Minister for Planning says should be a proper process, but when it turns out that they do not get the person they want they scrub the process and start again.

Hon. T. C. Theophanous interjected.

Hon. BILL FORWOOD — The Honourable Theo Theophanous, of course, would always find a different spin to put on things that happened. What I say to Mr Theophanous, who is trying to put a different spin on every event that took place in this tawdry little affair, is that if we want to get to the bottom of this all we need to do is formally invite, through the process here today, the Premier, the Minister for Planning and the Treasurer to appear before the inquiry. Then we will get to the bottom of this stuff. But they will not do it. All we have had today from the government in relation to this is interruptions and heckling because government members do not think the people of Victoria are entitled to know about this process.

Hon. T. C. Theophanous interjected.

Hon. BILL FORWOOD — What you know about this, Mr Theophanous, is that well before the recruitment started, in Mr Petrovs's words, they were meeting and it was a set-up job for the Minister for Planning to ensure that Mr Reeves was heard and when he did not win in fair competition with Mark Henesy-Smith they started the process all over again.

There are questions that go also to the relationship between the Treasurer and the Minister for Planning which I covered in some senses earlier. Who is responsible under the act for the consultation process? Both of them equally. And yet the letter I read earlier says quite bluntly that:

> Together with the Treasurer, I have given careful consideration to this highly significant appointment.

It goes on to say:

> … it is the firm view of both myself and the Treasurer that the URLC board should now consider the appointment of Mr Jim Reeves …

I point out that that was two days after the officer said there should be a process of bringing the Treasurer into the loop and I point out that five days later the Treasurer said he would consult with the Minister for Planning.

The dates are all wrong. There have to be answers from the Treasurer and the then Minister for Planning; there is no doubt about that. The Minister for Planning had a number of meetings with Professor Neilson throughout the whole process and there are questions about that and questions about Marek Petrovs. What about the relationship between the minister and the Treasurer? Mr Jennings raised these issues towards the end of his contribution. The Minister for Planning wrote to Mr Petrovs on 20 September to outline his response. The Treasurer wrote to Mr Petrovs indicating that the responsibility to provide the definitive advice rested with the Minister for Planning and he deferred to the Minister for Planning to provide that formal correspondence between them. The relationship between the Minister for Planning and the Treasurer is crucial in understanding what happened here.

A letter of 17 August from the Urban and Regional Land Corporation says — —

Hon. T. C. Theophanous — How long is this going to go on for? You have been speaking for an hour and a half.

Hon. BILL FORWOOD — I will pick up Mr Theophanous's interjection: at the outset of my contribution you challenged me to provide reasons why these three ministers should appear before an upper house inquiry and I am doing that by quoting evidence. I am doing it this way because you invited me to do it. I was quite happy to put a list of questions on the record for people to consider, but Mr Theophanous asked me to do it this way and he can now sit there and listen.

In this letter dated 17 August Marek Petrovs wrote to the Minister for Planning and said:

> I understand that you have nominated an interview panel.

The minister even picked the interview panel! We understand that he had a hand in who was going to be interviewed but he also picked the interview panel. Forget about the Urban and Regional Land Corporation which had responsibility for filling the position — the minister decided that he would pick the interview panel himself. Those questions are ones that need to be answered. They can only be answered when the minister agrees to appear before this chamber's select committee, as I hope he does.

In the end, ministers of the Crown have a responsibility to the people of Victoria. The Premier needs to answer questions about his conversations with Mr Moran on 20 July when the matter was discussed with the Premier's chief of staff. He needs to answer questions about his conversations in the corridor. I think the people of Victoria would be very interested to know more about the fact that Mr Reeves applied for a position as the head of the cabinet office. It came out in evidence on page 184 that Mr Reeves was a candidate for the head of the cabinet office. I think we are entitled to believe that the Premier made real attempts to get his mate down here somehow or other; when it did not work out at the cabinet office they went the second route of the Urban and Regional Land Corporation.

The one thing we should remind the people of Victoria about this matter is that when this long-term friend, 30 years or more, all of a sudden became a political liability he became a past friend, an historic friend. Among the really tawdry things that have come out of this exercise to date has been the Judas-like betrayal by the Premier of his friend of longstanding, Mr Reeves.

There are no doubts that it is within the capacity of this house to pass this motion today. There is absolute no doubt that it is entirely appropriate for the Assembly to agree to this motion. All that would do is enable the three ministers to appear if they saw fit. It is entirely appropriate for the Independents who say that they care about open, accountable and transparent government to support this in the Assembly. There will be real interest in whether the Independents follow this up.

I will finish where I started — the people of Victoria are entitled to know the full story behind this tawdry affair. The best way of finding out the full story is for the Premier, the Deputy Premier and the Treasurer to attend.

Hon. GAVIN JENNINGS (Melbourne) — The motion before the Legislative Council today appears to be gracious, polite and in line with the forms of the house. The written words make it seem quite reasonable for the house to move that it request the Legislative Assembly to grant leave for the Honourable Steve Bracks, the Premier of Victoria, the Honourable John Thwaites, the Deputy Premier, and the Honourable John Brumby, the Treasurer, to appear before the select committee. It will not be disputed at any time by members of the government in their contributions to the debate — certainly I will not be saying it — that it is not within the domain of the Legislative Council to move such a motion and consider it.

However, I suggest that a test needs to be applied by those three ministers about whether they have enough confidence in the select committee process established by the Legislative Council to appear before it and whether they have any obligation or responsibility to appear before a select committee which has operated in

such a partisan, vindictive and vexatious manner as this one has from the day it was established. Government members believe this select committee was predetermined and prejudged by the Leader of the Opposition in the Legislative Assembly. I will be able to provide evidence to suggest, as I did in debate on 5 December when this chamber passed a motion to establish this select committee, that the Leader of the Opposition in the other house predetermined, prejudged and claimed ownership of this committee. That is the first reason ministers in the Legislative Assembly have said they have no intention of appearing before this select committee.

It is important for honourable members and the Victorian community to understand the technical arrangements underpinning this motion. It would be totally inappropriate, unacceptable and unconstitutional for ministers in the Legislative Assembly to appear before a select committee of this Council unless they received leave of the Legislative Assembly. If and when the Legislative Assembly were to say that it granted leave for those ministers, it is still within the constitution of Victoria and the standing orders of this Parliament that there is no obligation for ministers in the Legislative Assembly to appear before the committee. It is most important that we all understand the limits of this. That underpins the major justification for ministers in the other place expressing the view that they have no intention of appearing before this committee — they do not have confidence in the way it has been established and the way it operates on the basis of the predetermination — —

Hon. Bill Forwood — You are on the committee and you can do a minority report.

Hon. GAVIN JENNINGS — I will take up the interjection. I would almost guarantee to the Council that on the basis of the way in which the committee has operated to this point there will be a minority report. Clearly there is an alternative way of this story being understood in terms of the obligations on the board and the government and whether they have satisfied the requirements of the Urban Land Corporation Act, particularly in the process adopted in making appointments.

You can be certain, Mr Forwood, that at every opportunity I will take up the responsibility for making sure the appropriate story is told, rather than the totally selective story given today.

Hon. Bill Forwood interjected.

Hon. GAVIN JENNINGS — Mr Forwood, during your contribution I interjected when you suggested that you want the people of Victoria to read the extracts of the select committee report. I said that was my line.

If the citizens of Victoria or any interested observer reads the transcript they will have confidence in the government's version of events. Comprehensive evidence about the nature and appropriateness of the process followed by the government in filling this position was given by senior public servants in this state. The transcript of the select committee contains detailed assessments from senior public servants about the flaws in the original process, particularly the flaws that underpinned the poor decision made on 27 June based on a very selective appraisal given by a former member of the board that was described as one of the most unprofessional reports ever presented to a board in the history of Victoria. That is part of the 310 pages of the transcript on the public record.

The government is strongly of the view that the evidence before the select committee overwhelmingly supports the government's position, that all the processes were followed in accordance with the act and that the appointment of Mr Reeves was totally appropriate in the rubric of the act. The head of the Department of Premier and Cabinet, the acting head of the Department of Treasury and Finance and the head of the Department of Infrastructure attested at length of their confidence in the rigour brought to bear and the advice provided to the Minister for Planning, the lead minister, and the Treasurer.

I am staggered to hear honourable members opposite during their contributions display their ignorance about the accountability of ministers to Parliament in terms of their obligations to statutes. In both houses of Parliament the centre table contains the current statutes of the state of Victoria. The nature of ministerial responsibility is prescribed by ministers being responsible for various acts. That is the nature of the Westminster system. Ministers are responsible for the appropriate administration of their acts. Who is responsible for the administration of the Urban Land Corporation Act? It is the Minister for Planning. I am absolutely staggered that that fact does not seem to be recognised by the opposition in this place. I am certain that is acknowledged in the other place, and it underpins the evidence given before the committee. The Treasurer deferred to the Minister for Planning because he was the responsible minister.

I ask honourable members to go back to basics. I ask them to think about the obligations of ministers to Parliament and the laws for which they are responsible.

That issue defines ministerial responsibility. There is no evidence in the 310 pages of transcript of the select committee to indicate that the ministers were negligent or deficient in satisfying their obligation under the act.

Hon. Bill Forwood interjected.

Hon. GAVIN JENNINGS — I was present every day. I have read the evidence and I obtained the appropriate evidence. There is nothing inappropriate in the way I obtained the documentation. I have heard the evidence and know exactly what has been said. Witnesses have given extensive evidence. The committee agreed in its interim report that there is a substantive body of evidence given to the committee which indicates overwhelming compliance of witnesses appearing before the committee.

Hon. Bill Forwood — Only overwhelming?

Hon. GAVIN JENNINGS — There is a comprehensive body of evidence before us. I am confident of that evidence. I am confident that the Victorian community and members of the Parliament who go through the evidence will agree with the position adopted by the government at that committee, in Parliament and in the public domain about the appropriateness of the actions taken by senior public servants and the obligations of the two ministers under the act.

It is unfortunate that we have to go back to basics regarding ministerial responsibility. On many occasions during the course of debate in this chamber honourable members claim this house upholds the great bastions of parliamentary tradition. Time and again members in this place puff out their chests and say, 'We are the bastions of the parliamentary process'. We say in this chamber that we keep members of the executive accountable. What a joke that is.

On 5 December this house considered and debated the motion to establish the select committee, but six or seven days earlier the Leader of the Opposition in the other place appeared on the Neil Mitchell program on 3AW to take responsibility for establishing the committee. As I said during my contribution on that day the Leader of the Opposition in the other place referred to the committee as 'our' committee. He said, 'We will call the Premier. We will subpoena the Premier. We have the capacity to subpoena the Premier'.

I discussed this issue with the Leader of the Opposition in this place this morning when I indicated that the Leader of the Opposition in the Legislative Assembly had said, 'We have the power to subpoena the Premier'. He was talking on behalf of a select committee that had yet to be established by the Legislative Council. He had no right to presume what the Legislative Council would do. If this chamber is the upholder of executive scrutiny, as it purports to be, how did it allow itself to be corralled or backed into a corner by the Leader of the Opposition in the other place. I indicated in the debate on 5 December that his comments were totally inappropriate. I repeat that it is totally inappropriate for the select committee to be established in such a partisan fashion, prejudged and predetermined by the Leader of the Opposition in the other place.

On 29 November Dr Napthine again appeared on Neil Mitchell's program and said that Mr Reeves was clearly not fit to be appointed to the position. I suggest, as I suggested on 5 December, that was an inappropriate prejudging of the evidence to be given before the committee. I interjected this morning during the contribution of a member of the select committee that the summary contained in the interim report tabled this morning was inappropriate because it prejudged the standing of the candidates in relation to the appointment process, it was a subjective assessment that is not borne out by the evidence and that it prejudged the deliberations of the committee. If we are operating in a pristine world, the select committee has not considered all the evidence. The interim report tabled in the Parliament today did not include any evidence or make any judgment of the evidence presented before the committee. There has been no assessment by the committee of these matters.

Through interjection opposition members are trying to pre-judge the deliberations of the select committee. They are trying to bait me to confirm their spin on the assessment procedures, and their spin does not bear weight on the evidence presented before us. The headhunters did not do it, the board did not do it, and the senior members of the public service who analysed this issue did not do it. Not any of the evidence before us would support the proposition that is being put to me through interjection by the other side.

Hon. C. A. Furletti — So much for openness!

Hon. GAVIN JENNINGS — I take up Mr Furletti's interjection. One of the major reasons that the Premier, the Deputy Premier and the Treasurer would be most reluctant to appear before the select committee of the Legislative Council is on the basis of the selective way — the duplicitous and hypocritical way — in which this committee was established and which flies in the face of the history of scrutiny that the Council applied over the period of the Kennett regime. It was absolutely extraordinary in its hypocrisy that

through all the period of the Kennett regime, through all the issues that were of concern to the community at that time — such as the nobbling of the Director of Public Prosecutions, Intergraph, share deal scandals, the Leeds Media contract, or any privatisation deal — there was no inquiry into any of them.

Indeed, there was no inquiry into the nature of the appointment by Mr Lucas to a consultancy that he obtained in the year leading up to the 1996 election.

An Honourable Member — This is the defence of the Guilty Party.

Hon. GAVIN JENNINGS — It is fairly extraordinary that when government members on the select committee try to bring some scrutiny to bear within the committee itself about the appropriate behaviour and track record of members of the committee — we did not get to first base in the investigation of those issues — the Victorian community and Council members may be aware that the chairman of this select committee, Mr Lucas, did obtain in the year leading up to his election to Parliament a $100 000 contract — —

Hon. C. A. Furletti — Here we go, play the man!

Hon. GAVIN JENNINGS — Play the man?

An Honourable Member — Yes.

Hon. GAVIN JENNINGS — This select committee is not about playing the man?

Hon. Bill Forwood — No, it's about getting the truth for Victorians.

Hon. GAVIN JENNINGS — The unfortunate reality, Mr Forwood, is that you do not like the truth.

Hon. Bill Forwood — Absolutely, I do!

Hon. GAVIN JENNINGS — If you actually sat at the select committee — —

Hon. Bill Forwood — I have read it.

Hon. GAVIN JENNINGS — I know what the truth is. The truth is what you can obtain from the body of evidence, as distinct from hearsay and second-hand reporting. The evidence before us would demonstrate that there is a degree of appropriateness of the appointment and indeed the board, which had the obligation under the act to make the appointment, did so. The board signed off, as I said, on 27 June 2001.

An Honourable Member — Where's the evidence?

Hon. GAVIN JENNINGS — I am happy to be distracted for a minute, but I will go back to the issue of the man because the man in question received a $100 000 contract when there was no tender, no application and no process of appointment made. The chairman of the select committee was awarded a $100 000 consultancy in which he provided not one work report and not one work detail apart from expense chits put in to his employer, the then Minister for Local Government, who happens to be the deputy chair of the select committee.

Hon. Bill Forwood — On a point of order, Mr Acting President, Mr Jennings is using the forms of the house to mount an attack on my colleagues about an event that took place quite properly some years ago. Mr Jennings knows that the forms of the house require that if he wants to attack honourable members he should do it by substantive motion. The opposition would welcome him bringing a motion to this chamber, any time he wanted to, on that particular appointment. We will meet him here any day, any time. But it is entirely inappropriate for him to use the forms of the house in this debate to mount a scurrilous attack on my colleagues.

Hon. GAVIN JENNINGS — If you want to give me some direction, Mr Acting President, you are welcome to do so.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! I am not going to give any direction. Do you have anything more to say?

Hon. GAVIN JENNINGS — Certainly, I am happy to go on because the issue that I have raised — —

Hon. Bill Forwood — I raised a point of order and I would like the Chair to rule on it.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! I uphold the point of order.

Hon. GAVIN JENNINGS — I am very sorry that I provided you with the opportunity to make a ruling without making a point of order, Mr Acting President, because the issue that I was referring to — and I have actually covered it at the length that I was going to — is included in the interim report that was tabled this morning. This issue that I am being accused of — abusing the forms of the house — is in the interim report which has been considered by the house today. I have not gone beyond the scope of what is in the interim report.

Honourable members interjecting.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! The Chair has been very tolerant. There has been a lot of toing and froing in the chamber. The honourable member should stick to the motion and proceed with it, but there is too much argy-bargy across the chamber.

Hon. GAVIN JENNINGS — Thank you, Mr Acting President, for your assistance. The nature of applying standards and the high standards that we purport to bring to this exercise is something that we try to test on the select committee. It is a test that we apply in this debate today. I believe it is a test that will be applied by the Legislative Assembly and subsequently the ministers involved. I anticipate that the select committee will fail the test. I suggest to the house today that because of the way in which this house has operated, because of the way the select committee has operated, at the end of the day regardless of what happens to this motion and what happens in the Legislative Assembly the ministers will not have sufficient confidence in the method that we adopt in the committee because there has been a complete double standard applied between the scrutiny that the Council is prepared to obtain today and what it did during the period of the Kennett regime.

That will be an important test, and I believe the method we adopted on the committee will fail the test of operating in a bipartisan fashion. On 5 December when the house debated the establishment of the committee a number of opposition speakers suggested that it be established on bipartisan principles, yet when the government sought to amend the motion to ensure that the committee would be established on the basis of equal numbers of opposition and government members, that amendment was rejected.

At the first meeting of the select committee when the normal protocols dictate that, whoever takes the chair of the committee, the other side gets the deputy chair. That convention was not followed. That indicated to me as a member of the committee that rather than erring on the side of demonstrating that it was prepared to operate in a bipartisan fashion, the committee insisted at every turn on operating in a partisan fashion.

That significant test will fail when the ministers concerned assess whether they want to appear before the select committee — a significant test that the select committee itself will fail. At no time has the committee been able to operate in a way that indicates that it has not been the crude instrument of the Leader of the Opposition in the Legislative Assembly. At every turn the method adopted by the Liberal and National members of the committee has been to do the bidding of the Leader of the Opposition in the Legislative Assembly. At every turn the spin was placed on the public record by the Leader of the Opposition, as it was in that audacious interview with Neil Mitchell on 29 November when he said that Mr Reeves was not capable of performing the job. That flies in the face of the professional assessment of the three most senior public servants in the state and the evidence that has been presented before the committee.

Such questions were asked of each of the three public servants, who have an accumulated 60-year history of public service in Victorian and commonwealth jurisdictions. Why would they potentially put their reputations on the line in unanimously recommending Mr Reeves for an appointment if they were not satisfied that he was capable of performing the job, met the expectations of the URLC and the corporate direction of the board and would be mindful of the financial responsibilities required under the act.

The most senior public servants in this state have put their names to a recommendation to the Minister for Planning that Mr Reeves be appointed to the position. Why would they do so if they were not confident that it satisfied their years of experience in public sector recruitment and believed there was an appropriate marriage of the selection criteria and the corporate direction of the board and the organisation and that Mr Reeves would meet those expectations? Why would they do it?

On oath and by affirmation the three of them have confirmed what I have just reported. That is confirmed in the 320 pages of transcript. It is not a one-line, smart-alec grab on the Neil Mitchell program, it is on the basis of careful consideration and involvement in a proper professional process, something that was sorely lacking in the early stages of this process. I would be amazed if any honourable member of this place would wax lyrical about the quality of the advice that went to the board on 27 June and was provided for the select committee. I would be amazed if any honourable member of this house would defend such a report on the basis of whether it complies with the obligations of the Corporations Law.

Hon. N. B. Lucas — Because he was verballed.

Hon. GAVIN JENNINGS — Yes, I think Mr Reeves was verballed at that meeting of 27 June.

Hon. C. A. Furletti — Because you were there.

Hon. GAVIN JENNINGS — Which is completely different from what you are trying to do.

Hon. N. B. Lucas interjected.

Hon. GAVIN JENNINGS — Read the testimony of Professor Neilson about his assessment of the calibre of the paper that went to the board. Read the testimony of Mr Moran about his assessment of the calibre of the presentation to the board. Read the testimony of Mr Davis, one of the two authors of that report. You can make the assessment whether he thought on reflection that it was an appropriate construction of the recommendation. Mr Davis, one of two people who signed off on the document, in retrospect believed it was an inadequate report that was provided to the board. Read the testimony of Mr Petrovs and Mr Lennie, who are members of the board, about whether they think in retrospect that the report that was delivered to that critical meeting of the board on 27 June satisfied their expectations of the nature of professional advice going to boards.

It is extraordinary that both in the deliberations of the committee and the debate today the pretence run by opposition members is that that deliberation, consideration and decision was proper. That will be the hardest thing for any opposition member on the select committee to prove. It will be impossible for the Victorian community to believe that perhaps the most important decision the board would make during the course of its tenure should be made in such an arbitrary and prejudicial fashion.

The evidence is clear. I have asked members of the house and the community to examine the testimony of those involved to see whether they have confidence in what has been described by opposition members today as 'pristine process'. Time and again there has been acknowledgment of the fundamental flaws in the deliberations of the board at the meeting on 27 June and subsequently about the way in which the consultation process was embarked on.

The testimony we have received about a subsequent meeting between the board and the Minister for Planning — —

Hon. Bill Forwood — But he wasn't in the top three.

Hon. N. B. Lucas interjected.

Hon. GAVIN JENNINGS — Have a read of the whole of what Mr Davis said. As I have indicated to you and to the house, Mr Davis said that in retrospect the quality of the report that was provided was deficient and the assessment was deficient. He said he found it almost impossible to make a professional assessment of the candidacy of Mr Reeves because he could not get out of the blinkers of seeing Mr Reeves's candidacy in political terms. It was almost impossible for him to make a professional assessment.

That underpins why, after the letter from the deputy chairman of the URLC board to the government on 4 July, which in the view of the board opened the batting on consultation, there was a subsequent recognition during a meeting with the Minister for Planning as recently as December of last year that that was not the best way to commence communication with the government on the consultation requirement.

There was a clear understanding from members of the board that it was not the optimum way to provide for consultation in accordance with the act.

So we saw a subsequent letter from the chairman of the board — not the deputy chair any more; the deputy chair of the board does not feature prominently in any future correspondence between the board and the government, because the board itself determined — —

Hon. R. M. Hallam — Explain why the chairman wrote?

Hon. GAVIN JENNINGS — The chairman wrote because there was a recognition that consultation was not being satisfied in accordance with the act. There was an agreement struck with the chairman of the board on 19 July — if we go back through testimony — that the original letter was inappropriate and that there needed to be a subsequent letter and a complete appraisal of the candidates for the position.

Hon. Bill Forwood — Keep talking; the hole gets deeper!

Hon. GAVIN JENNINGS — In your dreams, Mr Forwood. There is ample testimony that the board itself recognised that it needed to take some actions to satisfy the requirements of consultation under the act. We have received testimony about a meeting with the Minister for Planning, and the majority of the board recognised that consultation had not been satisfied in its optimum way by the original letter and that they wanted to start the process again. Voluntarily the chairman of the board decided to do this.

Hon. R. M. Hallam — It was not voluntarily; it was at the suggestion of Professor Neilson.

Hon. GAVIN JENNINGS — There is no suggestion it was not voluntarily; there is no suggestion.

Hon. R. M. Hallam — Have you read the evidence?

Hon. GAVIN JENNINGS — I have; I was there. I heard it and I witnessed it.

The opposition alleges the government is desperate on this matter, but anybody who reads *Hansard* would know that the desperation is with the opposition at this point in time; it cannot bear that an appropriate, balanced appraisal of the evidence has been aired.

The Victorian community has had very few opportunities to have any understanding of the activities and methods of the select committee from media reports because, surprisingly, most of the spectacular phrases, lines of questioning or allegations from both sides of the select committee may be the ones being given prominence. But as recently as yesterday the *Australian Financial Review* gave an assessment of what the balance of evidence suggests. It has probably been the only analysis of the evidence and method that has been adopted. I will briefly refer to that article and its assessment of what the balance of evidence up to this point in time has suggested. I do not draw its attention to the house just because it refers to me, but I will start by referring to what yesterday's article says, which is that:

> The two government MPs on the select committee undertaking the inquiry, Theo Theophanous and Gavin Jennings, have emphasised that the legislation requires the URLC board to consult the government on any board appointment.
>
> This point about consultation goes to the heart of the government's defence against claims that it engineered a job for the Premier's mate. And this argument has received support from some senior public servants. The heads of three key departments — Premier and Cabinet, Infrastructure, and Treasury and Finance — have all testified that the URLC board's idea of consultation was inadequate, if not flawed.
>
> Infrastructure secretary, Professor Lyndsay Neilson went so far as to describe as 'presumptuous' a letter from the board to two ministers — Brumby and Thwaites — which told them of their proposed candidate for the job.
>
> Neilson said his idea and experience of 'consultation' involved the minister working through a list of candidates with all information and interview appraisals at hand.
>
> But URLC director Frank Davis has told the inquiry the letter was the equivalent to 'opening the batting', just the first step in a consultation process that was taken out of their hands by the government.
>
> As evidence that they found the URLC board's appointment process inadequate, Neilson, acting Treasury secretary Grant Hehir and Premier and Cabinet secretary Terry Moran said that they themselves conducted a second round of interviews to find a 'dynamic' candidate who could change the URLC from outer suburban subdividing to affordable housing and urban renewal.

It is not usual for me to get a spin up in the *Australian Financial Review*, if that is what is alleged I am doing in my contribution to the debate. But that is a reasonably independent appraisal of what has been going on at the select committee hearings. That has probably not come through in the contributions of opposition members in this place. Voluntarily the *Australian Financial Review* provided that analysis and appraisal of what has been going on at the select committee hearings.

We need to look at the nature of the interim report before us today and make a reasonable assessment about the weight of the matters that appear in it. I put to the Council that the findings and conclusions of the select committee detailed in the interim report are out of kilter with the reality of what has occurred.

I draw to the attention of the house one of my relatively few successes in drafting the interim report — which is the inclusion of paragraph 8A which indicates that, yes indeed, despite some maybe argy-bargy between the committee and the executive arm of government through the Attorney-General, a lot of evidence has been provided to it. In fact, it has had fulsome testimony from all of the witnesses who have appeared before it. That is agreed between us. We have had a lot of things to deal with. We have not been short of evidence.

So the conclusion and the findings which say, or give the impression, that the committee is being denied access to a vast array of relevant material does not bear with reality. Indeed, appendix M in the interim report indicates elements of four documents that have not been provided to the committee — on the basis of the role of the Attorney-General, who has sought to obtain from the committee guarantees that material would not be used, or information of a personal nature would not be abused by the committee.

To again take up Mr Furletti's interjection about my going for the man, I say that I am very reluctant to do so. In the course of the select committee hearings I have been very reluctant to muddy the reputations of anybody involved in this exercise.

Hon. C. A. Furletti — You were intimidatory.

Hon. GAVIN JENNINGS — Anybody who was there — —

Hon. C. A. Furletti interjected.

Hon. GAVIN JENNINGS — I believe that it is most unfortunate — —

Hon. C. A. Furletti — I would be happy to put it on the record.

Hon. GAVIN JENNINGS — Good for you, Mr Furletti. At every moment I am happy to be accountable to this place and to the people of Victoria. And I do not think that as a general rule of thumb this place is prepared to be accountable. But the substantive nature of my point is that the Attorney-General, being mindful of the way in which this committee had been established, and in the view of the Attorney-General and many government members that this was established as a Star Chamber with the specific intent of finding a guilty party in accordance with the words of the Leader of the Opposition — —

Hon. C. A. Furletti — What nonsense!

Hon. GAVIN JENNINGS — You go back to the transcript.

Hon. C. A. Furletti — You don't know what your task is!

Hon. GAVIN JENNINGS — Let's go back to the transcript which reports the Leader of the Opposition saying in the other place on 29 November that he will find a guilty party. He said he would find it; he said that his committee would find it.

Hon. C. A. Furletti interjected.

Hon. GAVIN JENNINGS — Absolutely! He was speaking on behalf of the select committee that was established one week later. In fact the whole way this committee was established indicated that individuals were in the gun of the Leader of the Opposition in the Legislative Assembly. If anything, the Attorney-General has erred on the side of caution in protecting relatively few pieces of evidence. Appendix M of the interim report lists four documents in total, one of which has been excluded because of confidentiality — that is, Jim Reeves's CV and his referee checks. In this hysterical climate, why would you not exclude them when you have no confidence in the method adopted by the committee? In fact the Attorney-General offered to meet with the committee so his concerns about the inappropriate disclosure of personal information could be assuaged.

The three other documents in Appendix M are of a similar nature. They refer to the personal details of individual candidates in the field. I find it very disappointing that a lot of evidence on individual candidates has been led and I have acknowledged it as it happened. Muddying the reputation of any candidate is most unpalatable. It is an unsavoury exercise that, through its method, the select committee has adopted and that cuts in all directions. We should be alive to the fact that people have tried to muddy reputations through the operation of the select committee.

The net effect of the intervention of the Attorney-General has been to withhold only four documents out of hundreds that were received and the many witnesses who have appeared before us. The only witnesses called who have not appeared are advisers who work for ministers in the Legislative Assembly who are subject to the motion before the house today. Prior to those ministers having a request from the Legislative Council, prior to them receiving leave from the Legislative Assembly, and prior to their own personal consideration of whether they would want to appear before the select committee, the advisers who work for these ministers were summonsed to appear before the committee.

The guidelines that dictate the way in which the committee operates say that committee members should invite witnesses to appear and only move to summons if they have worked through the issues about why a summons is appropriate. In fact there was no consideration and deliberation by the committee which would demonstrate to any degree of confidence that we have reasons to summons these individuals beyond the scope of an invitation.

Not surprisingly, on the basis of the convergence of those two issues, these advisers who work for ministers in the Legislative Assembly have no obligation or no opportunity to appear before the select committee and on the basis of the committee not going through the proper process in issuing an invitation and then subsequently a summons. And here is the clincher that the Prime Minister relies on: because of the engagement relationship between advisers and their ministers, if and when advisers appear before such committees, their testimony is bound by privilege and confidentiality provisions on the basis of their employment relationship with their minister. So even if they did appear before the committee they would get proper legal advice in accordance with the guidelines of the Legislative Council itself that they should not comment on any matter that relates to privileged communication between themselves and their ministers.

So the net effect of the intervention of the Attorney-General has been that those five advisers have not appeared at the direction of the Attorney-General. If they had appeared they would have been legally advised, as is their right under the guidelines adopted by the Legislative Council and the select committee, that they were not required to answer any questions of privilege, so their net testimony would be zero. It is a zero-sum game in terms of testimony that would be before the committee.

The conclusion that appears in the interim report today is way out of kilter with the intervention of the Attorney-General, who tried to ensure that there was appropriate disclosure of information. Maximum disclosure has been obtained with the exception of four items of a personal nature. By directing advisers not to appear the net effect of the testimony is zero.

The final test that the three ministers involved would contemplate before they make a decision about whether it is appropriate to appear before the select committee is how they are supposed to be accountable to the Parliament. My understanding of ministerial responsibility, apart from what I have already described as their obligations to administer acts, is that ministers should answer questions appropriately in relation to their obligations within their own chamber. The Legislative Assembly is not a minnow in this exercise: it is the chamber where government is made and broken. The Legislative Assembly is where the executive is on notice and accountable every single day. But what have we found? The questions tabled today by the Leader of the Opposition could have been asked in the Legislative Assembly of the relevant ministers at any time during this process.

Just as there have been freedom of information requests put in by members of the Legislative Assembly for much of the documentation that has appeared before the select committee and that has been provided in many instances, so the Legislative Assembly has had the opportunity every day it meets to put ministers on notice and make them accountable for the issues that have been raised by this select committee. That would have occurred in a fashion which is open and transparent to the Victorian community, because ministers are obliged to respond on the spot and not within the partisan and prejudged way which underlies the method of this select committee.

If the Council accepts this motion and it is transmitted to the Legislative Assembly, I would be surprised if the Legislative Assembly granted leave to those ministers, because there may be a prevailing view in the Legislative Assembly that the Council has some work to do to shore up its bona fides in relation to its accountability to the Victorian community. Its members certainly would have many concerns about the methods of the select committee. I reiterate that I would be astounded if the three ministers concerned believed, because of the way the select committee operates, that they should be accountable in any shape or form to what has been described as a Star Chamber and a kangaroo court and that such a committee should have the right to call ministers from the Legislative Assembly.

The select committee and the Council, through the methods we have adopted, would, by the very way we act, give no confidence to ministers in appearing before it. If nothing else, we need to have a good look at how we operate as a committee and as a chamber and at our lines of responsibility and accountability to Victorians.

In conclusion, by debating this motion today and going through transcripts and arguing the toss about evidence heard by the committee that has appeared in the public domain, we have missed the opportunity to engage in the national population summit debate in the Legislative Assembly. We missed the opportunity to participate in the main game. We comprehensively focus on playing the man, as Mr Furletti alleged I did. This is nothing more than an exercise in playing the man. In fact, we are desperate to find who the man is in this exercise. There is a track record of ignoring the big picture and ignoring the big issues of the day.

I was amazed to read in the *Herald Sun* recently that Mr Lucas, the chairman of the select committee and also the chairman of the Economic Development Committee, did not believe it was appropriate to deal with a reference on youth unemployment the committee had had for two years.

Hon. N. B. Lucas — On a point of order, Mr Acting President, it was Mr Theophanous who moved the motion to defer it in the committee, and not me. In this house the Leader of the Government moved the deferral of that reference to a later time. I find it unfortunate that the honourable member is blaming me for such a thing when it was Mr Theophanous and the Honourable Monica Gould who moved the motions that in effect deferred the time for that reference.

Hon. Bill Forwood — We will take that as a point of clarification.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! Yes, I find that is a point of clarification, and we will proceed on that basis.

Hon. GAVIN JENNINGS — That is very useful. Most members of the Victorian community understand that you control the agenda of the Economic Development Committee because you have the numbers and you usually exercise control over what happens in this house as well, so I think it must have occurred with your concurrence. I am amazed that that reference was deferred when youth unemployment is running at about 41 per cent in certain regions of Victoria.

We have to have a look at ourselves and the priorities we give to the major issues of the day. We have lost an opportunity today by not participating in the population summit debate. In the worst case scenario this debate would have been delayed for an hour or two if the Legislative Council had participated in the debate that took place in the Assembly dealing with the major issues of the long-term viability of this state and our country, huge humanitarian issues and our place in the global community. It is disappointing that that did not take place.

I reiterate that the critical test of the methods that have been adopted by the select committee and this chamber would mean that the ministers in question should feel no compulsion to appear before the committee. There is no precedent for ministers in the Legislative Assembly appearing before a select committee of the Legislative Council. In the history of the Council that has not occurred. The ministers involved would have no confidence in the methods adopted by the select committee, and they will reserve their individual rights not to appear before the committee.

Hon. Bill Forwood — Let's get to that.

Hon. GAVIN JENNINGS — On the basis of what I have suggested, I believe that is the case and that this motion will come to be seen as being almost as redundant as the select committee and the chamber. That is the challenge for us all — to demonstrate that we are not redundant.

Hon. P. R. HALL (Gippsland) — The National Party supports the motion moved by the Leader of the Opposition. It is a pretty sad fact of life that the Leader of the Opposition has been required to move this motion because one of the select committees established by the upper house has needed to resort to seeking the assistance of the Council to extend an invitation to members of the Assembly to appear before the committee.

At the outset I congratulate the Leader of the Opposition on his outstanding contribution to the debate today. It was a detailed contribution and he presented some compelling arguments as to why it is necessary for the Premier, the Deputy Premier and the Treasurer to appear before the upper house select committee. Obviously there has been a lot of work. As he said, there are 300-odd pages of transcript of the public hearings held by the committee, and in presenting his arguments the Leader of the Opposition has done a thorough analysis of many of the arguments presented.

The five members of the committee are to be commended for the work and hours they have put in to that inquiry to this time. However, as I said at the outset, I feel sorry for them. I feel their frustration at not being able to progress to the point they would want because of the lack of cooperation from certain members of the government.

In light of the detailed consideration of this issue that has already been put on the record by the Leader of the Opposition, I wish to concentrate my remarks more on the principles of the issues. I start by looking at some of the comments made by the Honourable Gavin Jennings. I sat through Mr Jennings's contribution and I summarised it into three key points.

Firstly, he hazarded a guess that the ministers in the lower house would not take up the invitation to attend the committee, even if leave was granted by the Assembly, because he believed the ministers would not have confidence in the way the committee works. Mr Jennings was also critical of the way this select committee was chosen and of the way it operates. It sounded more like a case of being a sore loser. If the basis of Mr Jennings's argument was that the government should have equal representation on the committee — that is what I think he was saying — as do members of other parties, let's extend that argument a bit further. There are three parties that constitute members of this Legislative Council.

Hon. M. M. Gould — There is one opposition.

Hon. P. R. HALL — There is one opposition; the Liberal Party. There is one party in government; the Labor Party. There is a third party in this chamber; the National Party. Each of those three parties is completely independent. If we extend the argument of Mr Jennings that membership of the committee should be appointed on the basis of parties regardless of their numbers, then the score should be two Liberal Party members, two Labor Party members and two National Party members. He said there should be equal representation by all parties on the inquiry.

We in the National Party are the ones who should be complaining about the composition. Labor has got two, the Libs have got two and we have only got one, so we are the ones who should be complaining about it. In fact, you are overrepresented. You are better off if you go by the numbers in this chamber. If we went by the ratio of numbers there would be three Liberals, two Labor members and one National Party member.

Let's try and find a way around this. How should we select a committee of any form when this chamber sits? Why do we have to match numbers of government members with equal numbers from other parties? Why not choose equal numbers of the three parties, if we follow Mr Jennings's line? To suggest that the process has been corrupt right from the outset because there are two Liberals, one National and two Labor members flies in the face of Mr Jennings's own argument. There are many ways in which committees could be selected, but at the end of the day I think the way this committee was selected was pretty fair: two government members, two Liberal members and one National member. That was a pretty fair way to go, and I do not think there is any evidence or sound basis on which to base the sour grapes argument about the way the committee was formed.

Further arguments were advanced, of course, about why the committee was not operating. Arguments against the way the committee was working were based purely on the membership of the committee and nothing else. If we counteract the issue about membership from the start, there is no argument about the way the committee is working. I commend the committee and all five of its members for their efforts in trying to resolve this particularly difficult inquiry.

The second point the Honourable Gavin Jennings made was one of the last points in his contribution — namely, that if opposition members wish to ask questions of the Premier, the Deputy Premier and the Treasurer they can do so in the Legislative Assembly during question time. We all know, Mr President, that that simply does not work. Question time is nothing more than theatre; it does not allow backwards-and-forwards questioning or points of clarification. We know that question time in itself is an unproductive time in Parliament retained purely for theatrical purposes. It does not, in most instances, achieve any sort of meaningful answers. I think it is stupid to suggest that we do not need to invite the three ministers to appear before the committee purely on the basis that they could have been asked in the chamber of the Assembly. That simply would not bring about the same outcome.

The third thing the Honourable Gavin Jennings said in his contribution, his third principle, was that there was no evidence that the process was anything but proper. Indeed! I suggest that is a subjective judgment made by the Honourable Gavin Jennings as one member of the committee. Obviously we, as the chamber that has appointed this committee, need to look at the considerations of the committee as a whole. The committee has produced an interim report to the Parliament this morning and put down some very valid arguments to suggest the contrary of what the Honourable Gavin Jennings is saying — namely, that they cannot get to the bottom of the issue because they have been prevented from doing so. So let's not as yet judge the argument about whether the process was proper or not. There is lots of evidence to suggest that it is not. Mr Jennings suggested it was; but let the committee have access to the people it needs to speak to to try to get to the bottom of the issue.

I wanted to comment on the three issues of principle raised by the Honourable Gavin Jennings. I want to look at a couple of principles involved in this, and I need to go back to the establishment of the committee on 5 December last year and recap why it was that the committee was established and why it was that the National Party supported its establishment. At that time we in the National Party felt there was sufficient evidence to suggest that there were some fairly strange circumstances surrounding the processes that led to the appointment of Mr Jim Reeves as the managing director of the Urban and Regional Land Corporation. We felt very strongly that the air needed to be cleared and that the facts of what was actually involved in this process needed to be established once and for all. That is why we felt there was a need to support the establishment of the committee. There was some circumstantial evidence around, obtained through some questioning in the Parliament, particularly in the other place but also in this place, and there were some public comments around the issue by certain people in government creating a great air of uncertainty. Nobody knew who should be believed in this instance.

Some editorials and commentaries in the local dailies suggested strongly that there needed to be a committee of inquiry. Ewin Hannan in the *Age* of 1 December last year made comments that I believe I may have cited last time we talked about the establishment of the committee:

> … Labor's poor handling of this affair has left Bracks exposed and tarnished. The government has been dragged kicking and screaming to the altar of truth. It has shown bad political judgment and exposed its lack of respect, even contempt, for what voters are entitled to expect from government.

The sad thing about today, Mr Acting President, is that we do not seem to have progressed very much since that comment was made on 1 December last year. We are still trying to drag the Premier and his cabinet colleagues to the altar to get them to tell once and for all what the situation was as they understood it. I feel the frustration of the committee members in their report this morning, and I do not think we are much closer to the truth than we were in December of last year.

That is why it is absolutely imperative that the opportunity be given to the Premier, the Deputy Premier and the Treasurer to clear the air once and for all.

Hon. W. R. Baxter interjected.

Hon. P. R. HALL — As Mr Baxter says, there is a lot of detail that has come out and a lot of conflicting information has come to the committee up to now that can only be clarified by the three key people involved.

Indeed, the *Herald Sun* also supported an inquiry. For all those reasons, collectively, the National Party supported the establishment of the inquiry. I think we as a chamber, therefore, have an obligation to support our actions of 5 December last year and support the committee in its efforts to try to resolve this matter once and for all.

I feel extremely sorry for the committee members in their frustration at not being at the point they would like to be at today. Such was their frustration that the committee authorised a secretary to write to parliamentary leaders on Monday of this week seeking direction about where they could actually go from here on in to try to resolve this matter.

The idea of the motion we are debating this afternoon was presented in that letter from the secretary of the committee, Ray Wright. I am happy to indicate that the National Party will be supporting the efforts of the committee to get the three key people it needs to hear from in its inquiry.

I want to comment on some of the other principles involved in this issue. As I said, I could canvass a range of details on this issue. I could support the detail that the Honourable Bill Forwood has put forward in the debate. I concur with the questions he says still need to be answered. I could go through those but I do not want to hold up the time of the house this afternoon by repeating all of those details except to say that I agree with them wholeheartedly. This is a fundamental issue about the role of the upper house and its ability to use committees to conduct what is appropriately its business. In this case we are talking about the process leading to the appointment of Jim Reeves as the managing director of the Urban and Regional Land Corporation and questions still need to be answered. Despite its best efforts the committee has not yet got to the bottom of the issue. The National Party says that from its point of view only the Premier, the Deputy Premier and the Treasurer appear to be in a position to clarify these matters once and for all; hence its support for the motion before the house.

This government has often loudly proclaimed its openness and accountability credentials. It is time the government put its money where its mouth is on this issue. It is time for it to put up or shut up on the issue of openness and accountability. This is a golden opportunity for the government to come clean on the issue and match the rhetoric it espouses about openness and accountability. I hope the government accepts this challenge. It is in its best interests to do so. I sincerely hope the government does not hide behind the shroud of its numbers in the Legislative Assembly. I hope the three Independents in the Assembly support this invitation and give leave for these three people to appear before the committee. The Independents were elected on a charter requiring openness and accountability from the government of the day. They signed with the Australian Labor Party to provide that openness and accountability and it is therefore beholden on them to support this invitation for the Premier and his cabinet colleagues to appear before the committee.

Only two conclusions can be drawn if the Premier and his colleagues reject this invitation: either they are guilty of manipulating the selection process, or perhaps we could infer that they do not care about ensuring that proper process is followed within government. Either of those two outcomes would reflect extremely badly on the government of the day. That is why I say it is in the government's best interests to respond in a positive fashion to this invitation. Otherwise, as members of the public we would have no hesitation in drawing a conclusion that they must be guilty on this issue. If the invitation is not accepted, that is the only fair conclusion one can draw — that the government has something to hide.

We in the National Party say that on the issue of principle alone there are some compelling reasons why the Premier, the Deputy Premier and Treasurer need to appear before the select committee.

I will quickly mention some of the comments made on the interim report tabled in the Parliament today. The conclusion says it all:

> The committee believes that such responses represent direct executive interference in the affairs of one house of the Parliament of Victoria.

My personal view concurs with that conclusion. In paragraph 39 the committee pleads with the house to support it in trying to get the Premier and his cabinet colleagues to appear before it. I give the committee that support wholeheartedly.

I want to talk about one further issue before I sit down. I want to very quickly talk about the role of this house of Parliament, the Legislative Council. I want to make reference to the review currently being undertaken by the government-appointed Constitution Commission of Victoria. There will not be too many occasions on which I stand here and agree with any aspect of this consultation paper produced by the government-appointed constitution commission but there are a couple of things in it that are relevant to the issue the house is debating.

When the constitution commission in its consultation paper talks about the role of the Legislative Council and the representations it has received from the public of Victoria it says:

> The majority view was that to act as an effective house of review the Legislative Council needed to:
>
> …
>
> review constructively government legislation and actions;

That is what we are doing here. The select committee was all about reviewing an action of this government. In terms of some of the views expressed to the constitution commission we are doing the right thing by establishing this select committee and reviewing the actions of a government. Page 8 of the consultation paper produced by the constitution commission talks about greater use of committees by a house of review and says:

> A number of submissions suggested that both the Legislative Council and its committees should have power to enable ministers and senior bureaucrats to appear and answer questions, subject to appropriate and agreed rules and standing orders.

Once again I have no objection to that. I think it is entirely appropriate that committees of this house — the house of review, the Legislative Council in the state of Victoria — have the power to require or at least invite ministers to appear before them. Here we have a government-appointed constitution commission recommending exactly what the opposition is trying to do with this motion.

I will finish my comments at this point. There is overwhelming evidence that we need to support the select committee in trying to resolve this issue. On 5 December last year this house gave a charter to this committee to try and resolve, investigate and find out exactly what processes were involved with the appointment of Mr Jim Reeves as managing director of the Urban and Regional Land Corporation. The house gave the committee that charter and to this time it has been frustrated in achieving all that it would want to achieve from this inquiry. It is beholden upon this house to support the committee in its endeavours.

That is why the National Party believes it is appropriate to extend an invitation to the lower house to grant leave for those three people named in the motion to appear before the committee. As has often been said, it is only an invitation. I would think that the bottom line, the lowest common denominator, should be to at least allow those people the opportunity to say yea or nay as to whether they want to appear before the committee. That invitation is absolutely necessary. That is why the National Party strongly supports the motion.

Hon. C. A. FURLETTI (Templestowe) — Thank you, Mr Acting President.

Hon. T. C. Theophanous — On a point of order, I rise to take a point of order which I would like you, Mr Acting President, to deal with either now or by way of consultation with Mr President because this is an important matter. It is my clear understanding that, both in respect of the forms of this house in terms of its conventions and in terms of the conventions of other houses of Parliament, during debate on motions such as this the normal procedure is for the call to alternate between government speakers and opposition speakers. In this particular debate we have had an opposition speaker who opened the debate and spoke for about an hour and a half. We then had a response from the government side. We have had another speaker speak in favour of the motion and we are now being asked to have yet another speaker speak in support of the motion.

Overall, that will make three speakers in support of the motion as against one speaker in opposition to the motion. That contradicts long-held conventions of parliamentary practice in the British Parliament, Australian parliaments and in this place. Honourable members do not have a limitation on time, and while I made the observation that the Leader of the Opposition spent almost one and a half hours in making his contribution, in terms of time the allocation allowed to the government to respond is unsatisfactory.

Mr Jennings could have spoken for a full hour and a half and not provided opportunities for further speakers, but the government does not want to do that because it wants to be fair. I took this point of order reluctantly because I asked the Leader of the Opposition whether I would be given an opportunity to respond. He indicated that I would not be given an opportunity during the course of this debate, which means that there will be three speakers for the motion and one speaker in opposition to the motion. That is not in line with the conventions of this house. The opposition is trying to establish that process is important and that fairness ought to prevail. If the numbers are to prevail, as occurs on the select committee under the chairmanship of Mr Lucas, which breaks an important convention, this house will not operate satisfactorily.

Mr President, I ask you to rule whether the longstanding convention that a speaker on one side of the chamber is followed by a speaker on the other side, except by agreement, should continue in this house.

Hon. Bill Forwood — On the point of order, Mr President, I have a couple of points to make in relation to this issue. Standing order 118 makes it clear that when two or more members rise to speak the President calls the member first observed by him. I was in the chamber at the time, and the only honourable member to stand was Mr Furletti. Mr Theophanous did not rise to his feet

Hon. T. C. Theophanous — Don't be a smart alec! I asked you and you said no.

Hon. Bill Forwood — Mr Furletti was the only person who stood up.

The second issue I raise is that the speaking order of this house is not within my gift. Often in negotiating with the government we are happy to decide how long various people will speak so the chamber can accommodate people who wish to speak on these issues. I acknowledge that I spoke for a long time. I could have spoken longer. I am sure the same applies to Mr Jennings. At no stage did the government approach me about accommodating the needs of all people.

Hon. T. C. Theophanous interjected.

Hon. Bill Forwood — Mr Theophanous, you had not been part of the debate for some time. You were out of the chamber for a considerable period, but came into the chamber when Mr Hall or Mr Jennings were on their feet and obviously there was not a long time to go.

I had no idea how long the remaining speakers would speak. I anticipated that my colleague would be on his feet wishing to speak. If Mr Theophanous's leader wished to negotiate time with the opposition we would have been happy to do it. The point of order is that in relation to standing order 118 Mr Furletti stood up first and he got the call.

Hon. T. C. Theophanous — On a further point of order, Mr President, I want you to establish the ground rules as opposed to playing the games that Mr Forwood is playing. I want to know what the ground rules are. It is clear that the government is not able to negotiate with the Leader of the Opposition, who is trying to be too cute by half. If he had any sense of decency or fairness he would allow a member of the government to speak next, as there have been already two speakers from the other side.

Honourable members interjecting.

Hon. T. C. Theophanous — Two speeches in support of the motion.

The PRESIDENT — Order! I am now in a position to respond to these matters. Firstly, the speaking order is a matter of arrangement. That has always been the basis on which it has worked. Normally the parties approach me and indicate their speakers. In this case I was informed that Mr Forwood and Mr Furletti would speak for the opposition, that Mr Theophanous and Mr Jennings would speak for the government and Mr Hall would speak for the National Party. I believe I showed that list to the Deputy Leader of the Government. I had Mr Forwood starting, I then had Mr Theophanous, but I was told that the deputy leader would come second. Mr Furletti was listed third, Mr Hall next and then Mr Theophanous. I am informed by the Clerk that there is no formal ruling in this house by a Presiding Officer, it is by agreement. Normally we go around the chamber because three parties are represented in this place.

I also take into account the numbers presenting. On the adjournment we may have 14 speakers for the opposition, 2 for the National Party and 2 for the government. I try to mix them up, which means that the members of the National Party may have to wait to get into the queue. It has not been an issue in the past. I did not know when I was given the original list how long honourable members would speak, which gets back to the point that normally there is agreement so that different views are heard. It makes sense when you have two government speakers, two opposition speakers and one National Party speaker that the time is arranged so all honourable members have the opportunity to speak.

Standing order 118 says that where two or more members stand to speak I pick the first member who comes to my eye. Page 373 of *May* refers to the same system. There is nothing I can do to change the situation. It is in the hands of the house by leave to extend the time allowed for the debate. It is preferable for the house to reach proper agreement. Normally that works smoothly, so much so that I have not had to rule on this issue before.

Mr Theophanous, I know that you have raised this as a point of order, but it is not really a point of order.

Hon. T. C. Theophanous — I want to know whether you will uphold the conventions of this place.

The PRESIDENT — Order! I indicated earlier that there is nothing I can do other than urge the different parties to talk. I do not uphold it as a point of order, but it is an important issue.

Hon. T. C. Theophanous — On a further point of order, Mr President, as you referred to page 373 of *May*, I wish to read out what it says about the precedence of honourable members speaking in debate.

> When two or more members rise to speak the Speaker has complete discretion over whom to call, though he will generally call alternately backbench members from either side of the house …

Mr President, I am asking for a ruling from you that in future during this debate, where two members arise, whether you will uphold *May's* practice on page 373 by choosing one speaker from each side alternatively, as is suggested according to convention?

The PRESIDENT — Order! To answer that would give a blank cheque to anything. For years we have had a system that has worked smoothly in this house where we have three parties represented. I will keep applying the system on that basis. However, again it is up to the parties. Basically, the parties reach agreement, but on this occasion the agreement has fallen down.

Hon. C. A. FURLETTI — I appreciate your ruling, Mr President. Let me just indicate that this, in the course of the select committee's recommendations and investigations, is the last act by a desperate government to try to frustrate debate on this whole issue.

We have seen Mr Theophanous filibustering for the last 20 minutes — and I see him smiling — and he has achieved his outcome that has been going on since this motion was first debated in this place last December. It is incumbent on me to indicate to the house that from day one the tactics of the government have been to divert, frustrate and derail this inquiry and any debate on it. There is only one simple question that the people of Victoria need to ask: why is the government so desperate to do so?

Why will the government not allow this house to make an appropriate request of the Assembly to give leave to the Premier, the Treasurer and the Minister for Planning to go before the select committee to give evidence to clear the huge number of questions arising from the evidence that has been given to the house to date?

I congratulate my leader in this place, the Honourable Bill Forwood, for his contribution to the debate. It went into detail as to the reasons why this debate has been brought before the house.

I also congratulate the Honourable Peter Hall for his contribution in indicating what the purpose of this house is because the select committee is but an arm, an extension, of the Legislative Council. It was set up by this Council for the purposes of arriving at certain determinations which were glaringly obvious to everybody in Victoria and which this government seeks to continue to hide and cover up.

I have concerns that the chief justice minister in this state, the Attorney-General, is using his position to assist in the derailing of the inquiry in continuing the cover-up. He is contributing to the conspiracy of silence, which is developing — —

Hon. T. C. Theophanous interjected.

Hon. C. A. FURLETTI — The Attorney-General is contributing to and affording ill advice to his employees and those of the state. It is for the Premier, the Treasurer and the Minister for Planning to present themselves before the select committee to clarify issues that have arisen. Accordingly, I support this motion.

House divided on motion:

Ayes, 26

Ashman, Mr	Furletti, Mr
Atkinson, Mr	Hall, Mr
Baxter, Mr	Hallam, Mr
Best, Mr	Katsambanis, Mr
Boardman, Mr	Lucas, Mr
Bowden, Mr	Luckins, Ms (*Teller*)
Brideson, Mr	Olexander, Mr (*Teller*)
Coote, Mrs	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

Noes, 13

Broad, Ms	Mikakos, Ms

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

Pair

Dr Ross
Darveniza, Ms

Motion agreed to.

MEMBERS STATEMENTS

Bunyip State Park

Hon. N. B. LUCAS (Eumemmerring) — It is a unique honour to make the first 90-second statement in this house since its inception in 1851. I welcome the opportunity to place on record my concerns regarding the do-nothing approach of the Minister for Environment and Conservation in the other place. I raise an issue about the Bunyip State Park where bushwalkers, horseriders, green groups, friends groups, birdwatchers and particularly local residents have been expressing concern at the use of the southern section of the park by trail bike riders. I have written to the minister about this. Numerous others have also written to the minister urging a review of the management plan for the Bunyip State Park.

The plan may have been satisfactory at the time it was brought in in 1998 — it was probably written in 1997 — but it is now 2002 and the problems have got much worse with the increased usage of trail bikes. We need a review of the management plan and I urge the Minister for Environment and Conservation, as strongly as I can, to have a really good look at the Bunyip State Park to take account of the views of the residents and review the management plan.

Chinese New Year

Hon. JENNY MIKAKOS (Jika Jika) — On 23 February 2002 I had the pleasure of attending the Chinese New Year celebrations organised by the North Eastern Melbourne Chinese Association (NEMCA) which were held in Preston. The celebrations comprised a display of traditional and contemporary Chinese music and dance and an impressive fashion parade. NEMCA was established in 1994, and its aims include the promotion of Chinese heritage and culture and the cultural, recreational, health and educational needs of the Chinese community in the cities of Darebin and Whittlesea and neighbouring municipalities. I congratulate NEMCA's president, Dr Stanley Chiang, and his committee of management on their tireless efforts to retain the Chinese heritage amongst their community but also to promote an understanding of Chinese culture in our wider community.

I congratulate NEMCA's president, Dr Stanley Chiang, on becoming the first person of Asian descent to be elected as a councillor of the City of Darebin. The City of Darebin is a culturally and linguistically diverse community and this diversity is reflected in its council. Finally, I take this opportunity to wish members of the Chinese community best wishes for this year, the Year of the Horse.

Justice Michael Kirby

Hon. P. A. KATSAMBANIS (Monash) — It is an honour to highlight to this house the significant contribution to our legal system and to Australia by Justice Michael Kirby. Justice Kirby's record of public service and achievement stands for itself. He is internationally recognised as a leading jurist and law reformer. As the inaugural chair of the Australian Law Reform Commission he has been a pioneer in modernising our legal system.

One only has to read Justice Kirby's considered judgments to appreciate the deep intellect and sharp legal mind he possesses. Although I have not always agreed with his reasoning in every case, I share with him a strong belief that the common law and the rules of equity are not static. It is the proper role of judges to continue to redefine these rules, and in this nation we should be proud to have people of the character, intellect and ability of Justice Kirby in positions to make these judgments.

The judgments from his distinguished legal career and judicial service, from the Australian Conciliation and Arbitration Commission to the Federal Court to the presidency of the New South Wales Court of Appeal and eventually to the High Court, stand as a testament to his brilliant legal mind. These achievements rightfully make Justice Kirby a leading Australian. Unsubstantiated and irresponsible attacks on his good character do not in any way diminish his achievements or the person himself. In fact, Justice Kirby's grace, dignity and conciliatory approach over the past few difficult days highlights the real qualities of a fine Australian.

Senate practices

Hon. G. D. ROMANES (Melbourne) — I was part of a delegation that you, Mr President, led to Canberra last week to observe Senate practices, many of which have been introduced into the Legislative Council this

week by the opposition with the claim that they will bring greater balance and democracy. This is nine years too late! The opposition showed no such reforming zeal when in government.

Labor Senator Sue West, as Deputy President, presided over question time in the Senate last week while we were there. It reminded me of one important Senate practice the opposition omitted to embrace — that is, the sharing of the presidency and deputy presidency by the government and the opposition. The Senate remains ahead as a chamber of balance and democracy and has a fairer voting system.

Elyne Mitchell

Hon. W. R. BAXTER (North Eastern) — I take this opportunity to mark the passing late last month of Mrs Elyne Mitchell of Corryong, the widow of the former long-serving honourable member for Benambra, the Honourable Thomas Walter Mitchell, who was here from 1947 to 1976 and was a former Attorney-General of the state.

Elyne Mitchell, as many honourable members would know, was the daughter of the famous World War I General, Sir Harry Chauvel, but she was a person absolutely in her own right. Elyne Mitchell would be known to many as the author of the *Silver Brumby* series and the *History of the Light Horse*. She was a woman of tremendous capacity, a horsewoman, a champion skier, a cattle breeder, a manager of the famous Towong Hill station while her husband was interned as a prisoner of war in the Second World War, the mother of four and an outstanding community citizen not only in Corryong and the upper Murray but throughout Victoria.

She made a tremendous contribution to the life of north-eastern Victoria as well as entertaining hundreds, if not thousands of children, both English speaking and in many other nations as her books were widely translated. I place on the record of the Parliament her outstanding contribution and that of her family to the people of Victoria.

Mark Jellis

Hon. D. G. HADDEN (Ballarat) — I had the great pleasure of attending my first Queen's Scout presentation on 1 March 2002 at the 1st Gisborne scout hall. Mark Jellis was the 18-year-old who was presented with the Queen's Scout award, and was the 20th Queen's Scout with 1st Gisborne. I attended the award, along with my colleague in the other place Joanne Duncan, the honourable member for Gisborne. It was a wonderful evening program of parade, prayer, welcome, and a pictorial history of Mark Jellis's life progressing from a cub scout, scout to a scout venturer. Mark's leaders, Ray Oakley, Alison Segrave, Lyndon Frearson and Bruce Ellis, spoke of a young man who was rather serious, who showed leadership in the community while knowing and showing others how to have fun. I learnt that a scout is trustworthy, loyal, helpful, friendly, cheerful, considerate, thrifty, courageous, respectable and cares for the environment. These are all very admirable qualities to which we should all aspire.

I also learnt about scouting honour: to do your best, be prepared, have fun and show by example. Mark Jellis had worked very hard to become a Queen's Scout. He is deserving of this highest award for leadership and commitment to the scouting movement. His parents, Glenys and Peter Jellis, are rightly very proud of their son, and I was privileged and honoured to have been invited to attend this special milestone in the life of Mark Jellis, Queen's Scout, 1st Gisborne.

Knox hospital

Hon. G. B. ASHMAN (Koonung) — The issue I raise is the change of direction by the City of Knox on its support for the Knox public hospital. Local members met with the council on 23 March. Mayor Scates and councillors indicated that they were having second thoughts about their support for the hospital.

They were to be briefed by the Eastern Health network some days later. That briefing acknowledged that some 41 per cent of the population will be over the age of 65 years in the next 15 years. There will be significantly greater demand for health services from this group. Eastern Health currently receives $384 per person as opposed to Melbourne's average of $740 per person.

Mayor Scates and the council say that they do not support this hospital. The solution put forward is a 90-bed residential care hospital on the site with 30 new beds and 60 beds relocated from other sites. There are some minor upgrades from other hospitals to cater for this, but I note in the briefing that they were told that these are not yet approved or funded by the government. Notwithstanding the council's position on this, local members are strongly supportive of the hospital as is the eastern community, and we demand a 300 bed tertiary hospital for Knox.

Rulings by the Chair

Hon. T. C. THEOPHANOUS (Jika Jika) — I draw to the attention of the house certain rulings by the

Chair. On 19 September 2001 during the adjournment debate I refused to withdraw a comment I had made to the effect that the Honourable Bruce Atkinson had misled the house. The Deputy President made the following comment at that time:

> The Honourable Theo Theophanous has accused the Honourable Bruce Atkinson of misleading the house. The honourable member cannot do that. The only way he can challenge the conduct of an honourable member of this house is by a substantive motion.

Hon. Bill Forwood — On a point of order, Mr President, this is the first time we have used 90-second statements in this place, and I seek your guidance on whether it is appropriate to use it as a mechanism for attacking the Chair.

Hon. T. C. THEOPHANOUS — On the point of order, Mr President, the 90-second statements I understand offer an opportunity for broad comment on any matter which any honourable member wishes to raise. The comments that I have made are not an attack on the Chair. I am pointing out by way of record a ruling which has occurred. I do not believe there is anything which I have said so far that is a reflection on the Chair, and I am sure if I were to reflect on the Chair that you would pull me up, Mr President.

Hon. K. M. Smith — On the point of order, Mr President, Mr Theophanous is raising an issue of Mr Atkinson making misleading statements. He already has on the notice paper a substantive motion in regard to this issue.

The PRESIDENT — Order! The honourable member misunderstood the position. With the 90-second statements normal rules apply, which are that you cannot make allegations against another honourable member without substantive motion, against the Chair or against members of this or the other place. Mr Theophanous, I am sure, does not need to be reminded of that.

Hon. T. C. THEOPHANOUS — Thank you, Mr President. The Deputy President went on to name me for my refusal to withdraw my comment at that time. Yesterday the Honourable Philip Davis said that both the Minister for Energy and Resources and me had been misleading the house. When I took a point of order seeking a withdrawal, you, Mr President, ruled against my request on the basis that the comment had to be objectively offensive in your judgment. This differential treatment in similar circumstances of government and opposition members is in my view another reason why the upper house needs to be reformed.

Small business: workplace safety

Hon. ANDREA COOTE (Monash) — I have been approached by several small businesspeople in my electorate who are very concerned by what is being imposed on them by this Labor government. Even this morning the minister indicated that she supported big business, particularly Coles and Woolworths, in their liquor areas, so that is a good example.

But one particular small businessperson in my electorate has a business that can be classified as dangerous. It is a manufacturing business and has machinery, forklifts, B-double vehicles, a small mill and cranes. Workers are supplied with steel-capped boots and hard hats and there is detailed signage and regular occupational health and safety seminars. In other words, the company has done all it can to ensure that its workers are safe at work.

My constituents are very concerned that although they emphasise safe work practices, some employees ignore the warnings and arrive at work in sneakers or without their hard hats. The constituent is very concerned at the implications for his business should there be an accident at work. This uncertainty is crippling his ability to expand his business and he fears that the Bracks government is discriminating against businesses such as his.

He is even more concerned about the union concerns and he fears that he would be victimised if he were to bring this up. The unions know only too well that if he were to have one or two days out of his business it would destroy his business. Small business is certainly losing under this Labor government.

Greater Bendigo: election results

Hon. R. A. BEST (North Western) — I would like to express my congratulations to the newly elected councillors of the City of Greater Bendigo. As honourable members would be aware, last weekend in a number of municipalities elections were held to elect councillors. It is pleasing to see that Bendigo will once again be represented by a very diverse and I think very interesting group of councillors.

Four new councillors have been elected, with three councillors standing and retaining their seats. I would particularly like to congratulate Willi Carney on being elected mayor for this year. I would also like to congratulate Cr Daryl McClure and Rod Fyffe, who have been re-elected, and I would particularly like to congratulate Alan Besley, Bruce Phillips, Kevin Gibbins and Greg Williams on being elected.

I would also like to put on the record the fantastic work done by Crs Barry Ackerman and Ann Jones. Cr Ackerman stood down and unfortunately Ann Jones was defeated at the election, as was Julian Hood. It is interesting that the Labor Party made a very concerted effort to introduce party politics into Bendigo, with the honourable member for Bendigo East being particularly involved, and I am very grateful and thankful that the — —

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

Lady Nelson re-enactment

Hon. E. C. CARBINES (Geelong) — I wish to honour and recognise the work of the 14.02.02 Committee to commemorate last month's bicentenary of the British arrival at Port Phillip. In particular I acknowledge the tireless commitment of Dr Henry Hudson, chairman of the 14.02.02 Committee, to the project. Like thousands of other people, I was delighted to be at Point Lonsdale on 14 February to witness the re-enactment of the entry to Port Phillip Bay by the *Lady Nelson* and to celebrate the occasion.

The committee planned a full calendar of events, which took place at both the Bellarine and Mornington peninsulas. I would like to thank everyone associated with the project for making it so memorable.

WILDLIFE (AMENDMENT) BILL

Second reading

Debate resumed from 19 March; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. ANDREA COOTE (Monash) — I have much pleasure in being involved in this debate on the Wildlife (Amendment) Bill. The Liberal Party has a long and proud history of supporting environmental issues and has a particular interest in this bill as it builds upon the excellent work established by the Fraser Liberal government in 1978 which banned whaling in Australian coastal waters and aggressively campaigned to ban whaling internationally.

The Wildlife (Amendment) Bill amends three major aspects of the Wildlife Act 1975. They are: to make it compulsory to hold a permit to conduct whale swim tours; and to ensure permits are tendered in accordance with the national competition policy. Successful tenderers may be issued with a permit of up to two years instead of the current one-year maximum, once the ecologically sustainable threshold has been established. The third aspect is that the bill separates the offence of approaching closer than the minimum prescribed distance from the more serious offence of interfering with the whales. I will elaborate on the specifics a little later.

Before I get into my contribution I would like to make some comments about the Minister for Environment and Conservation. The minister is seen to be a disaster. We have seen her inactivity with implementing the Marine Parks Bill. She was seen to be totally negligent, and the Premier had to take over where she was failing abysmally. She completely bungled removal of the bats from the botanic gardens. An article in the *Herald Sun* not so long ago graded various ministers of the Bracks government. I think the Minister for Environment and Conservation was rated the very lowest at 4 out of 10.

As pleased as the opposition is to see this bill, it did not take many sleepless nights for the minister to come up with it. It is in fact an implementation of the Australian National Guidelines for Cetacean Observation, the aims of which are reflected in this bill. I will quote those aims, because as I detail more aspects of the bill it will be seen that it was not all that difficult for the minister to come up with these suggestions.

The cetacean observation guidelines were based on the February 2000 Australian and New Zealand Environment and Conservation Council guidelines. They state:

> Aims of the guidelines
>
> The Australian National Guidelines for Cetacean Observation cover interactions between people and cetaceans in the wild during recreational observation activities and have two main aims:
>
> > to minimise harmful impacts on cetacean populations by ensuring that the normal patterns of whales and dolphins are maintained in the short and the long term; and
> >
> > to ensure people have the best opportunity to enjoy and learn about the animals through observation that is successful for people and cetaceans alike.

Not only has the minister failed to do something about marine parks, failed with the bats and failed with a whole range of other aspects of her portfolio, ships are still coming into Port Phillip Bay bringing in diseases that are causing a considerable amount of problems. Just one example is the northern Pacific seastar, and we have seen some graphic photographs showing their exact numbers.

Each year we also have a number of warnings on our beaches. Victorian beaches are excellent — there is absolutely no doubt about that — but there are

warnings each year about the *E. coli* count at these beaches, and the pollution is making them unsafe. This year the minister was extremely lucky that it was a cool summer. E. coli counts were down at the majority of beaches, but several beaches were closed because of pollution. I would not like to think of what it might have been like if the summer had been hotter. I hope the minister will address this issue in a much more stringent way.

It is a great pity this bill was not brought in before last summer, during which 350 cases were reported where the owners of watercraft were warned about proximity to dolphins in the Port Phillip Bay area. An article in the *Herald Sun* of Friday, 25 January, states:

> Boating hooligans have been warned not to harass dolphins this long weekend or face hefty fines.
>
> The warning from water authorities come after a spate of incidents on Port Phillip Bay.
>
> Last weekend congested boat traffic from Dromana to Portsea brought boats dangerously close to newborn calves.
>
> Dolphin Research Institute research director Wendy Dunne said: 'It was sheer stupidity'.

Had the minister brought this bill in earlier these people could have been fined, and they would have learnt an even stronger lesson.

My research for this speech was extremely interesting. It brought to mind a number of issues, one of which was education. If you look back over the history of the Australian whaling industry you can see that whaling and the problems of whaling came to the forefront at various times. As early as 1803 Governor King in New South Wales talked about whaling and its problems. He spoke not from an educational point of view, but more from a commercial one. It is interesting to note at this stage just what Governor King had to say in 1803. The web site 'Whales on the net — Australia's whaling history' says:

> Governor King recognised that this uncontrolled slaughter would ruin the industry and in May 1803 he was writing to Nepean:
>
> > Although a vast quantity of Sea Elephants and Seals have been taken and still abound Hunters Island and Kings Islands, yet from the different communications I have received I shall find it expedient to restrain individuals from resorting there in too great numbers, and to fix certain times for their visiting to these places to prevent the destruction of that commercial advantage. Since I took command 16 000 gallons of oil and 27 800 seal skins have been imported from thence by individuals, 1063 tons of spermaceti oil have also been procured by south whalers, all of which I need not point out is a rising nursery for Seamen.

It was interesting to see that at that time regulation was already being looked at. However, this government should not make certain that it increases educational awareness by funding a program to back up what this bill is going to do. I strongly encourage the minister to do just that.

As an aside, it is very interesting to go to the supermarket these days and pick up a tin of tuna and find on it a dolphin-safe emblem, which all the time reinforces the process to have people understand that the tuna has been caught without any danger to dolphins. That is a long way from the commercial issues Governor King talked about.

Another aspect we must have a good look at is research. As we move into the new millennium it is vital to see that whatever decisions we make are based on sound science, well-researched information and proper empirical evidence.

The Dolphin Research Institute is located in Western Port and has been recognised internationally. I put on record just what a good job it does. A non-profit organisation, it does some excellent work, and it is very important to see such an organisation getting international recognition. I especially applaud the fact that it is attracting sponsors. These partnerships between government, non-government organisations and businesses are a very important aspect of how we should go forward. I encourage the government to give every possible encouragement for organisations to do exactly as the Dolphin Research Institute has done.

The Dolphin Research Institute has attracted McDonalds, Channel 10 and Mercury Marine, amongst others, to participate in and enhance its excellent work. In particular, McDonalds has sponsored a very special program called Community Dolphin Watch. For the information of honourable members I will read out exactly what it does and why the Dolphin Research Institute is so pleased about it. The Dolphin Research Institute web site says about the Community Dolphin Watch program:

> The Dolphin Research Institute does not have the resources to be in the field all of the time, nor can we adequately cover both Port Phillip and Western Port bays. Therefore, to identify and measure threats we need as many eyes on the water as possible to cover those times when we are not around. Sighting information can tell us a lot about the dolphins' movements and habitat requirements, providing vital baseline information that can be used to determine future research and management priorities. Sighting information is also important as a monitoring technique because dolphins are good indicators of the health of the marine environment.

I certainly encourage this sort of research and the involvement of a large multinational institution and business as well as local communities. This is a very positive step forward, and I hope the government will encourage more of it.

Since whaling started in this country we have seen an enormous amount of progress, but we have a long way to go. This bill goes some way to addressing some of the issues.

Why was whaling such an important industry? It is easy for us to sit in the 21st century and forget about how far we have come. We have synthetic products and it is easier to manufacture things, but it is interesting to reflect on what the whaling industry did for this country and what products came from whales. Nearly every part of the whale carcass — which is vast — was used. I had a very interesting tour of Albany Whaleworld, an old whaling station in Western Australia, at Christmas time. It was fascinating to see just how a whaling station operated.

The whales would be caught out in the ocean and then towed into the bay, where they would be left until they could be processed. The processing must have been ghastly; the smell must have been horrendous; and the working conditions, from looking at the photographs, were just appalling. However, it was a vital industry. I am very glad I did not live close to it, because the smell must have been extraordinary. The problem with parking these carcasses out off the island in the bay was that the sharks frequently got to the carcasses before the whalers did.

I will run through some of the products that were used. From the sperm whale the spermaceti was taken — and I quote from the Whaleworld organisation web site. The sperm whale products had a variety of uses:

> Spermaceti, the waxy material that fills most of the whale's bulbous head, was used for candles; soap; polish; cosmetic creams; and medical ointments.
>
> In the old days sperm oil was particularly used for fuelling domestic oil lamps, as it burns cleanly and without odour, until mineral oils and coal gas took over in the last century.
>
> This century —

I think they mean the 20th century —

> sperm oil became very important in industry. It was most valued as an excellent lubricant which maintains its viscosity characteristics through a greater temperature range and under greater pressure than any mineral oil. It was therefore ideal for automatic transmission fluids and as an aircraft engine oil, for it resists freezing well. The nearest substitute for sperm oil is jojoba oil, produced … in Mexico …
>
> Sperm oil, being very fine and free of mineral impurities, is excellent as a lubricant and antioxidant (rust preventative) for jewellery, watches and clock mechanisms. It was used for tanning fine leather and in detergents and dyes for the woollen and textile industries. It was also used in some cosmetic and pharmaceutical products.

That is a huge range of products from just one part of one whale.

The southern right whale is a baleen whale. There is no scientific background to the naming of the right whale. It was just that it was the right whale to harvest, hence the name, which we continue to use today. They are the whales we see off Logans Beach in Warrnambool. This whale's oil was suitable for human consumption and was used for cooking oil. The whale bones were used for women's corsets and umbrellas.

Ambergris is an interesting product. It is of interest to know just what it is and what it was used for. I quote again from the Whaleworld web site:

> Ambergris is produced in the hindgut of the sperm whale and is a black, semi-viscous liquid which forms around the indigestible squid beaks.

When the whale swallows the squid it cannot digest the beaks:

> On exposure to sunlight and air it quickly oxidises and hardens to a pleasantly aromatic, marbled, greyish, waxy substance in which the squid beaks are still embedded.

This sounds ghastly, but when I looked at it I found it was quite translucent and was interesting. It is still used as an aphrodisiac by the Chinese today.

> When warmed it produces a very pleasant, mild, sweet, earthy aroma. From ancient times it has been used in the West as a fixative for rare perfumes, since it has the effect of making other perfumes last much longer than they would.

The largest clump of this material ever found weighed over 983 pounds, which is huge. It is interesting to see the uses this product had in times gone by.

To get whaling into perspective it is important to look at the chronology, to see how it started and where we have got to, and to look at the various milestones along the way of both conservation and the mechanisation of the whaling industry. Honourable members will not be surprised to learn that in 1675 the very first whaling started in Japan, and that country contributed to the rapid expansion of whaling.

The Whaleworld web page states that in Australia it was not until 1788 that the British ship *Emilia* was known to be hunting sperm whales in the Tasman Sea. Four years later Sydney Cove was the centre for the profitable whale and seal trade across the southern

coasts. By 1795 reports of sea whales and sea elephants in their thousands had drawn people into the southern waters of Bass Strait.

That was the beginning of a profitable and very large industry. The web page says:

> By 1799 Australia was becoming very useful as a source for Britain's raw material requirements — wool from the land and whale oil from the sea. Soon London was unloading 300 tons of sperm whale oil caught off the coast of New South Wales.

This is part of the long history of Australia providing the raw products for international use that lets them add value and we miss out. However, that is a debate for another day. In the 10 years between 1832 and 1841 New South Wales exported whale products worth nearly £2 million. We must get into perspective how enormous this industry was: back in 1832, £2 million would have been an enormous amount.

In 1836 nine stations were functioning in and around Hobart. In 1864 there was a progression of the kind that today we look back at in horror, but at the time it was seen to be an important development. Seventy-two years after the first Australian whale centre was established in Sydney Cove the Norwegians invented an explosive harpoon gun. This really mechanised the whole of the whaling industry and increased the number of whales killed. The only comment I could possibly make is that I hope it was a bit more humane than the netting process. In 1879, after a storm had claimed the lives of 111 whalers in Japan, Japan was prompted to develop modern whaling processes rather than continuing to net whales.

Another development that enhanced the industry and enabled it to grow was that in 1903 the Netherlands started the world's first whaling ship. In 1925 the first factory ship provided with a slipway had started whaling. But it is not all negative news. In 1935 — and this is really starting to be positive and was a huge milestone — the southern right whale was protected. We have seen progressively the increase in the mechanical harvesting of these wonderful animals, and for the first time in the chronology we see the development of some protection.

Over the next 13 years it was very encouraging to see some other developments along with protection. In 1939 a 10-year moratorium was declared on humpback whaling. In 1946 the International Convention for the Regulation of Whaling was signed, and in 1948 the International Whaling Commission was established. However, interspersed with this were events such as Norway in 1960 introducing an aeroplane to replace the traditional whale spotting from the masthead.

Hon. P. R. Hall — What about the Eskimos?

Hon. ANDREA COOTE — I will leave the Eskimos to you.

In 1960 a country quota system was started, and in 1974 we can see how far behind the Western Australians were because at the whaling station I went to see at Albany, Cheynes Beach had its best season with 1147 sperm whales delivered to the flensing deck. That is an enormous amount of those wonderful animals. It is a horrifying statistic that in the 50 years from 1925 to 1975, 1.5 million whales were killed by commercial whaling, most in Antarctic waters. Then things started to get better, and they have got progressively better. In 1978 the hunting of sei whales in the Antarctic was banned. Luckily, in 1978 the last shore whaling station in Australia — that is, in Albany — closed after 178 years of whaling.

In 1979 the International Whaling Commission adopted an Indian Ocean whale sanctuary, and in 1982 it adopted the moratorium on commercial whaling effective from 1986. It was extremely interesting to see the development of that, and as I said at the outset, it was the Japanese who started the whaling industry. I am horrified to see that it is still the Japanese who are going to finish it.

I quote from a very interesting article in the *Australian* of 26 February this year headed 'Japanese make whales cache of the day'. Keep in mind that the Japanese are under huge pressure from the international community for their whaling and how they do it. The article begins:

> Of all the places in all the world a whale should not let itself be beached, it would have to be Japan.
>
> But in some ways the 85 melon-headed whales that stranded themselves on Hasaki beach 100 kilometres north-east of Tokyo yesterday were lucky. About 30 of the 2-metre to 3-metre creatures were pushed back into the ocean alive, and the ones that died were afforded a dignified burial along the beach. They were fortunate compared with the 23 members of the pod that ran aground on the same beach the day before.

From the publicity it would seem that the Japanese went and got the first pod and took the whales home to eat. One man was seen putting a whale, which would have weighed at least 300 kilograms, onto the back of his truck — that was a lot of fish! It is interesting to see that because of the international pressure, once the helicopters and the press arrived they made a big effort to put the whales back into the sea. The article continues:

> Officials from the town yesterday attempted to play down the number of whales taken for food, claiming only three had been removed from the beach.

However:

> With commercial whaling banned, demand for prized whale meat in Japan is partly sated by stocks caught under a so-called 'scientific' whaling program.
>
> The Australian government has expressed deep concern about the legitimacy of this program, under which Japan is allowed by the International Whaling Commission to catch about 400 whales a year.

It would be very nice to be able to stand up in this Parliament sometime later in these sittings and say that that had stopped too, and I know the federal government is continuing to put pressure on Japan.

Here in Victoria we have Logans Beach, near Warrnambool. Honourable members who have been lucky enough to go down and watch from the land-based viewing platform will have seen the southern right whales coming inshore to bear their calves and then to swim around with them. It is a wonderful sight to see. I have not seen the whales personally, but I have seen the platform, and I have to commend the people of Warrnambool for the way in which they have promoted this excellent viewing and the local fishermen, who have voluntarily taken upon themselves a requirement not go out and fish around the calving whales. I commend them for that.

My colleague the honourable member for Warrnambool in another place said that that viewing opportunity brings in about $18 million a year to the Warrnambool economy. That is not to be sneezed at. Indeed, I believe the bill we have before us today enables and protects just this sort of industry, and I certainly welcome it, as does my colleague. That colleague in the other place has also advised me that all honourable members might like to know that the Warrnambool Cup is run on the first Thursday of May. He encourages all of us to come to the Warrnambool Cup and says that if we do we might well also have an opportunity to see the whales, because last year they came in early in June.

Hon. P. R. Hall interjected.

Hon. ANDREA COOTE — You can do both. You can go to the races and then go and have a look at the whales.

I have spoken at some length about the whales, but I might now touch upon dolphins, which are referred to in another part of the bill. Dolphins are a great attraction in Victoria, and all of us have a special place in our hearts for them. They give all of us an enormous amount of pleasure. Dolphins have been credited with a great amount of intelligence, a sense of humour and a range of other characteristics. In fact, I was interested to read in the contribution by my colleague in another place the honourable member for Dromana that he considers himself the honourable member for dolphins! He felt they were all in his area and that he represented them.

There is an alarming part of this issue, however — alarming in one sense and interesting in another. The web site of the Whale and Dolphin Conservation Society, under the heading 'Swimming with the whales', talks about the therapeutic nature of dolphins. Most of us have read something about this and looked into the issue. It is something I would like to flag in the debate on this bill because we are going to have to look into it. It is already happening in America and is something we need to be aware of. I encourage the minister to have a look at this and make some plans for dealing with the issue when the pressure is applied on us to do it here.

The Whale and Dolphin Conservation Society is increasingly concerned about the growing number of captive dolphin-assisted therapy (DAT) programs in the United States, Latin America and elsewhere. We are currently reviewing details of existing and proposed DAT programs and investigating whether the benefits claimed by or on behalf of patients using that kind of therapy exceed those claimed of less controversial interactions with pets, horses and other domesticated animals. It is something we need to be aware of. If there are therapeutic benefits, I would not like to see the disabled being excommunicated from such programs. But on the other hand, I think we need to be aware of the impact on the cetaceans themselves.

The first of those is in clause 7 which amends the definition of 'interfere' in section 75(1) of the Wildlife Act 1975. The explanatory memorandum says:

> Approaching a whale at a distance that is less than the prescribed minimum distance will no longer fall within the definition of 'interfere' and will therefore not be an offence under section 76 of the Wildlife Act 1975. The bill inserts a separate offence for such actions (see proposed section 83). The new offence will have a more appropriate penalty of 20 penalty units rather than the existing indictable offence which carries a maximum penalty of 1000 penalty units. If a person who approaches a whale at a distance that is less than the prescribed minimum distance also takes action which constitutes 'interference' (for example, harassing or chasing whales), the existing offence and penalty will still apply.

That is a particularly positive move and I was pleased to see it in the bill. It will enhance enforcement of the

whole of the whale-watching regulations. It is a very good point.

The next part I would like to speak about in detail is clause 18 which deals with an insertion after section 82 of the Wildlife Act. Proposed section 83 details what was mentioned in clause 7. It says it is an offence to approach a whale at a certain distance. A person must not approach a whale at a distance that is less than the prescribed minimum and the penalty is 20 penalty units. This is a deviation from what was originally a very harsh fine. This smaller fine will enable the authorities to give on-the-spot fines. I think that will be a much more relevant approach to people who are contravening this part of the bill. If someone has been harassing dolphins or whales it is important that their actions are acted on. We all know that the on-the-spot fines for driving have such an impact that if you are caught speeding or for some other infringement you know from the outset precisely what that fine is for. This element of the bill will help that.

However, I was pleased to see that later in the bill the more serious issue of significant harassment of or interference with the animals still carries the larger fine and the harshness that it deserves. Under proposed section 83B it will be an offence to conduct whale swim tours without a permit. It says:

> A person must not, for profit, conduct an activity which involves persons being in the water to observe or swim with a whale, unless that person does so in accordance with a permit granted under section 83C.

The penalty is 100 penalty units or 6 months imprisonment or both the fine and imprisonment. I was pleased to see this provision. It is important that there are clear rules that everyone can understand. There will be no doubt at all that if you transgress this is what the result will be.

Proposed section 83C talks about the power of the secretary to grant whale swim tour permits. It says:

> (1) The Secretary may grant a permit to a natural person authorising that person to conduct an activity for profit that involves persons being in the water to observe or swim with a whale from the vessel named in the permit.
>
> …
>
> (3) A permit granted under sub-section (1) —
>
> (a) has effect for the period specified in the permit, which must not exceed 2 years; and
>
> (b) may specify the times and places under which an activity may be conducted under the permit.

Two years is an interesting and fair time period. It is out there in the open for the industry to see and know. Everyone is aware of what that time frame will be. That is important so the industry can reach agreement to buy equipment and handle the publicity and marketing of their business. I was very pleased to see that specified.

Proposed section 83F covers the power to make orders for the granting of whale swim tour permits in whale swim tour areas. Subsection (2)(b) says the secretary is to:

> specify whether the fee to be paid for a whale swim tour permit in the area is to be determined by tender or is to be a fee prescribed by the regulations …

This is quite new and it will be interesting to see how the tender process works and unfolds. It will be interesting to evaluate it. There may be times when it needs to be modified but it will be fascinating to see how it unfolds from the industry's perspective as well as that of the community.

Proposed section 83F(3) says:

> The Secretary, in making a specification under sub-section (2)(c) as to the number of permits that may be granted in an area, must not fix a number of permits that is greater than the number the Secretary has determined to be ecologically sustainable for that area.

I would like to emphasise that point. 'Ecologically sustainable' is a very big term. It is important that we clarify exactly what it means at the outset when we are looking at developing this bill and into the future as we learn and understand more about the impacts of these activities. I think it may need to be modified and clarified as time goes by. It is very important that the authorities watch this with caution. Proposed section 83F(4) says that:

> … the Secretary must have regard to the best available information as to the effect that the conduct of activities has or is likely to have on individual whales or groups of whales in the area.

It is vital that this aspect is reviewed regularly and that industry and community groups are alerted to anything that may have changed or affect the whales and the cetaceans.

I am very pleased to see proposed section 83I included in this bill and I would like to read it into *Hansard*. It makes the breach of condition an offence and says:

> The holder of a permit granted under this division must comply with the conditions of the permit.
>
> Penalty: 100 penalty units or 6 months imprisonment or both the fine and imprisonment.

Once again it is imperative that we have clarity and people in the industry and the community are aware of what these penalties might be.

Proposed section 83K deals with the variations and provides a great deal of responsibility which is not to be taken lightly. It gives the secretary the opportunity to vary the permits. I would like to emphasise what an important responsibility the secretary has. I hope it will not be abused. I am certain that it will not be but I would like to put that on the record. I think the power of the secretary to cancel a permit in proposed section 83N as per proposed section 83L is very good because it clarifies it for the industry, the lobby groups and the community at large.

The last aspect of this bill that I would like to talk about is the power of the secretary to cancel a permit. As I have said, in proposed section 83N(2) before cancelling a permit the secretary must notify the holder that he or she proposes to cancel the permit and allow the holder of a permit an opportunity to make either oral or written submissions. I think this is fair to the industry groups and I welcome its inclusion in the bill.

They are the aspects of the bill I wanted to highlight. It is interesting to go back to the comment I made earlier about how the government has adopted the guidelines and aims of the Australian and New Zealand Environment and Conservation Council. Honourable members can see how, although the government has detailed some welcome improvements and amendments, it was not all that difficult to expand on those excellent guidelines.

In conclusion I have one last warning — and that is to the Minister for Environment and Conservation. I have grave concerns about her and the government's proposal to deepen the channels and widen and deepen the rip. We are worried about people swimming with these whales and harassing them, but how are we going to protect them from the enormous amount of material to be dredged and taken out with this widening? It is unclear how this will happen. On the one hand the Minister for Ports says the channel will be widened and deepened, but on the other hand the Minister for Environment and Conservation is quiet and is not indicating the realities of how practical it will be. I want to know the ramifications for the whales and the dolphins and I am certain the industry groups will want to know that as well.

I call upon the government to increase funding for additional education. The Minister for Ports referred to boat licences and personal watercraft and to how successful she has been in implementing these. I want her to include information about dolphins and whales when licensing operators and to provide information about the relationship boat operators and personal watercraft operators have with whales and dolphins. This is an excellent time to introduce this information. Earlier I called for additional funding. I want significant funding for research. It is imperative that we adopt world best practice. We have an opportunity to do this and I want research to build on our ecotourism, which is vital for the state. Industries involved in this area will be confident about a sustainable and balanced process for them, the environment and these wonderful animals. I have pleasure in supporting the bill.

Hon. P. R. HALL (Gippsland) — I indicate not just the National Party's support for the bill, but strong support for it. I commence my contribution by thanking the Honourable Andrea Coote for her informative contribution to this debate. We learnt something about whale types and the history of whaling throughout the world. We learn something every day. It was a great contribution.

The bill amends the Wildlife Act to make it compulsory to hold a permit to conduct dolphin swim tours and regulates the amount of activity — the number of permits — that can be issued for commercial tours in whale and dolphin-watching areas. It separates the offences of approaching closer than the minimum prescribed distance from the more serious offence of interfering with whales.

Whale watching, dolphin swim tours and dolphin sightseeing have been growth industries over the past 10 to 15 years. Most people are familiar with the facilities at Logans Beach in Warrnambool where they have land-based viewing platforms and a series of walking decks out to the platforms. They are impressive facilities. I note it is suggested in the second-reading speech that whale watching brings something like $18 million to the Warrnambool community. That gives an indication of the growth in whale watching as a recreational issue for many people throughout the state and internationally.

Last year I had the opportunity of visiting Warrnambool and visited Logans Beach. I spent half an hour or so there. Unfortunately I did not see any whales at that time but I spoke to some international visitors and they said they had spent the whole day there and had four different sightings of whales. They were very pleased.

Dolphin swim tours and dolphin sightseeing have also been a strong growth industry. I note an article in the *EVnews* of December 2001 which quotes Jeff Weir, the

executive director of the Dolphin Research Institute. The article states:

> From small beginnings in the late 1980s, dolphin-based tourism in Port Phillip Bay has grown to become a million dollar industry.
>
> More than 10 000 people annually participate in dolphin swim programs and similar numbers go on dolphin sightseeing tours.
>
> 'It was chaos out on the water when the Dolphin Research Institute started working with the stakeholders to find ways to protect the dolphins while still giving people the opportunity to experience the thrill of seeing and being near dolphins', says Jeff Weir.

The article further states:

> Jeff Weir says that on a busy summer day, a tour boat can approach dolphins every 90 seconds or so on average in the southern part of Port Phillip Bay and they have logged dolphin pods being disturbed for over 7 hours at a time without respite.

None of us would want that situation imposed on us — having people chasing around after us for 7 hours during the day. There is obviously a need to regulate and control this type of activity. I give credit to the industry, which has embarked on a process of working with the department to ensure there are controls over the activities involved in dolphin swim tours and dolphin sightseeing. It has been effective. Nevertheless, while good progress has been made, further measures should be taken. The bill further regulates the process of monitoring dolphin sightseeing and whale watching.

In preparation for the bill the National Party consulted with organisations such as Warrnambool City Council, the Mornington Peninsula Shire Council, the Dolphin Research Institute and a number of commercial dolphin swim operators. I am pleased to indicate to the house that all the organisations consulted by the National Party strongly support the bill. I particularly mention Judith Muir of Polperro Dolphin Swims, mentioned by the Honourable Andrea Coote, who was one of the first operators, if not the first operator, to conduct Dolphin swim tours in 1986 or 1988. They established this activity commercially and they have been the strongest organisation in proposing the need for accountability mechanisms to ensure the dolphins in Port Phillip Bay are protected. She said in a letter to me dated 19 November last year:

> The proposed amendment to the Wildlife Act has eventuated because of industry concerns that the dolphins are not totally protected from overexploitation under the present legislation and its licensing system. We support the proposed amendment to the Wildlife Act.

It is pleasing that the industry sees the need for this type of legislation and, indeed, is one of the main proponents of it. Judith Muir also makes the point in her letter that enforcement and monitoring will be an essential part of making the measures effective. I emphasise that. All honourable members agree that the measures contained in this bill are important measures that need to be put in place. It is up to the government to ensure that the policing, enforcement and monitoring of the measures are actively undertaken. I urge the government to ensure that is the case.

I also indicate I have had a good response from the Dolphin Research Institute. The passion for dolphins of Mr Jeff Weir, executive director of the institute, is apparent throughout the letter that he has written me. He provides some background about the institute and what it does. He praised both Labor and Liberal governments for the work they have done progressively over the years to ensure the protection of dolphins in Port Phillip Bay. It is also said that the bill largely follows the Australian national guidelines for cetacean observation. I have had a quick look at the guidelines and they are very extensive and appropriate.

The bill is strongly supported by the National Party. Perhaps the only disappointment is that it was not passed last year. The bill was on the notice paper, but time prevented the house from passing it last year. Nevertheless, the bill is being debated now and will be passed today. I wish it a speedy passage.

Hon. R. F. SMITH (Chelsea) — I am pleased to support the Wildlife (Amendment) Bill. It is one of the rare occasions when there is unanimous support for a bill, and I suppose it is because of the nature of the bill we are dealing with. Whales seem to have that effect on people, particularly in the past few decades. People seem to love them and they seem to love us.

The purpose of the bill is to amend the Wildlife Act 1975, to make further provision for the conduct of whale tours and to make further minor amendments to the act. The proposed amendments will come into effect no later than February 2003.

Who does not like whales or dolphins? The amount of interest over the last two decades has been quite incredible, in particular the interest among young people, and I include my daughters. From a relatively early age their support for dolphins has been noticeable in the family home, particularly in my daughters' bedrooms. This interest in dolphins and whales is consistent among not just girls but young boys as well.

I remember an international situation possibly 10 years ago when some whales were trapped in Arctic ice. Global media coverage probably rivalled the S11 terrorist attacks. We were all fascinated with the entrapment of the whales and waited to find out whether or not they were able to escape.

The same interest was expressed in the killer whale known as Willy. Not only was a movie made about him called *Free Willy*, but a real situation existed where people freed the whale and transported it to Greenland, but unfortunately the exercise was unsuccessful. The whale simply could not survive back in its natural habitat because it had been captured and had been in confinement since birth. Again, it generated enormous worldwide interest. Everyone knows the movie and TV series about *Flipper* and how popular they have been. As I said, dolphins and whales are extremely popular animals. We are all pleased to see that we have done something to enhance their safety and wellbeing here in Victoria.

I reflect on some of my personal experiences with dolphins and whales while I served in the navy. I suppose I will get the nasty incident out of the way first. When I was sailing in a destroyer called *Duchess* to Hawaii we had the most unfortunate accident insofar as the vessel hit a whale of significant size and killed it at sea. It was interesting to see the impact that that incident had on the whole crew. Everyone was disappointed and saddened.

At other times when I was sailing with the navy through the Arafura Sea on a calm and balmy evening I watched the dolphins. They were 8 to 10 miles away, but you could see them because the water was so calm. Even when a ship was refuelling at sea, if I was not engaged in the refuelling operation, I would sit and watch with fascination the dolphins swimming as close as possible to the bows of both ships and rolling and scratching their backs on the bows at high speed. Indeed, dolphins are fascinating creatures.

The other issue I raise — and this would probably concern most people if they thought or knew about it — is the amount of experimentation going on with dolphins among some of the military forces world wide. It is no secret that the United States of America, in particular its navy, is experimenting with dolphins in an attempt to turn them into some sort of offensive weapons where they could carry homing devices, explosives, limpet mines or simply carry some form of video camera, which could be used to identify either enemy ships, submarines and so on. I am not comfortable with that sort of experimentation and development. I am surprised that a number of wildlife or animal protection organisations have not organised international campaigns against it. We have seen it with fur seals. It is not only an unfortunate but also extremely cruel development where the USA navy is wanting to experiment with these creatures in such an offensive manner — that is, offensive in terms of weapon and nature.

This bill is in recognition that the interest in tourism in Victoria is in need of a more refined or appropriate regulation for what is now being described as a new industry. For example the industry of swimming with or watching dolphins — you cannot swim with whales, you can merely watch them from ashore — is certainly growing. In my end of the world on the Mornington Peninsula it is a popular pastime with people. However, as activities such as that become more popular they attract another element of people that are not so attractive — that is, the hoon element — and it has caused a great deal of distress and concern not only for the dolphins and operators of these tours, but for the general public as well. They are quite disturbed about some of the young persons who harass and act in a dangerous manner towards the dolphins.

The bill includes changes that will more accurately reflect the needs and desires of the general public as well as the operators of tours. The Honourable Andrea Coote has already outlined the changes to the amounts of fines and how they will be applied. For instance, there will be more flexibility with this bill; it will not just be a case of interfering with whales, or swimming with them; there will now be degrees of interference. There will be a $100 000 fine for interfering or a fine of up to about $2000 for swimming with a whale or a dolphin in an offensive or interfering manner.

There are both swimming-with and view industries in Victoria. Previous speakers have spoken about Logans Beach in Warrnambool, and it has been established that approximately $18 million is contributed to the local economy annually as a result of people coming to watch the whales calving. It would have to rival Hervey Bay, the equivalent tourist attraction in Queensland with a similar industry. The viewing platform in Warrnambool allows for a minimum disturbance to the whales, particularly during birthing, and ensures that the calves in particular and the whales are in top condition when they decide it is time to go back to the Antarctic.

The second part of the industry involves dolphin sightseeing and swimming in Port Phillip Bay, mainly at Sorrento. Currently only four permits have been allocated to operators to take swimmers within the allowable distance. It is not an offence to conduct swim

tours without a permit, and the proposed changes are consistent with the national guidelines in that it will now be an offence to operate such a venture without a permit.

The time period for which permits are valid will be changed from one year to two years to allow for the obvious planning and recuperation of investment moneys and the like. Everybody agrees that will give more stability to the industry, and the issue of what happens to a licence, for example, in the event of someone who passes away. That will be handled by the secretary of the minister. Those holding licences should have no fear that the period of their licence will be maintained regardless of what happens to the particular holder. It is then open to tender after the two years.

Changes will allow equal opportunity for people to seek permits, which is fitting and supported by the industry. Much consultation has taken place on the bill with the relevant parties, and there is unanimous agreement that it is good legislation.

The Dolphin Research Institute, the current swim tour operators and Project Jonah support the bill. There is no impact on operators regarding sightseeing because they can now obtain permits for two years rather than one year. I commend the bill to the house.

Hon. A. P. OLEXANDER (Silvan) — It is with pleasure that I make a brief contribution on the Wildlife (Amendment) Bill. My colleague the Honourable Andrea Coote clearly outlined the opposition's position in support of the bill. I do not intend to range over the significant historical aspects which she elucidated upon, but I should like to comment on certain aspects of the bill.

The opposition strongly supports the initiative, will support the bill and wishes it a speedy passage. The purpose of the bill, generally speaking, is to make it compulsory to hold permits to conduct whale swim tours and to enable whale swim tour permits to be regulated within an ecologically sustainable threshold and be allocated by tender. That is currently not the case, and we welcome this initiative.

One of the main purposes of the bill is to provide for more appropriate offences for approaching whales and dolphins at a distance closer than predetermined safe minimums. With the growing popularity of whales and dolphins as tourist attractions worldwide, but particularly in Australia, it is necessary to review and amend the Wildlife Act to ensure the safety of the animals and the community and ensure that there are proper and adequate standards for the industry that facilitate community viewing. Under the Wildlife Act 1975, operators do not require permits for swim tours. Given the growing popularity of these activities and the growing number of tourists engaged in them it is now appropriate to change that situation.

The bill will make it an offence for the conduct of swim tours commercially involving cetaceans — whales or dolphins — in Victoria without a permit. There will also be additional protection for wildlife by announcing tourism areas and setting ecologically sustainable thresholds for permits for those areas. Any new areas will be considered under careful scrutiny to ensure minimal risk to whales and dolphins. Obviously that has to be the first priority of our environmental agencies and of the government.

Currently two main industries in Victoria deal in this area. The first is obviously the viewing of southern right whales at Logans Beach near Warrnambool. I visited the watching platform at Warrnambool over the summer break to see first hand what the facilities and the tourism experience was like at the site. Whale watchers close to Warrnambool contribute greatly to the local economy. It has been estimated that as much as $18 million is raised locally per whale season. Whale watching is obviously land based and the land platforms are designed not to disturb the southern right whale. The Australian and New Zealand Environment and Conservation Council discourages strongly watching from boats, particularly due to the fact that the area is often the site of whales calving between June and October each year.

My visit occurred in January. It was very impressive from the perspective looking out to sea. We saw a group of five whales, which is rare. Whales are usually not found in those numbers. They were playful on that day. I encourage anybody who is interested in viewing whales to go and see them. If you get there on the right day it is an amazing experience, particularly when whales decide they will begin to splash around. There is a lot of tail bashing — I am not sure of the right term — on the water and a lot of white water is created. We viewed a lot of this. It was an extraordinary experience, and I am told a rare one.

Unfortunately, my experience of the platform and the tourist facilities was less exciting. I found them to be substandard. There was little coverage over the platform in case of inclement weather, particularly between the calving season of June to October. I would have thought that would be a priority given the number of tourists who visit the area. There was very little coverage of the area. A range of placards and boards with educational and informational material was

available for members of the public, but I noted that they were in fairly poor condition and had not been updated for some time. In fact, some of them looked quite waterlogged and were not what I consider acceptable for a multimillion dollar tourism industry or platform.

Another thing I found was that none of the material was published in other languages, and considering the number of European and Asian tourists who were at the platform at the time, I consider that to be a drawback as well. I encourage the government to address some of those issues in the interests of tourism. Nonetheless, it was a very exciting visit.

Over the summer break between at the end of January and the beginning of February I also took the opportunity to have some dolphin sightseeing time on Port Phillip Bay. I joined a private party in a boat which moored not far off Mornington. The number of dolphins that we saw was quite amazing. It was a beautiful sunny day. I can remember at least two pods approaching quite close by, I would say within about 100 metres of our anchored and moored boat.

Unfortunately on the day we were appalled to witness a group of jet skiers who decided to take their jet skis right through the centre of one of the pods. I do not think it could possibly have been unintentional. The dolphins were observable from quite a distance, and the jet skiers had moved very rapidly towards them. I, and I think everybody else who observed the incident, realised clearly that it was an intentional harassment. We were completely dismayed that people could take those sorts of dangerous actions. It should not surprise anybody that after that had occurred the dolphins did not come back to the surface for quite some time, and when they finally did we saw them quite a way off in the distance. Those sorts of experiences underline the need for a bill like this.

Currently five permits have been issued. Permit-holders can approach closer than a minimum distance — that is 50 metres — and those without permits who undertake similar activities can approach at no more than 150 metres. The Australian and New Zealand Environment and Conservation Council recommends that that should be mandatory.

I want to talk a little bit about permits. Once an ecologically sustainable threshold is established, the tendering of permits so as to provide equal opportunity for those who wish to work in the industry will occur. A permit period of up to two years will be instituted. The current maximum is one year. This period would ensure appropriate management of the swim tour areas, which is critical.

We are told that permits will be assessed according to a range of criteria, including an educational component for the tour itself, the number of swimmers who will be on the tour, and the performance record of the tour operator. They are interesting criteria, because the performance record of the tour operator could possibly limit new entrants into the industry. I call upon the government to ensure that, given the growing popularity and the growing tourism dollar that is available from this type of activity, the tendering process that applies is as open and transparent as possible and does not discriminate against new entrants into the industry, particularly given that performance record will be one of the assessable criteria. It is important for Victoria in an industry like this to ensure that if they meet safety and other requirements new entrants are able to enter the industry and thus provide more jobs and enjoyment for tourists who visit this country.

The current offence that applies in this area — that is, for a person to approach a whale closer than the minimum allowed distance — is classified as interfering with whales, and a penalty of $100 000 applies. The new offence this bill introduces separates the offence of approaching closer than the minimum distance from that of interfering with whales and dolphins. So there are now two offences. Obviously the more minor of these offences will be the approaching offence rather than the interfering offence, and penalties for approaching will obviously be more minor than those for interference.

However, the problem I have with this — and I hope the government can clarify it — is that I believe the interference needs to be defined a lot more carefully than it currently is. It is often the case with legislation that when it comes to the public and the industry understanding of what it means, the legislation does not always provide all the information required. The government may intend to implement guidelines and publicise those within the industry, but I call upon it to ensure that the offence of interference, the more serious offence to be introduced, is explained in detail, and that industry can be provided with clear, case-based outlines for what would be considered an interference under this bill. That would just be a sensible thing to do and would help the bill to achieve its objectives of protecting the industry, the public and the cetaceans — that is, the whales and dolphins.

In concluding I indicate that opposition members support this bill because the safety of whales and

dolphins, as well as the public, is a priority for us. The bill obviously seeks to ensure that the wildlife concerned is not disturbed by the increasing popularity of tourism. The opposition is obviously glad that the tourism dollar is growing for the state of Victoria, but does not want to see negative impacts of that occurring to the ecosystem. The proposal for restrictions on the minimum distance allowed for approaching whales and dolphins is strongly supported, as is the requirement for permits to conduct whale and dolphin swim tours. With our support, I wish the bill a speedy passage through the chamber.

Hon. PHILIP DAVIS (Gippsland) — I am delighted to join this debate, albeit ever so briefly. The Wildlife (Amendment) Bill is an important bill which takes the protection and regulation of our marine mammals a step further. Before making my contribution I would like to acknowledge the very significant contribution made by the lead speaker for the opposition, the Honourable Andrea Coote. I thought she outlined exceptionally well the background to this bill in terms of the history of the utilisation of whales and some other relevant background.

My interest is that I think this is a developing opportunity for tourism, including whale and dolphin watching and swim tours, and is a reflection of an increasing trend which has been developing over recent years — that is, to look to our natural resources in a constructive manner and as opportunities for not just commercial harvest activity but for society to enjoy our relationship with the natural environment. Obviously there are pressures to ensure that that is managed in a properly regulated way. This takes the regulation of swim and observation tours a step further.

Briefly, the bill makes it compulsory to hold a permit to conduct whale swim tours and to enable whale swim tour permits to be regulated within an ecologically sustainable threshold, to be allocated by tender, and includes a more appropriate offence for approaching whales and dolphins at a distance closer than the prescribed minimum.

It is useful for us to reflect in a general sense about the evolvement of our legislative framework for the regulation of our natural environment. Obviously in recent times this Parliament has seen debate about matters of resource management. Honourable members will recall the context of the debate about the government's failed marine parks legislation, and the evolvement of the Land Conservation Council, which was established in the 1970s by the then Liberal government. The LCC evolved into the Environment Conservation Council under the previous Kennett government. The ECC has been transformed into the Victorian Environment Assessment Council by the Bracks government. These evolvements in the regulation of our natural environment are important reflections on the way the community expects the Parliament and government to behave and try to protect our resources in terms of contemporary values.

In that context, one of the issues I wish the government would pay as much attention to as it seems to pay to dolphin watching in Port Phillip Bay is the opportunity for stressed environments to be managed in a more effective way. Specifically, I refer to the Gippsland Lakes. My recollection is that, probably a decade or so ago, I often used to see dolphins swimming in the Gippsland Lakes. I do not recall seeing dolphins in the lakes in recent years, and I presume that if they do appear it is far less frequently than they used to. This is an example of the stressed nature of the water quality of the Gippsland Lakes. Even city-based members of Parliament will have reflected on the media coverage about water quality problems the Gippsland Lakes seems to get every summer. Those water quality problems reflect higher levels of nutrients.

There are concerns about the water quality in Port Phillip Bay for a whole lot of reasons and decisions have been made to try to address some of them. A major study was undertaken by the Commonwealth Scientific and Industrial Research Organisation to identify some of the causal factors in the environmental balance of Port Phillip Bay and actions are being implemented progressively to address them. The Kennett government removed scallop dredging from the bay, and there has been a perceived growth in the number of sightings of dolphins in recent times. That growth has been reflected in the increased and heightened activity of dolphin-watching tours, which are becoming an increasing aspect of tourism in the bay.

While the perception is that there is a serious water quality problem in Port Phillip Bay, it is nowhere near as problematic as that in the Gippsland Lakes, where nutrient levels and nitrogen levels are an average five times higher than Port Phillip Bay. Indeed Lake Wellington has a nitrogen level some 13 times that of Port Phillip Bay. If we are going to regulate our natural environment in a peripheral sense — because it is certainly peripheral to regulate who can swim and drive boats near dolphins and whales — the reality is that we need to address the more substantive problem, which is the environmental health of the natural environment in which those mammals swim.

I would like to see the government not just deal with the peripheral issue of whale and dolphin watching as this bill does but with more substantial problems in our natural environment, and not just in a political way.

Government has responded to issues concerning the Snowy River. I am sure that the Minister for Energy and Resources will take great interest in the fact that I take a continual interest in the progress of the minister's arrangements in terms of returning flows to the Snowy. I was in Orbost the other day and my constituents said to me, 'It's an amazing thing. We have heard a great deal about what is going to happen to the Snowy, but we actually haven't seen any more water yet'. I raise the issue in the house to give the minister an opportunity perhaps to respond at some later date and to give us a report on when there will be another drop of water in the Snowy River.

Coming back to the central point, which is the quality of the water in which our dolphins and whales swim, it is all very well to spend $1 billion in gross terms to secure the vote of the Independent member for Gippsland East. But by the time you add up the loss of net present value of the Snowy Mountains hydro-electric scheme and the additional funding which is being committed by governments — $350 million — you end up with about $1 billion in round figures. Apparently the Billion Dollar Man, the honourable member for Gippsland East, is more important than the dolphins in Port Phillip Bay or, more particularly, the dolphins which would like to be swimming in the Gippsland Lakes.

There is no dolphin-watching tourism in the Gippsland Lakes because of the water quality. Rather than just peripheral legislation regulating the hire-drive observation tour businesses, which is basically what this bill is about, I would like to see the government concentrate its efforts and resources on improving the natural environment so that a greater number of Victorians can have the opportunity to enjoy close association with dolphins. I guess that, as a consequence of speaking on this bill, I am putting a challenge on the agenda to ensure that dolphin watching could occur in other significant estuarine environments, bays and inlets where it does not occur at the present time because of water quality problems. Those matters ought to be addressed.

It will take a significant and real commitment by the Bracks government to achieve that. If the political will is there and it is evident that the resources can be allocated — as the government has proposed to allocate resources to the Snowy River — I would like to see even 10 per cent of that $1 billion allocated to improving the health of the Gippsland Lakes. The reordering of those priorities would result in a much greater dividend for Victoria.

I support the bill. It is important as far as it goes. The operative clauses are clauses 7 and 18. Clause 7 defines what interference means so that there can be a differentiation between somebody who is in proximity to a dolphin or a whale and somebody who potentially could cause harm. Clause 18 sets out the penalties and the regulation of sightseeing tours and swim tours and provides the structure for the secretary of the department to determine the number of permits that will be issued and the basis on which they will be issued, and to specify in what way those permits will be allocated, either by fee or by tender. That will depend on the number of applicants, of course. When the total number of permits that are allowed to be allocated are taken up, obviously those permits will have to be issued on a tender basis.

In summary, the government should move on a bit from just dealing with what are easy and peripheral issues. The operation of sightseeing and swim tours needs to be regulated, but the real work needs to be done to improve the quality of our bays and inlets.

Hon. E. C. CARBINES (Geelong) — I am pleased as a member representing Geelong Province to speak on the Wildlife (Amendment) Bill which seeks to protect two of our most loved marine species — whales and dolphins. Honourable members have heard me speak many times about my wonderful electorate of Geelong Province and its coastline, most of which adjoins Port Phillip Bay. Our coastline not only provides scenic beauty, but it also affords much recreational pleasure to the residents of Geelong Province.

The region is also one of the premier holiday destinations for Victorians and national and international tourists, so we value and seek to protect the marine environment. There are some wonderful coastal towns in my electorate which have been made famous by many different activities, including surfing carnivals and even the most recent *Sea Change* television program, which crept its way into the hearts of all Australians — all located in Geelong Province. We are proud of our coast, our shoreline and our marine environment.

We are also proud to be home to MAFRI, the Marine and Freshwater Resources Institute, at Queenscliff. The government is committed to the institute being in Queenscliff and we are proud of the work the MAFRI scientists conduct which is of international renown.

Those scientists undertake a lot of research work, which ultimately leads to laws to protect our marine and freshwater species and the environment they inhabit.

Co-located with MAFRI is the Marine Discovery Centre, an educational centre for Victorian students that seeks to give Victorian students — primary, secondary and even tertiary — educational opportunities to learn about the marine environment and to see for themselves first-hand the wonder of the marine environment in Port Phillip Bay.

I have had the good fortune to attend a number of programs at the Marine Discovery Centre with school students from my electorate and, like them, I was fascinated and benefited from the knowledge of the scientists who work there. They think of clever and interactive ways to involve students to learn about marine ecology and the protection of our environment. I went out in a boat onto Port Phillip Bay with a group of primary school students and a scientist from the centre. We stopped the boat and trawled the bottom of the bay to see what we could find. We found many interesting creatures and vegetation from the seabed. Although we did not see any dolphins that day, we saw many seals, much to the delight of everyone on board. So we have fond memories of the work of the Marine Discovery Centre.

Geelong residents have many opportunities to see dolphins along the coastline. I know my family and I have seen them many times frolicking and diving in and out of the water, and it is a delight to everyone. I am sure all honourable members enjoy seeing them. It is great to know the waters of Port Phillip Bay and Corio Bay are clean enough to sustain dolphins. A couple of years ago whales arrived in Geelong, much to the amusement and excitement of everybody, including the *Geelong Advertiser*, which featured many photos of them. The whales came right into the waterfront at Geelong and were swimming adjacent to Cunningham Pier. It was wonderful to see those magnificent creatures entering and enjoying Corio Bay.

Last month I attended a luncheon hosted by the City of Greater Geelong to demonstrate the importance of the marine environment. Two speakers of international renown addressed the luncheon; David Bellamy and Sylvia Earl. They spoke passionately about the marine environment and the need to protect it. Anyone who attended the luncheon and listened to those two learned people would have wanted to go out and do all they could to protect our marine environment. I am sure David Bellamy and Sylvia Earl would support the intent of the Wildlife (Amendment) Bill because they are, as are honourable members of this house, keen to protect species that inhabit the marine environment, certainly by protecting their habitat.

The Department of Natural Resources and Environment has produced an impressive pamphlet, which I picked up yesterday, titled ‘Share respect protect’. It is hot off the press; and it was released this year. It is a very informative and educative pamphlet, which gives information about creatures that can be found in Port Phillip Bay — dolphins, whales, including the species of whales you might find, seals, and of course our penguins. I was interested to learn from the pamphlet that fairy penguins are now called little penguins.

The brochure not only includes information about the various species, but also includes information about the laws and the obligations of humans who seek to use the marine environment and how closely you can approach marine species. Included in the pamphlet is a detachable sticker that people can stick in their boats so they have all the information available at hand and are not inadvertently doing the wrong thing. It is an excellent pamphlet.

Over the last few years a whole industry has grown up around sightseeing in Port Phillip Bay and around Warrnambool, as well as around swimming tours that involve dolphins. They have become very popular. I have not been on tours to see the animals, but I have had the pleasure of being on craft in Port Phillip Bay and had dolphins swim next to the boats. At Queenscliff there is the wonderful ferry service that operates across the bay to Sorrento, and often the dolphins can be seen from the ferry traversing the bay, to the delight of all the passengers. I have not been on one of the swimming tours or the designated sightseeing tours, but they sound quite wonderful.

It is very important that this booming recreational industry is managed appropriately and on an ecologically sustainable basis so that it will in no way impact detrimentally on the lifestyle and habitat of the species we are talking about today: whales and dolphins.

The bill allows for the declaration of tourism areas for swim tours and sightseeing tours. Those areas will be managed through the issuing of permits for operators who wish to approach the mammals closer than the prescribed limits. That is being brought in so that dolphins can be protected and to make sure the tourism areas are not oversubscribed. The bill makes it mandatory for tourism operators to take out a permit before they carry on their business. Currently that is not the case. So, in that way, the bill seeks to bring Victoria

into line with national guidelines regarding tourism operations that affect whales and dolphins.

The bill will also extend the duration of a permit. People can obtain a permit now, but it is not mandatory, and if they do it is for one year. The bill seeks to extend the duration of the permit to up to two years. The bill also establishes very clear provisions regarding offences associated with approaching whales or dolphins and separates out the offence of interfering with them, which is a serious offence. The bill makes sure that the seriousness of that offence is underlined.

Consultation has taken place with all current tourism operators who are conducting sightseeing or swim tours, and the good news is that they support the bill. On top of that, the Dolphin Research Institute and Project Jonah have both endorsed the bill.

Although this is a relatively small bill — and some honourable members opposite have been a little bit disparaging in their comments — I congratulate the Minister for Environment and Conservation on her preparedness to protect our whales and our dolphins and to work out a sensible way to manage a booming tourism industry which may, without this legislation, impact negatively on their habitats and their lives. First and foremost the bill will look after the interests of the whales and the dolphins, but it also provides for a sensible, workable management framework for tourism operators.

I appreciate the support the Liberal Party and the National Party have offered the bill, and I commend it to the house.

Motion agreed to.

Read second time.

Third reading

Hon. C. C. BROAD (Minister for Energy and Resources) — By leave, 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 on the bill. I note the high level of support for the bill around the chamber and the positive comments that have been made in the interests of ensuring successful implementation of the legislation.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

SENTENCING (AMENDMENT) BILL

Second reading

Debate resumed from 19 March; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. P. A. KATSAMBANIS (Monash) — I rise to speak on the Sentencing (Amendment) Bill and to place on record the fact that the Liberal Party opposition supports the bill because Liberal members believe it is a genuine attempt to address an extraordinarily serious community problem and also because in many ways it embraces policy that the Liberal Party had put out into the public realm well before the government acted in this area.

While supporting it and wishing every success to the pilot program the bill introduces, we wish to put on record the fact that we believe the program introduced by the bill is rather limited and in many respects has not been given the best possible chance of success. I will outline that as I go along in my contribution.

Essentially the Sentencing (Amendment) Bill creates a fundamental change to the way we deal with some offenders in our criminal justice system, offenders who are affected by drugs and addicted to illicit drugs of addiction. It introduces the concept of a drug treatment order to our legal system. In many ways the Attorney-General has been at pains to highlight in the second-reading speech the fact that it introduces a drug court. I think the terminology is used mainly to cover the government's tracks rather than to in reality introduce a separate drug court. However, I think that is a good thing. Later in my submission I will highlight the fact that I do not think a stand-alone drug court would have been the right option and that in the end the government has chosen to go down the better path first proposed by the opposition.

To suggest that we do not have drug courts in Victoria at the moment is to essentially turn a blind eye to what is happening on a daily basis in our courts. I imagine that most members of this place would have attended Magistrates Courts in or around their electorates over the past few months and years. I submit that every single Magistrates Court in Victoria is today a drug court. The magistrates and other people in our criminal justice system are at the end of the line of dealing with drug addiction in our society when that drug addiction

contributes to criminality. Our court system has to deal on a daily basis with people who are clearly committing crimes because of their drug addiction — that is, a significant contributory reason for the commission of those crimes is their drug addiction. To say that we do not have drug courts at the moment is clearly a misnomer.

What we need to have, as this bill is rightly addressing, is some sort of circuit-breaker, some new approach that gives the people in our criminal justice system who are confronted with a criminal who is also an addicted person the flexibility, resources and legislative backing to ensure that we can deal with the offender in the most appropriate manner that will hopefully address that offender's drug addiction and adequately deal with the crime committed so the community believes the offender has been punished in some way, and that will provide community safety by ensuring in the main that that offender, as much as possible, does not reoffend. We need to look at all aspects of the impact of drug addiction on our community: the impact on the individual, the impact on the victims and the impact on the community at large. By introducing drug treatment orders — what the Attorney-General wants to call drug courts — we are going one further step along that way. I think that is a good thing.

As I said, no-one in our community believes for one moment that our Magistrates Courts today are anything other than courts that deal with the extreme consequences of drug addiction. Every single Magistrates Court is a drug court but for too long our magistrates have not had the flexibility and the tools they would like and they need to address the real problems of the individuals they see on the other side of the bench.

It seems so long ago now but in 2000 the Liberal Party came out with a comprehensive policy to deal with drugs in our society. It was called 'Combating drugs: a safer way'. Under the area of rehabilitation of users in that policy the Liberal Party committed itself when in government to introducing statewide drug court divisions of the Magistrates and County courts. It went on to commit itself to the following:

> After training, specific magistrates and judges would be qualified to sit as a drug court in any court throughout Victoria.
>
> The drug court division would have its own rules and complete sentencing flexibility to allow inclusion of strategies — such as rehabilitation, detoxification, family or mentor programs.

The policy went further and discussed advisory panels that would work with the magistrate in setting appropriate diversionary programs. It outlined a system where reoffenders would come back in front of the same magistrate so effectively the magistrate would be case manager of that individual. The policy discussed the ability to random drug test people under these court orders. It was a comprehensive strategy that encompassed this concept of a drug court division within the Magistrate and County courts.

At that time, the government, and the Attorney-General in particular, were focused on other issues. They were more focused on the bricks and mortar of creating a physical drug court or courts; I am not sure whether it was singular or plural. Back then the Attorney-General was clearly talking about setting up a physical presence, a drug court in a separate building to the rest of our courts to deal with these issues.

The Attorney-General commissioned Professor Arie Freiberg to produce a discussion paper on drug courts. This was after the Liberal Party's policy was released. Professor Freiberg is an eminent academic lawyer and he went away, looked at this issue and came back and suggested that rather than looking at it the Attorney-General's way, which was to set up a separate physical building to be termed a drug court, that we as a community should be integrating specific drug treatment order and drug treatment programs through our Magistrates Court. He did not go all the way to include it in the County Court which I think is an omission that will be fixed in time the sooner the better. When he came back with his discussion paper Professor Freiberg said the Attorney-General's way was wrong and that rather than set up one physical structure away from the rest of the courts we needed to empower a specific group of magistrates within the existing Magistrates Court structure to have these new tools at its disposal to deal with the treatment of offenders who were addicted to illicit drugs.

To his credit, having been told by Professor Freiberg, his hand-picked expert, that he was on the wrong track and the Liberals were on a better track, the Attorney-General came up with this bill. He continues to use the words 'a drug court' and I guess that is because he is still attached to his own policy, which was shown to be not as appropriate as that of the Liberal Party.

The only sad thing about all this is that the Liberal Party proposed this in 2000 and it is now 2002. If we had implemented a scheme such as this in 2000 we would be two years down the track to addressing what is clearly one of the most pressing issues facing our community today — that is, drug addiction and the criminality that comes with it. However, it is to the

credit of the Attorney-General that he has taken this up and introduced the bill before us today.

The bill turns a few old legal maxims right on their heads. Certain things have built up around the legal system — some are rules, some are laws and some are customs. We need to look at the appropriateness of all of those things, rather than accept them for what they are. In this case, the bill turns some things on their head. Magistrates and judges have a seat on the bench and pass judgment. They hear arguments from the prosecution and from the defence — when dealing with criminal cases — and pass judgment on the case. In many ways they are set-and-forget judgments. They hear the adversarial arguments and they make a decision. The decision is often set in stone. Traditionally, that is the way the Magistrates Court has operated. This bill changes that. The magistrate will no longer be sitting in a chair at the end of the room hearing the arguments and making a decision. He or she will now be an integral part of the process. Effectively, the magistrate will act as case manager, which is a good thing.

In assessing similar drug court programs in overseas jurisdictions we have found that the one person the addictive offender respects is the magistrate or the judge — the person who holds their freedom in their hands. Often addictive offenders have learnt how to play the system. They understand the roles of social workers and other professionals who deal with them on a regular basis. However, when they have to confront a judge or a magistrate, depending on the jurisdiction, they respect that person's power. They understand that person has their freedom in their hands and can make a decision about which they cannot resile from.

Given that the offenders have little respect for anyone else in the system, it is a good thing that the magistrate will become central to the management of their situation. The magistrate will come off the bench and get his hands dirty. He will roll up his sleeves and become involved in the process. He will deal with professionals such as drug counsellors, treatment professionals, social workers and everyone involved in making sure the person is given the best possible opportunity to kick their addiction, to become drug free and hopefully crime free. That is the aim of this program. The magistrate coming off the bench is a fundamental change in the way the law has operated in this country.

The other fundamental change to the legal system is the quaint custom among magistrates and judges that effectively says that once a criminal has been sentenced by a magistrate or a judge it would be better the next time they front up to the court to have another magistrate or judge hear that case. Justice is meant to be blind. It is an indication that the court system does not want to be caught up with the argument that the magistrate is not judging a case on what is being presented but on what they have heard before.

Wherever possible attempts have been made to make sure magistrates who remember the person from a previous occasion do not hear that case. However, the offender will come before the magistrate as the case manager on a number of occasions. Every time a person falls off the wagon or reoffends or contravenes the drug treatment order, that person will come before the same magistrate. It will not be possible to go to someone else who has not heard the same story, who will feel sorry for the person and be more lenient than otherwise would be the case. The person will have to front up to the same magistrate who has dealt with them before.

In the scheme of things often it is the magistrate who is the only person that the addicted criminal respects in the entire system. That has a powerful effect on them. The fear of fronting up to the same magistrate will be a good thing and will make sure offenders have that powerful magistrate in the back of their minds every time they think of transgressing a drug treatment order.

There is nothing trendy or exciting about being a specialist magistrate within a specialist division of the Magistrates Court that deals with drug treatment orders. It will not be a glamorous position. However, it will be an extraordinarily important position. It will almost cross the boundary of where a profession becomes a vocation. These magistrates will see many things and will have to be very tough. They will have to be well trained and will act as mentors, coaches or confessor figures. In many ways they will have to act as the tough guy, the person who is pushing the offender in a certain direction, while at the same time encouraging them and building their self-esteem and managing the drug treatment order and the person they are dealing with, not only on a day-to-day basis but on a hands-on basis. This will not be a job for the faint-hearted. This will be a job for extraordinarily committed people who want to contribute to solving one of the community's almost intractable problems. I would like to think it is almost intractable and not intractable.

I have seen magistrates dealing with special programs like the CREDIT — court referral and evaluation for drug intervention and treatment — program, who confront the horrors of drug addiction every single day in the courts across Victoria. As a member of the Law Reform Committee I have visited many courts

throughout metropolitan Melbourne and rural Victoria in the last few years. I have noted so many committed magistrates, court staff and other people working in the court process who want this program to succeed. I have no doubt we will find the recruits who will put up their hands and say, 'I want to be part of the program'. They know it will not be glamorous. They know it will be tough and that it will be a 24-hour, seven-day a week job. I am glad to say that we are living in a society where those dedicated public servants exist in the magistracy. There are plenty of people who will take up the new appointments and who will give it their best shot. I put on the record my undying gratitude to those people because without them these programs would never succeed. The people who take up these jobs will be modern-day heroes. I wish them every success. I know how hard it will be for them, but it is something that has to be done.

We are turning the legal system on its head. Is this an easy option? Is this an easy way out or another example of the revolving door of justice? I do not think so. For an offender faced with a few months in jail, or two years or more on an intensive drug treatment order, this is the hard option.

Firstly, they are going to have to make a decision that they want to get off drugs. Secondly, they are going to have to make a decision that they are going to stick to this program. Thirdly, they are going to have a case-managing magistrate on their back and on their case making sure that they stick to the drug treatment order. They are the reasons why the opposition supports the bill. After the break I will canvass some issues the opposition and I have with the bill, but in the main we do not oppose the sentiments and the system the bill is trying to introduce.

In many ways the bill does not provide enough flexibility. It deals with only one group of drug offenders, probably the hardest nuts, if you like — that is, the people who would otherwise receive a custodial sentence. The bill does not give magistrates flexibility to deal with people who otherwise would not have had a sentence of imprisonment imposed upon them, so it does not act as an early circuit-breaker, it only deals with the hardened end — the regular habitual criminals and hard core drug addicts who have been through the system before and face a jail sentence.

The other reason the bill fails to provide adequate flexibility is that it does not give magistrates the opportunity to impose a joint custodial and drug treatment order. I will canvass those issues after the break.

Sitting suspended 6.29 p.m. until 8.02 p.m.

Hon. P. A. KATSAMBANIS — As I was saying before the break, the Liberal Party opposition supports the bill. In many ways the government is implementing a policy that was led by the Liberal Party in 2000, some two years ago, and we have seen a slight about-face by the Attorney-General.

No-one was arguing about the concept of creating drug courts, but the Attorney-General has certainly accepted the Liberal Party's original policy position and the recommendations of Professor Freiberg in his review: that rather than concentrate on the bricks and mortar we need to ensure that every Magistrates Court around Victoria which deals with drug issues on a regular and daily basis has the opportunity to utilise a drug treatment order to give magistrates the flexibility to properly address one of Victoria's and Australia's most pressing crises and social needs and thus reduce drug dependency and criminality associated with drug dependency in our society.

I will highlight some of the bill's limitations. Firstly, there is a lack of flexibility. We are talking about providing a more flexible sentencing regime, one where a magistrate with all the professionals at his or her side can determine an appropriate treatment regime for the criminal who is being sentenced. Unfortunately, the remedy of a drug treatment order is available only for the very hardened criminals, the ones who otherwise would have been sentenced to a term of imprisonment. It may very well be appropriate for those people — and I know some arguments suggest that it is only when a person who is addicted to illicit drugs is at the end of the line and sees no other way that they make the decision themselves to take the step to move from addiction to treatment and rehabilitation and re-entry into society as a clean, drug-free person at the end of that line — however, I submit very strongly that it is not only the hardened criminals, the ones who are facing jail sentences, who may come to that realisation.

It may be someone who might be at the start of their criminality but might be quite a long way down the track upon their addiction when they are caught. That person may not necessarily be sentenced to a term of imprisonment if it were not for a drug treatment order. It may well be that if it were not for the availability of a drug treatment order that person would be sentenced only to a community-based order, a fine or some other form of order from the court. Those people cannot enter this regime; they cannot enter the drug treatment order process. It is only available to people who would otherwise be sentenced to a term of imprisonment. Therefore the bill is too narrow and focused at the top

end. It is focused at the very strong criminal element in our society that a magistrate would sentence to jail.

That is the second element of the bill's lack of flexibility. I would have thought that if you were dealing with those high-end offenders you would be trying to achieve a lot of things with this sort of regime. Certainly, you are trying to get a circuit-breaker to drug addiction and crime fuelled by drug addiction. No doubt we all accept and agree with that. However, you are also trying to ensure community safety. Along with treating the criminal with some respect and helping them along the path to rehabilitation you are trying to ensure that the community sees that justice is being done. I would have thought there needs to be flexibility in this sort of regime for a magistrate to impose, if necessary and deemed appropriate, a period of imprisonment as well as a period to be on a drug treatment order. In some cases it may not be good enough to say, 'Look, we would send you to jail, but in this case go for a drug treatment order and only if you fail should you go to jail'.

There may be instances where that individual really needs a good kick in the pants and the community demands that justice can only be served if that person is imprisoned for a time. I would have thought with a couple of lines of amendment it would be simple to build a regime to enable a magistrate to say, 'You should go to prison for two or three months. I would ordinarily sentence you to two years but I think you should serve two months and after you have served two months, if you want to go on a drug treatment order, out you come and you will be dealt with under a drug treatment order to try to rehabilitate you and make you a valuable contributor to society. Until that time you will serve a couple of months of your sentence'. That level of flexibility is not available. It should be targeted at the high end, habitual, hard-core criminal because even though the criminality is driven by drug addiction, those people are hardened criminals and our community demands and expects us to provide it with protection from those sorts of individuals.

It may well be appropriate to consider joint custodial and drug treatment sentences. This regime does not allow that. The low end criminals are left to be dealt with in the CREDIT program. Sometimes that works: sometimes it does not. I would have thought that it might be extended to all aspects of the Magistrates Court work, or as many aspects as possible.

The other element, the top end, needs even more flexibility and certainly the flexibility in some cases — and I am not saying it should happen in all cases, I am not even saying it should happen in most — but there will no doubt be some cases where a magistrate would like to use a drug treatment order but also give a custodial sentence for a time. It may be that those people slip through the cracks and, instead of being treated properly, they miss out on this sort of regime. That is the sort of flexibility I thought would have been built into a program such as this and it is not.

It is a pilot program and I accept that. I accept that there are many reasons for it to be a pilot program. For instance I note that the Australian Institute of Criminology (AIC) in its paper no. 95 'Trends and issues in crime and criminal justice' entitled 'Drugs courts: issues and prospects' sounded a word of warning about adopting approaches from the United States of America and the United Kingdom and just assuming that they would work here. They urge caution and state:

> We need to establish a number of pilot sites in different jurisdictions, allocate enough funding for the program to be adequately resourced and put in place an evaluation team with the expertise in criminal justice and treatment issues. An evaluation of the pilot sites over the next two to five years in terms of a range of agreed short and medium-term outcomes should be undertaken.

The institute which is very learned in these subjects is urging caution and to take a steady-as-she-goes, step-by-step approach to this matter and introduce a few pilot projects. There are pilot projects in South Australia, in Western Australia and in New South Wales. There is now going to be one in Victoria. My personal preference would be to expand it as far as possible, but I hear the words of caution and accept that we could utilise a pilot project. This pilot project is a good one and should be supported.

The second limb of the AIC's urgings is to ensure that there is a proper evaluation process. This has not been made clear by the government. I read the second-reading speech and I have heard the comments of the Attorney-General and I ask: what is the evaluation process? What is the criteria for evaluating the success of the program. Firstly, what is the time frame? How long will the pilot program go for because it does not say in the second-reading speech? I read the speeches in the other place, and it is not there either. Will the program go for 1, 2, 3, 5, 10 years or ad infinitum? If a pilot program is to be implemented, it needs a clearly defined start and end point. I understand the start point might be a bit hazy because we have to train the magistrates. I talked about that and about the special people that it will take to make the project work. But if we are talking about a pilot program and an evaluation, we need a time frame and solid criteria to judge the program against.

The Attorney-General said in his speech in the other place — and it was repeated by the minister in this place:

> 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.

We want it to make a difference. We want it to reduce drug dependency and related crime but using what criteria? The minister continued:

> If the evaluation is successful the drug court could be extended to further locations throughout Victoria.

What criteria will we use to even determine whether the evaluation is successful, let alone if the program is successful? I hope the program is successful! It is not a matter of the evaluation being successful or not, as the Attorney-General said. The evaluation will happen. It will either prove that the program was successful or unsuccessful. The words are wrong there; however, we will not focus on the words or the grammar but on the fact that the government has set no criteria or time line. Essentially the people who are being asked to implement this onerous task have been given very little guidance as to what outcomes are expected.

The opposition supports the legislation and the drug treatment order program that is being implemented. Rather than tear strips off the government for the lack of evaluation criteria, I would say we would be interested in working with the government to set some criteria and targets relating to community crime and the reduction of levels of crime in the community that this pilot project is going to be working in. It would also like to see some targets in the levels of recidivism of the individuals in the program, both in the time that they are on the order, and also when they are finally released from the order. It is going to be a long-term assessment. This is not going to be a set and forget. I doubt that we will get it right the first time around. We might but I suggest it would be a fluke. It is likely that we are going to have to tinker with this program. That is why magistrates are given flexibility, but we must set some form of criteria by which to judge the effectiveness of the pilot project.

It could be a case of put it in place as an answer to an immediate problem and forget it — just leave it there. We do not know if the program is funded on a recurrent basis or a one-off basis. I hope government members will give not only the opposition but more importantly the community a sense that it is committed to this pilot project that it has set up so that it can be properly evaluated and so that its results can be analysed. In that way a proper drug treatment order regime can be rolled out not only throughout the Victorian magistrates courts but also in the County Court jurisdiction which, as I outlined earlier in my submission, would be important to ensure that we are casting the net as widely as possible as we look for a circuit-breaker to this never-ending cycle of drug addiction and criminality and the revolving door through our justice system.

I hope the government takes my comments on board in the constructive manner they are offered. Why are these failings being criticised? Because we want to see the program work. We have left it to the public to make the system work because so far we have been tinkering at the edges of our criminal justice system and fighting what has appeared to be a losing war. Drug treatment orders and the concept of drug courts seem to have been successful in other jurisdictions in addressing the problem of fighting fire with fire in the war against drugs and the criminality associated with drugs. We must give this pilot project every chance of emulating that success, and in many ways of beating that success so that we can look the public of Victoria in the eye and say, ‘We as legislators in this place are trying our best to rid our community of drugs and associated drug crime’.

The bill is an aid in getting the process right and getting the best possible outcomes for the community. The Liberal Party supports the bill, one which in the main implements Liberal Party policy outlined some two years ago in its comprehensive drug strategy, ‘Combating drugs: a safer way’. I have highlighted a number of issues, such as the lack of flexibility, that could be extended further and the apparent lack of proper evaluation criteria to judge the success of the program. I wish the program every success and offer my support to the people on the ground, such as the magistrates who will take on the onerous task of implementing the drug treatment orders.

Hon. S. M. NGUYEN (Melbourne West) — The aim of the Sentencing (Amendment) Bill is about helping people who need support to overcome their drug problems. Many honourable members would know that is not an easy task because many methods have been tried. More police have been made available to arrest people but the problem does not seem to go away. More people have been involved in drugs over the past 10 years. It is not only a matter for government but also one for the community.

We are working with everybody to try to solve this matter. Last year the government tried to introduce legislation for the implementation of safe injecting rooms and consulted with councils for their involvement. It would be fair to say that the community

did not want the safe injecting rooms in their backyards, next door or in front of their shops. Thus the proposals were knocked back.

The government accepted the people's view. We did our best but that legislation was rejected. The government is looking for options to work with the community. The Minister for Health has introduced proposals to reduce the number of deaths in Victoria, particularly those who die from drug overdoses. Over the past 6 to 12 months since a program has been implemented many underage drug addicts have been saved, although many have died because they did not know about drugs. Now there is a new alternative because this bill has bipartisan support.

The government will not be soft on people using drugs because many people make millions out of it. Heavy penalties are involved for those who smuggle drugs and try to sell them on the streets to young people and others. The government will also try to stop people who are drug affected and cannot control themselves.

Police have worked hard to try to solve the problem after receiving many complaints from shopkeepers, trade associations and different groups in trying to remedy the problem. Police have arrested hundreds of people who have gone before the courts and been charged and convicted for up to 12 months, but after being released they have returned to their drug habits. They do not change.

The government will spend more money to arrest people, keep them in jail and to look after their problem, but that does not help them to solve their problem. The bill will now set up a drug court which will force drug addicts to go for treatment and allow them the opportunity to undertake and participate in rehabilitation programs.

The bill will give them an opportunity, because there are many people in our community who cannot control themselves. They need to be told, and the law will force them to do something. It will give them the opportunity for a place to live, a community support program and a few things to help them bring back their lives.

But it is not easy. As I said, we have to realise how important it is to support these people. Many programs are available in the community, but some are workable and some are unworkable, and we have to review them to see what is unworkable. We have to make them meet the demands of the community. The problem is changing over time, and programs have to be updated to meet the demands of these people.

The bill will force addicted people to use more services so they can help themselves and can build better lives for themselves and their families. I know many young school leavers under 18 years have somehow been stuck with drug problems. They are on the street and do not live with their families. Because they are under age, we have to look after these young people more than the adults. Many people are homeless and have nowhere to live or no-one to contact to ask for help.

This program has been implemented overseas and has been operating in the other states in Australia, such as New South Wales, Queensland, South Australia and Western Australia. In many countries, such as the United States of America, Canada, England, Ireland and Scotland the program has been shown to work. Therefore we need to adopt a similar model.

There will be a three-year trial of the drug court, the first of which will operate at Dandenong. That area was chosen for the drug court because the Dandenong area has more facilities such as drug treatment and housing than other areas in Melbourne. The government will maximise all the services it can to implement the proposal.

The program will include people who are capable of getting help to people to make sure it is achievable. The government has not introduced this legislation and said, 'Good luck' to the community. It will implement it carefully and work in with everyone, including families and friends of addicts to help them overcome their problems.

The program will train many providers who will deal with drug problems so they will know how to handle them better, especially with law and order. They will also have to work in with the court to implement the program.

The program will require a lot of work with judicial officers, lawyers, law enforcement agencies, correctional authorities, treatment providers, and government departments, especially the departments of Justice and Human Services. They are the key players in this pilot project. The organisations and individuals will have to know about the new roles and be able to adopt the law. They will have to work together to manage drug court participation and reduce drug use.

The government will give the people who are involved in the program plenty of opportunity and hope to reduce their addiction. We know we cannot stop them overnight. We cannot expect there to be success in the short term, and it will take a while to overcome their

problems. People should know we are working hand in hand with everyone in the community to overcome that.

Some people in the community may see this measure as weak because they would like to see heavy punishment. But heavy punishment has not worked in the past, and will not work. This method must be used to solve the problem.

The message is clear: the measure is only to give people a chance to take up new lives. If people abuse it or repeat offend many times, I am sure the court will take a different view. It will look at each case to see whether a person has changed or not. There will be case managers, and those case managers will assess every case to see how people improve. I know having a lot of case managers will involve a lot of work for correctional officers and the corrections department, but there is no choice. The only choice is to have case managers to look after the people. For people who plead guilty to sexual or other violent offences it will be hard to get access to this program.

As I said, the government will inform the community about the new program. It will also inform local government and the community service providers about the program so that everyone is aware and will work forward with the Department of Human Services and the correctional officers to give more support and direction to drug addicts to help them bring back a new life.

A lot of people do not want to use the rehabilitation program. The reason may be that they do not want it or that they do not want to change their lifestyles. But under the program they will be forced to use it. Other reasons were that the program was not equitable or that they did not want to use it because it did not work for them. So we have to look at ways to improve or to change the program to meet the needs of the individual.

The program will use many case managers to get housing opportunities so that people can have better places to live. At the end of the day, if these people get back to normal lives, the case manager might be able to look at such things as training opportunities so these people may have future job opportunities. It is a long process and will not happen very quickly, but it will happen.

Many young people also need support because their families cannot control them or they cannot control themselves. Sometimes they need someone to help them control themselves. This project will receive a lot of support from the community. The community will not blame someone for their faults. We have to work together to help many individuals needing support. The problem will only be overcome or reduced if everyone has the same responsibility to work together.

In conclusion, this proposal is not a soft option. It gives a future direction to help many people, and it has been used elsewhere in Australia and adopted in many countries throughout the world. I am sure the Victorian community will have a better chance to control today's crime problem. As a member of the government I strongly support the bill, and I am sure members of the opposition will have to take it seriously to help reduce crime.

To answer some of the questions raised by other members, once adopted this bill will look at how to reduce crime in Victoria. As a member of the Drugs and Crime Prevention Committee — —

Hon. B. C. Boardman — Who's the chairman?

Hon. S. M. NGUYEN — I work with the chairman on the other side. We look at a range of issues in Victoria and how we can improve safety and tackle the crime problem. We look at many issues and ways to reduce crime. I have to congratulate all members of our committee. They all work very hard, and this bill will help the committee's work. I am sure honourable members will support this bill.

Hon. E. J. POWELL (North Eastern) — I am pleased to speak on this bill on behalf of the National Party. It is an important bill which has found a new way of dealing with people who have drug addictions. It tries to find some way of getting them off drugs and back into society.

The main purpose of the bill is to establish a specialist drug court program for Victoria. To do that a number of acts need to be amended: the Sentencing Act 1991, which will provide for a drug treatment order as a new sentencing order; the Magistrates Court Act 1989, to establish a drug court division of the Magistrates Court; and the Corrections Act 1986, which will also need to be amended with respect of the custody of a person who is subject to a treatment order and for other purposes.

I put on record that the National Party does not oppose the bill and will support legislation that protects the community from the impact of drug-related crime, or at least helps the addicts overcome their addictions.

I am also pleased to note that alcohol is included in the program. It is important that we look not only at illicit drugs but also alcohol. I hope the government is getting advice from that wonderful volunteer organisation,

Alcoholics Anonymous. I have attended Alcoholics Anonymous conferences as a guest speaker over the last four years, and I have always been in awe of the people who tell their stories of how they have been addicted for many years and have been able to manage their addiction. Alcohol addiction is not something you can get over. I have always been in awe of the stories they tell and the support they give to each other. So I hope the government has been talking to that body to find out how it can assist alcoholics who may also be in one of these programs.

It is important to note that Alcoholics Anonymous receives no government funding, because its members believe their own programs are run in the best interests of the people they serve rather than by trying to find some way of lobbying the government to get some funds and then providing a program that is based on the government's funding. The second-reading speech refers to:

> … the ultimate goal of bringing stability to offenders' chaotic lifestyles and reintegrating them into the community.

That is an important goal to pursue, because sometimes these people offend when they are affected by drugs or alcohol. They need to be assisted in some way to help them find out what it is that causes them to commit these crimes, and they need to be supported in the community.

The National Party has been a long-time supporter of programs that genuinely try to make a difference to people who are drug dependent. Since I was elected to this house in 1996 I have spoken on about six bills on drugs and issues surrounding drugs. I do not think we have ever found the answer but I believe this bill in some way goes to the heart of trying to get people off drugs and out of the criminal system.

In January 2000 Peter Ryan, the Leader of the National Party in another place, called on the Bracks government to investigate the feasibility of building a new prison specialising in drug rehabilitation. At that time about 60 per cent of prisoners were serving time because of crimes committed as a consequence of drug addiction. I believe that is still the case at the moment. It is important that we treat people who are drug and alcohol affected in a different way, but not go soft on them. We need to find a way to bring them through the system, to rehabilitate them, and move them on into the community so they do not reoffend.

The National Party also opposed the establishment of heroin injecting rooms in Victoria because it believed that was not the answer. It was sending the wrong message to our young people by saying that drugs are bad but if you do it in a certain way, under certain protection and under certain supervision, you will be safe. The National Party believed this was sending a wrong message to our young people. The message should be that all drugs are bad and that they should stay off them and not learn to use them in a safer way.

The drug court proposed by the bill is not new. As was stated in the second-reading speech, drug courts are currently operating in New South Wales, Queensland, South Australia, and Western Australia, as well as overseas, including the United States of America, Canada, England, Ireland and Scotland. I was talking to the honourable member for Shepparton in the other place about his time as a member of the Drugs and Crime Prevention Committee, which travelled to Washington in the USA and looked at how drug courts were operating there. The committee members were impressed with what they saw in Washington. They spoke to judges, magistrates and people who had been through the court system. That committee recommended that the government look at instigating drug courts and the effect they would have on people and offenders who go before the magistrates.

The government also says it has extensively analysed the features of the other drug courts, those overseas and in Australia, and has picked the best aspects of them. I hope that is true, because Australia is unique. Victoria has a number of other issues as well as people who may be on drugs. We have a large multicultural population that needs to be dealt with sympathetically as well.

The Victorian drug court is to be piloted over three years. A number of honourable members in the other place spoke about also trialling a drug court in rural Victoria. We know there will be some issues that will need to be faced. The drug problem is not just a city problem; it is very prevalent in country areas. We have problems because of a lack of services and with the coordination of some services that are able to be provided in the city. After the pilot program has been initiated and is starting to work we hope the government will look at preparing some sort of system so that the drug courts program can be instigated in country Victoria. We need to start looking in country Victoria now for the best place for another pilot program.

It is a good idea that the Victorian drug court will be a division of the Magistrates Court. It does not set up a stand-alone court. As the Honourable Peter Katsambanis said in his speech, the best way to run a program would not be by setting up a stand-alone court. Being a division of the Magistrates Court has all the checks and balances, but all the support that court will

bring. The magistrates assigned to the drug court division will be assigned by the Chief Magistrate.

A positive and important feature of the bill is that magistrates will receive training. The court also will monitor the offender's progress. I hope one of the areas it will go into, and one of the areas it needs to understand and will probably learn through the training, is how important the families of the offenders will be in the process of rehabilitation and putting them back into the community as quickly as possible. I hope part of the program will look at service provision and support to families and work with them so that when the offenders go back into the community, they do not get back into bad habits and mix with the wrong people, but can be monitored right through the process.

The drug court magistrate will be assisted by a multidisciplinary drug court team, which will include the case manager, a clinician, community corrections officers, the police, a prosecutor and a defence lawyer. They will all manage and supervise the offenders on the drug court program. Case management is important to ensure the offender has somebody looking after them while they are going through the program and under the correctional order. It will make sure that somebody is there for them and that they are undertaking drug testing, attending the courts when they are supposed to, doing the things they are meant to be doing and not mixing with people they should not be mixing with.

When I was a newly elected member, a number of female members of the government of the day visited the newly set up Deer Park women's prison. That was an interesting visit because we were told by the guards and those in control that 80 per cent of the women in that correctional facility were there for drug offences. Many of them were imprisoned for stealing in order to continue their drug habit or their partner's drug habit. It was sad to see some very young women there; in fact some young women had babies in prams, and we watched them walk around the compound. One of the sad stories is that continually when these women are let out into the community they reoffend and go back in for some months.

The bill will work positively towards that aim of keeping drug addicts and people who are impaired by alcohol and so forth out of the correctional systems but will make sure they are dealt with quickly and rehabilitated and put back into the community. What the women did not need was more incarceration. They needed support, particularly when they got out. They needed to be monitored to make sure they did not reoffend, because one of the issues we now face in the community is the feeling of fear. If somebody comes into your home they may be stealing to continue their habit. However, it is very stressful to the victims. We see many home invasions where people are stealing, and it is obvious they are stealing to continue their habit or a family member's habit. That can become quite expensive, not only to the offenders but to the victim who has their property damaged, their lives threatened or their safety put at risk.

The bill provides for a new sentencing order called a drug treatment order (DTO), which consists of two parts. The first part is treatment and supervision, and that program will be effective for two years. It needs to be effective for two years to make sure the person on the program has a time limit to work through the system. The drug court has the ability to reduce that time of two years or to even cancel it. It can be cancelled where a person has shown they have been rehabilitated much quicker and are no longer in need of the counselling, treatment and tests.

The second part of the DTO has a custodial structure. A term of imprisonment of up to two years must be imposed. Offenders will have to serve that if they do not comply with the order. They could be asked to serve the whole two years if they do not comply, or part of that two years. It is important that that is hanging over their heads so they know if they offend they will face a jail sentence. It is up to them to work out if they want to be rehabilitated and become a meaningful person in society and get off their drugs, or if they want to take a jail sentence. That is an issue taken into account when they become part of the drug treatment order.

Only the drug court can make the DTO. To be eligible for the DTO the defendant must plead guilty to an offence within the jurisdiction of the Magistrates Court but also must not be guilty of any sexual offences or crimes of violence which involve actual bodily harm. That is really important. I wonder what would happen if somebody was found who did not actually cause bodily harm but was there with a knife or a gun on their person; I wonder whether the court would look as leniently on them if they were carrying some sort of firearm or other weapon.

The person must also be dependent on drugs or alcohol. The DTO cannot be made if the offender is subject to a parole order, a combined custody and treatment order or a sentencing order of the County Court or the Supreme Court. There are bonus and penalty systems built into the order that make it possible to vary or cancel the treatment and supervision of the testing. The court can order a curfew requiring the offender to remain in a specified place between specified hours,

and that is important too. That is where the magistrate and the team must work with the family, because if they are going to order that the offender must stay with a certain family or with their own family for a certain time, it must be with the support and consent of the family and an agreement that the family will work in some way towards the rehabilitation of that person. They can also order the offender to perform 20 hours of unpaid community work and that the custodial part of the drug treatment order is activated.

This new program is aimed at offenders who are not eligible for a drug diversion program, which is more for those who are first-time offenders or who have not committed a serious offence. The new program is more for the serious offenders who would otherwise be given a prison sentence, and in a way it gives them the option of having a prison sentence or of working through the drug order and being rehabilitated. It also takes into account a person's dependency on drugs and alcohol. We need to understand that there is some impairment of decisions made while a person is under the influence.

It takes a team approach, not just one person, to work with an offender towards rehabilitation. While the magistrate is virtually the case manager, other people are involved. As I said before, they will have the interests of that person at heart to make sure that the person does not reoffend and becomes a person who can go back into society and start having a meaningful life without an offence hanging over their head.

The case management approach is important because it makes sure the program is suited to the particular offender and does not just reflect a one-size-fits-all attitude. When you deal with women as offenders, males as offenders and people of non-English-speaking background as offenders you have to deal with each of them differently. I think that will come through on the training. It will need to be looked at, and we will be looking at it very seriously to make sure that the one-size-fits-all approach is not taken.

As I said earlier, the National Party does not oppose the legislation, but National Party members hope the government will fulfil its promise to make sure the program is funded appropriately, because that is where it could fall down. We also wish to make sure that the magistrate and the team are trained appropriately to deal with addicts and different sorts and types of people. Hopefully people who are offending and committing crimes to feed their habits will be rehabilitated so they do not offend again and can get off their drugs and be independent persons. I wish the bill a speedy passage through this place.

Hon. D. G. HADDEN (Ballarat) — I wish to speak in support of this important bill, the Sentencing (Amendment) Bill. It proposes an innovative sentencing option — namely, the introduction of a drug court. I have seen drug courts operating in other states and in particular in South Australia. In my role as deputy chairperson of the parliamentary Law Reform Committee I visited the drug court in Adelaide early last year. I have also seen other specialist courts operating in other states, in particular the family violence court in Canberra and the Nunga court in Port Adelaide. They are specialist courts that have a very different approach from the normal regime that our criminal justice system operates under in this state. They operate differently for very good reasons: they are targeting specialist areas.

The bill will, as I said, establish a drug court and will also establish a drug treatment order (DTO) as part of the sentencing process under the act. Professor Arie Freiberg, who has been a great supporter of reform of criminal law in this state — in fact, I was one of his students at Monash University in the early 1980s, and I admired him tremendously for his contribution to reform of our criminal justice system and for his work generally as a jurist — is professor of criminology at the University of Melbourne and was commissioned in October 2000 by this government to review our sentencing laws and look at drug courts and whether they could and should be implemented in this state.

As Professor Freiberg noted in his sentencing review discussion paper, drug courts are innovative: they move away from the focus of concentrating on the individual and towards the offender's problems and solutions to those problems. Professor Freiberg also said a drug court differs from a family violence court and from the traditional court in the way the whole court works, and especially as the magistrate remains actively involved in the drug treatment order program.

It is interesting to note that there are permanently established drug courts in countries such as the United States of America, Canada, Britain and Ireland. The Australian drug courts have been implemented on trial bases in New South Wales, Queensland, South Australia and Western Australia. I will speak on the trials in New South Wales and South Australia later in my contribution.

A reading of this bill and an understanding of drug addiction and drug offending in our communities shows that a person who consented to a drug treatment order under this bill would not do so lightly, nor would that person be accepted into the program lightly. It is a very onerous drug treatment order program and so it should

be. It is aimed at the higher end of the offences. The lower end of the offences is already provided for in our Magistrates Court with diversion programs like the CREDIT — court referral and evaluation for drug intervention and treatment — program and other sentencing options. They are targeted at the small-time offender, if I can use that phrase, but there is little there for the bigger time offender other than prison.

While that may be the only alternative for some drug-dependent offenders, this bill will focus on offenders who are drug or alcohol addicted and who have offended as a result of that dependency. The offence can be an indictable offence but it must be triable summarily within the Magistrates Court jurisdiction. The offence must not involve violence or be a sexual offence; violence is phrased to be actual bodily harm. There is a discretion in the bill that allows the drug magistrate to determine on the facts before the court whether the violence is of a minor nature.

The eligibility criteria to access a drug treatment order from a drug court are very stringent. They require an offender to intend to plead guilty within the jurisdiction of the Magistrates Court. The drug court is not a separate court; it is a division of the Magistrates Court. There will be a pilot drug court situated at Dandenong for three years. As I said, the offender must be drug or alcohol dependent and the offence must have been committed as a result of that dependency.

If the drug court considers that a sentence of imprisonment would otherwise be appropriate for the offender, there is provision in the bill for a drug treatment order assessment report to be obtained for the purpose of the drug treatment order. There are other safeguards which provide that an offender must not be on parole, or subject to a combined custody and treatment order or a higher court order. The drug court must be satisfied that in all the circumstances a drug treatment order is appropriate for the offender and the offender must consent to the making of the drug treatment order.

The drug treatment order consists of two parts which I will briefly outline. The first part is supervision and treatment, which lasts up to two years and consists of both core and program conditions. The second part is the custodial part. The penalty under that part of the drug treatment order is imprisonment for a maximum of two years. In both those parts of a drug treatment order we have a sanction and a reward so that if an offender is performing well under the drug treatment order the drug court magistrate may, in the circumstances set out in the bill, vary or decrease compliance with conditions under the treatment and supervision part of the order. Having sanctions and rewards in the bill enables a drug court to vary the offender's obligations and reward him in that way or otherwise sanction him by imposing more difficult or stringent conditions. The rewards are dependent on the level of commitment to and compliance with the order by the offender. The bill also allows for the crediting of up to seven days imprisonment which may have otherwise been used as a sanction against the offender.

It is important to note that the bill provides that if an offender commits a new offence while subject to a drug treatment order then the drug court may hear and determine that offence within the jurisdiction of the Magistrates Court. If the drug court imposes a sentence of imprisonment in respect of the new offence, it may subsume that sentence into the drug treatment order. If the new sentence of imprisonment is not subsumed, the drug court must cancel the drug treatment order and resentence the offender. If an offender who is subject to a drug treatment order commits a new offence which is punishable upon conviction by more than 12 months imprisonment, the drug court may impose a sanction on the offender or cancel the drug treatment order.

There is provision in the legislation for both the drug court and the offender to have the drug treatment order cancelled; the criteria for that are set out in the bill. There are appeal provisions in the bill but they are restricted simply because the offender must consent to the drug treatment order after assessment and evaluation and by order of the magistrate. However, appeals lie against the custodial part of the drug treatment order and activation of it if that is necessary. In addition, the bill gives the County Court on appeal from the Magistrates Court the power to refer a matter to the drug court for consideration of the making of a drug treatment order, but the County Court cannot by itself make a drug treatment order.

The drug court will be piloted over three years. It will commence at Dandenong Magistrates Court and it is anticipated that up to 450 offenders will be dealt with by the drug court. Importantly the bill allows for its automatic repeal after four years to allow for evaluation of the drug court pilot. In response to the criticism made by Mr Katsambanis in his contribution, I wish to confirm that it is a three-year program and it will run for four years. That is found in clause 2(2) of the bill — the commencement provision — and clauses 8, 9 and 14.

The evaluation process at the end of the four years will look simply at two questions — that is, have we reduced drug use in Victoria, and have we reduced drug-related offending rates?

Mr Katsambanis criticised some aspects of the bill. He said the bill is too complex, prescriptive and inflexible. That is not correct. The bill gives the drug court and the magistrate flexibility and discretion. It has guidelines to assist the drug court magistrate. Mr Katsambanis also said that the drug court should not be limited to a drug treatment order, but should have a range of sentencing options. Courts already have sentencing options available to them under legislation — for example, they have diversion programs, the CREDIT program, intensive correction orders and community-based orders.

The purpose of the drug court and drug treatment order is to target repeat offenders whose drug and alcohol addiction contributes to their offending and who would otherwise be sentenced to a term of imprisonment without any other consideration. It specifically targets the higher end of drug offending. It is a pilot project, as I said, and will commence in Dandenong. For the reasons referred to by my colleague Mr Nguyen, that area has been selected as one that contains support services. It has public transport available for offenders to access the program and to comply with the conditions of the order.

I have no doubt the magistrate who is appointed a drug court magistrate will undertake their duties with all the skills that magistrates have in the criminal justice jurisdiction in this state. Mr Katsambanis used the phrase of magistrates rolling up their sleeves. They work hard in this state and I have every confidence in their ability, capacity and expertise to perform their role in this new drug court.

The drug court in Adelaide is a pilot program that commenced on 1 May 2000. As at January 2001, eight months later, 233 people had appeared before the drug court magistrate, Sue O'Connor, of which 92 were directed to attend drug rehabilitation programs and 78 were meeting their treatment requirements set by the court. The aim of the drug court in Adelaide is not to divert people from sentencing, but to give them an opportunity to rehabilitate as soon as possible. It has individual programs that can last up to 12 months, and they address the offenders' detoxification, court appearances, urine tests and rehabilitation. Eligibility is restricted to adult offenders, who must be over the age of 18 years, dependent on illicit drugs, who plead guilty and who are likely to face a jail term, and who are willing to take part in the program.

The pilot drug court in Parramatta in New South Wales has just released a 104-page evaluation report. The New South Wales government proposes to continue the pilot program which commenced in 1999. It has made orders in respect of about 313 drug offenders; 24 have graduated as at February 2001, while 165 remain in the system. The assessment at that stage was that there was a drop-out rate of just over 50 per cent.

I note that those still in the program were interviewed and they were very supportive of the program. While there had been difficulties in the first year of operation of the Parramatta drug court, the interviewees were very pleased to be able to continue with the drug court program. A number of positive aspects of the Parramatta program highlighted by the interviewees are contained in the drug court evaluation report of February 2002. The interviewees' positive aspects were the ability of the participants to change the type of drug treatment they were receiving, the high level of supervision and the intensity of the program, which was seen as one of the greatest benefits over other programs. Another positive aspect was the breaking down of barriers between professionals and a better way of dealing with offenders.

In finalising my contribution I indicate that the Attorney-General made clear in the second-reading speech in the other place that the drug treatment program introduced by the bill is an alternative to imprisonment. He also noted the discussion paper prepared and issued by Professor Arie Freiberg of the University of Melbourne about drug courts. I reiterate the Attorney-General's statement that the government is indebted to Professor Freiberg for his tireless efforts. The drug court will be unique to Victoria and is a pilot program. I wish it every success. I am optimistic that it will be successful, as it has been successful in other states, especially in New South Wales and South Australia. It is successful overseas and the drug courts overseas have become permanent courts. I commend the bill to the house.

Hon. B. C. BOARDMAN (Chelsea) — The complexity of this legislation has been discussed in some detail and for that reason I want to concentrate more on the philosophical aspects and the practicalities of this issue. The introduction of the bill is a tremendous endorsement of Liberal Party policy, because in a policy document developed some years ago — 'A safer way' — the Liberal Party set out proposals for a drug court. It is tremendous to see the government embracing and acknowledging the Liberal Party policy. It has held it up as a benchmark to try to implement a strategy — and I emphasise that — that contributes to a solution regarding drug use in Victoria.

I caution the extensive optimism of the Honourable Dianne Hadden about the legislation. She quoted extensively from evaluation reports in New South

Wales and South Australia, but she is not acknowledging that drug users, dependency levels, addiction, rehabilitation practices and other facets associated with drug addiction evolve rapidly. Although the legislation is welcomed, it comes at a time when possibly some elements, particularly in the criminal justice system, suggest that it may be too late. It addresses drug issues from the bottom end up where a person has committed an offence and is being case managed in a judicial environment. It does not contribute to issues regarding prevention and education.

The legislation specifies, as part of the mechanics associated with drug courts, the development of new partnerships between judicial officers, lawyers, law enforcement agencies, correctional authorities, treatment providers and government departments. It does not go into the detail of how those partnerships will evolve and the criteria of those partnerships.

A vital component of the criminal justice system and the drug court system is the law enforcement activity, because we are dealing with people who have committed offences and will appear before magistrates in the drug court division. Unless the investigative restrictions or the resources that are applied to law enforcement activities in order to try to get these people into that environment are addressed, then this piece of legislation is doing itself a disservice. Without that vital component of the law enforcement providers, who are out there in an operational capacity finding the people who are committing these offences and getting them into these programs which will subsequently manage their criminal activities and their drug dependencies, we will not be addressing the situation.

One of the greatest criticisms I have of this type of environment is that it might be fine from the perspective of only targeting one specific part of the argument, but unless there is a conclusive, cooperative and holistic approach on this issue it will not be addressed satisfactorily.

It is a part of a process which effectively exists in Victoria, because every Magistrates Court is a de facto drug court. Over 80 per cent of criminal offences heard in the Magistrates Court have some interrelationship with drug dependency and addiction. For that reason magistrates are very much aware of their obligations not only to their courts but also to the community, and they are also aware of the complexities that these types of problems involve for a society. The feedback I have had through my association with magistrates and other players in the criminal justice system is that this has the potential to harness resources and provide a better opportunity for them through the legislative format.

We do not want to get too focused on the spin the government will no doubt associate with this type of legislation. Government members will go out in the marketplace and say, 'We have established these drug courts'. It will be interpreted by sections of the community as being a new initiative, but the reality is that it will only be a realignment of the activities in the Magistrates Court as they exist at the moment. We in the opposition sound the cautionary note that although the legislation is welcome it is the application that is going to be the important factor.

Equally, I acknowledge that it will be a pilot program for three years specifically established in the Dandenong area. There is the criterion that to be eligible to participate in this program offenders who come to the attention of the drug court must reside in a specific postcode areas that will be detailed in the *Government Gazette*. That in itself is quite difficult to apply, because I do not see the drug problem as being isolated to a specific area. The transient nature of the consumption and dependency patterns of drug users suggests that not all people who use drugs or avail themselves of these products from the Dandenong area will reside in the eligible postcode areas. It poses an additional question: if an offender is prosecuted by the police in Dandenong or commits the offence that is associated with their prosecution in Dandenong but does not reside in an eligible postcode area, are they therefore disqualified and ineligible to participate in this program? I have some difficulty with that issue, because I can say from my history that individuals who are involved in these types of activities are very transient. They are quite open about how and where they source their products from, and there is no clear indication that it is isolated to one specific area.

One of the difficulties of law enforcement activities that particularly hampers drug investigations is the displacement effect — that is, if substantial police resources are put into a specific locality to try to reduce a drug or criminal activity problem, the potential exists for that activity to be displaced to a subsequent location, which creates a new problem that may not have existed in that location. To identify Dandenong as being the mecca, the hub or the centre of drug activity and the ideal location for this pilot program probably does not take into account that the situation is not isolated to Dandenong and its surrounding regions. More thought needs to go into the expansion of this program. The second-reading speech clearly states that if a need arises because of one factor or a number of different factors, then the potential for this program to be expanded is quite high.

I welcome the fact that the program is not limited to addictions to illicit substances. Alcohol is certainly a common addiction that can be used as the basis for a treatment order for offenders under this system, but it does not go much further than that. Where an offender has an addiction to other substances — aerosols are a noteworthy example doing the rounds at the moment — from my interpretation of this legislation they are not eligible to participate in this program.

The difficulty lies in the fact that in general it is unusual for a person's level of criminal activity to be related to the general level of their dependence, particularly with young people who have a dependency on aerosols. Once again the merits of this program might not be reaching a specific target market where you might get benefit and for a particular demographic profile that could benefit from it.

In a preventative sense some Magistrates Courts, particularly the Frankston Magistrates Court, have embarked on a successful pilot program based on diversion. That system is not exclusive to persons brought before the court who have a drug addiction. Any first-time offender who has the potential to reoffend can go into a diversion program under which the court imposes certain conditions and sanctions. The court may advise them, for example, to make a written apology to the victims, pay compensation, perform community work or go through a raft of diversionary activities that will hopefully get them out of the environment that is all too common in the criminal justice system. That pilot program has been going on for 18 months.

From all reports I have seen, anecdotally and recorded evidence, it seems to be relatively successful. We are dealing with a specific category of offenders — those who have a criminal history and those who have been in the criminal justice system on a subsequent basis. It is a last resort for them. There is only one greater penalty apart from a drug treatment order, which is the specific program that the legislation implements, and that is incarceration. This DTO is the last resort before a person goes to jail. It is of merit and worthy of consideration, although the opposition has identified where there are inflexibilities, and the cumbersome nature of the legislation has to be identified and considered.

Apart from that, I stress that once again the drug environment and the challenges that are faced in the drug context are evolving. Substances, using, dependency and consumption patterns are evolving. Unless the legislation has the flexibility to ensure that magistrates are kept up to date with the best possible and most accurate information it will not be successful.

On the basis of the best-case scenario, which the bill is trying to promote, and other evidence from Australian international studies, it is worthy of consideration. I hope before the end of the three-year pilot period the project will be extended into other areas and will take into consideration other challenges the community faces which will lead to results. The optimism that the government has with the legislation is encouraging, but the proof will be in the application.

The opposition will be monitoring this legislation closely. I assure the house that if it does not serve the purpose for which it was intended we will be re-evaluating our position and will introduce a policy in line with 'A safer way', which we have publicised extensively that we believe to be the most appropriate response to this serious community problem.

Hon. JENNY MIKAKOS (Jika Jika) — It is with great pleasure that I support the Sentencing (Amendment) Bill. In view of the detailed and considered contributions made by other honourable members to this debate, I shall be brief. The legislation has been introduced following an extensive review of sentencing options and the proposals for a drug court by Professor Arie Freiberg from the University of Melbourne who produced a review entitled *Sentencing Review 2001 — Drug Courts and Related Sentencing Options*, which was released for public consultation in August 2001.

The submissions made to that review indicated a strong level of support from the community for the legislation. All honourable members are aware that the drug scourge continues to be a huge problem for our community, particularly for our younger people. All the evidence suggests that a large proportion of crimes being committed in this state are drug related. The submissions made to the Freiberg review by the drug policy expert committee noted that:

> … 41 per cent of prisoners indicated that they had committed their offence under the influence of drugs or to support a drug habit. Fifty per cent of female prisoners so indicated.

That is a significant proportion of people already in the correctional system who are prepared to admit the influence that their drug addiction has had on their subsequent perpetration of a criminal offence. The government has been prepared to be innovative in its approach to this huge problem in our community and has been prepared to examine all possible

While we are hopeful this particular pilot program will prove to be successful, we are not saying it is the answer to the Victorian drug problem, but it will form one part of the government's comprehensive drug strategy which honourable members would be aware has included components relating to prevention, treatment and rehabilitation of drug addiction as well as a law enforcement component.

The law enforcement component has also included things such as the police cautioning program and the CREDIT (court referral and evaluation for drug intervention and treatment) program, which exists in the Magistrates Court system for lower end drug offending. For example, I have been impressed in my discussions with the Preston Magistrates Court system with its divergence program. However, that program is only available for first offenders or those who have committed minor second or subsequent offences.

This particular pilot program is geared towards those people who would, without the existence of this type of program, go to jail. As I have said on other occasions when debating correction and sentencing legislation, the prison system unfortunately can be seen as a school of crime. I do not think it serves any purpose to be locking up people who have a drug addiction. All that will come about is that they will upon release revert back to their lives of crime in order to feed their drug habits.

I am pleased that the Attorney-General has been prepared to consider various options and tackle difficult situations in going ahead with this proposal because on the surface some people could say that it is a soft option, which I do not believe is the case. It is important that we are committed to ensuring that we get people out of the cycle of crime to feed their drug addictions and to put them on a path of rehabilitation and reintegration into our community.

The notion of a drug court is one that began in Dade County, Florida, in the United States of America in 1989. Some 570 drug courts have been established across the United States of America as well as in Canada, Ireland, Scotland and England, and a number of states in Australia, including New South Wales, Queensland, South Australia and Western Australia.

Conclusions can be drawn from at least the drug courts run in other Australian jurisdictions. I note that in an *Age* article of 6 March Ross Gittins, in an analysis of the drug court proposal, discusses the evaluation that was made of the New South Wales pilot program. The conclusion he made was that:

> … though the drug court is no magic answer, it's worth a try in Victoria. It does a modest amount of good for no extra cost.

The figures he reproduces in the article suggest that drug courts in New South Wales have had a significant impact on the levels of recidivism among drug-addicted offenders. I wish to quote from some parts of this article, because it is important to put it on the record. It says:

> In the case of shoplifting, however, about 20 per cent of the jailed group had been apprehended committing an offence after eight months spent out of custody, whereas for the treated group it was only 9 per cent. And for possession of heroin or other opiates, about 10 per cent of the jailed group had been apprehended after 10 months out of custody, compared with only 3 per cent for the treated group.

We can see from the New South Wales program that with minor property and drug offences those people placed under the supervision of a drug court had a significantly reduced level of recidivism compared to those people who went to jail.

Without having to go through the provisions of the bill, because my colleagues have done a terrific job in discussing the details of the legislation, I wish to extend my personal support for this particular pilot program, which will run for three years, and hope it has a significant impact on reducing recidivism levels among drug-addicted offenders. I will certainly be monitoring its progress with a great deal of interest.

In conclusion I wish to thank Professor Arie Freiberg for his hard work in putting this whole review together, and commend the Attorney-General for again coming to the Parliament with a very sound piece of progressive legislation.

Motion agreed to.

Read second time.

Third reading

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

> That this bill be now read a third time.

In doing so I wish to thank the Honourables Peter Katsambanis, Sang Nguyen, Jeanette Powell, Dianne Haddon, Cameron Boardman and Jenny Mikakos for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

JUDICIAL REMUNERATION TRIBUNAL (AMENDMENT) BILL

Council's amendments and Assembly's amendments

Returned from Assembly with message agreeing to Council amendments and seeking concurrence with further Assembly amendments.

Ordered to be considered next day.

CRIMES (DNA DATABASE) BILL

Second reading

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

That this bill be now read a second time.

The government recognises that effective law enforcement and crime prevention demand a modern police force that has the powers to effectively tackle crime.

This bill reflects the government's commitment to provide police with appropriate powers to detect and investigate crimes and to promote public confidence in the criminal justice system.

The ability of police to investigate crimes has been enhanced in recent years by the use of DNA information. DNA information has proved to be extremely useful in confirming a suspect's involvement in an offence and also in eliminating other people from suspicion. DNA information can assist police in the investigation of a crime when no other evidence is available. Importantly, it can also lead police to other evidence.

In addition to its value as an investigative tool, DNA matching has an important value as a deterrent, particularly in relation to the taking of forensic samples from prisoners and convicted offenders. Increased awareness of the use of DNA in criminal investigations acts to deter criminals from engaging in criminal activities, such as burglary and serious assaults where there is a real likelihood that DNA information will be left at the scene of a crime.

Victoria has been at the forefront of the utilisation of DNA information in criminal investigations in Australia. In 1993 Victoria passed legislation which allowed for forensic samples to be taken from suspects. On 1 July 1998 amendments to the existing forensic procedure provisions came into effect, extending the use of DNA material by allowing the taking of forensic samples from prisoners and convicted offenders.

These provisions enable police to obtain forensic samples from suspects for the investigation of serious offences and from convicted offenders and volunteers. The existing provisions also allow for DNA information obtained from such samples to be placed on a computerised database for analysis against unsolved crime scene evidence.

This bill builds upon and enhances the existing forensic procedure provisions in the Crimes Act 1958 with the introduction of two key components. The bill will:

improve upon the existing procedures for obtaining, using and retaining forensic samples; and

facilitate Victoria's effective participation in the national DNA database.

This bill complements the existing approach for the taking of DNA samples in Victoria by carefully balancing the rights of suspects and convicted offenders against the public interest in the detection and investigation of crimes.

Consensual supervised self-administration of sampling

The bill introduces important amendments to the procedures for taking forensic samples. Under the existing law, mouth swabs can only be taken by a doctor or a nurse. The procedure for taking a mouth swab is very simple and involves little more than scraping the inside of the mouth with a cotton bud to obtain cells for testing. Importantly this bill allows a person to consent to take their own sample of a scraping from the mouth, subject to the supervision of an authorised police officer. This will serve to minimise the intrusiveness of procedures for taking forensic samples.

The bill provides that if a person takes their own sample of a scraping from the mouth, the conduct of this procedure should be either videorecorded or conducted in the presence of an independent person. This requirement can be waived, where a person consents to provide a forensic sample, rather than providing a compulsory court-ordered sample.

Forensic sample offence

The bill also expands upon the range of offences for which a forensic sample can be obtained. Under the existing legislation police may apply to a court for an order to obtain a DNA sample from a person who has been found guilty of a forensic sample offence. Forensic sample offences include offences such as murder, burglary, armed robbery and rape. The bill reflects community concern about serious crime and extends the definition of forensic sample offence to include the offence of false imprisonment and the offence of assisting an offender to commit a forensic sample offence.

The bill also responds to current concerns over the sending of hoax letters, given the events of 11 September, by including offences connected with explosive substances, the contamination of goods and bomb hoaxes in the definition of 'forensic sample offence'. This will give police the power to apply for a forensic sample from suspects or persons convicted of these offences.

Retention orders

The law allows a police officer to obtain a forensic sample from a suspect to assist with the investigation of an offence. If a suspect is not convicted the forensic sample must be destroyed. However, if the person is convicted the law permits police to apply to the court to retain the forensic sample that was taken to assist in the detection of future crimes. This avoids the intrusion of having a second sample taken following a conviction.

Under the existing legislation only the Magistrates Court can issue an order for a DNA sample to be retained. A judge of the County or Supreme courts cannot order the retention of a sample from a suspect upon their conviction. This is a cumbersome process given that the original court already possesses all the facts of the case. The bill addresses this issue by allowing the court of hearing (including the County and Supreme courts) to make a retention order.

Arrangements for the carrying out of forensic procedures

Whilst the 1997 amendments enabled forensic samples to be obtained from certain convicted offenders it did not provide any arrangements for the carrying out of a court-ordered forensic sample where a person is not in custody. Unless a person is cooperative and comes forward to police to provide the sample, the police have no power to take the sample. At present there are over 3500 unexecuted orders made against people who are not in custody. If these orders are not executed the ability of Victoria Police to use DNA information to investigate criminal offences will be limited.

The bill introduces some important new procedures which will enable police to obtain a forensic sample from an offender where the court has ordered the taking of that sample. These procedures will make the existing legislation work more effectively.

Procedure for existing orders

The bill provides that, where a person has been ordered to provide a forensic sample, a member of the police force may issue a notice requesting that person to attend at a nominated police station within a specified period of time to provide the court-ordered forensic sample. The bill provides that if a person fails to comply with this notice, a member of the police force may apply for a warrant to arrest that person. This power will enable police to detain the person for as long as is reasonably necessary to enable them to conduct a forensic procedure. The public can be confident that when a court makes an order for the taking of a forensic sample there is a mechanism by which that sample can actually be taken.

Procedure for future orders

The bill sets out a procedure that will apply to applications for court orders made after the commencement of the bill. The bill provides that, if a court orders a forensic sample to be taken from an offender who is not in prison, the court must also order the offender to attend at a police station (or other place specified by the court) within a period specified by the court to allow the forensic procedure to be carried out. Again, the bill provides that if a person fails to comply with the court order, a member of the police force may apply for a warrant to arrest that person.

National DNA database

The commonwealth government is establishing in cooperation with the states and territories a national DNA law enforcement database as part of its Crimtrac initiative. Crimtrac is a major initiative being undertaken by the commonwealth, state and territory governments. The aim of Crimtrac is to enhance Australian law enforcement with an emphasis on information-based policing facilitated through rapid access to accurate police information. In essence, Crimtrac is an information system that will allow police nationally to quickly access a range of existing databases, such as the fingerprint database.

One of the key features of the bill is that it will facilitate Victoria's participation in the national DNA database

scheme. The creation of a national DNA database represents an important weapon in the fight against crime.

The national DNA database will allow Victoria Police, together with other Australian police services, to take advantage of opportunities opened up by recent advances in forensic science, information technology and communications.

Victoria already has a database for the storage of DNA information. However, there is no ability to exchange information with other jurisdictions. The bill will allow Victoria to participate in a national DNA database by enabling Victoria to enter into arrangements for the exchange of DNA information between Australian jurisdictions.

The ability to exchange DNA information between other Australian jurisdictions is critical, because criminal activity often spans Australia's internal borders and makes it necessary to get forensic evidence from different states and territories.

The DNA database provisions in this bill are based on the February 2000 draft model forensic procedures bill developed by the model criminal code officers committee under the auspices of the Standing Committee of Attorneys-General. The model bill was developed during 1999 following months of national consultation, including meetings with the federal and New South Wales privacy commissioners, Crimtrac and law enforcement agencies.

The bill outlines key procedures in relation to how forensic material is to be stored on the database, who may have access to the database and when the information from the database may be disclosed. The bill contains safeguards to ensure that DNA information can only be disclosed and used for certain purposes such as a criminal investigation, use in a coronial inquest or inquiry, and use as evidence in criminal proceedings.

The bill provides an effective and accountable system for the retention and matching of forensic materials on the national DNA database. The privacy of Victoria citizens is also guarded against, because each step in dealing with forensic material is regulated and reinforced by various criminal offences which carry penalties for misuse of the database and DNA information.

The amendments contained in this bill represent this government's firm commitment to effective law enforcement and the promotion of public confidence in the criminal justice system.

I commend this bill to the house.

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

Debate adjourned until later this day.

ADJOURNMENT

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

That the house do now adjourn.

Snowy River

Hon. E. G. STONEY (Central Highlands) — I raise with the Minister for Energy and Resources as the representative in this house of the Minister for Environment and Conservation the issue of the Snowy River. In this week's *Weekly Times* there was a very big article on water savings for the Snowy and it is interesting to note that only Lake Mokoan can provide the savings that are needed in any significant way for environmental flows to the Snowy. According to the *Weekly Times*, Lake Mokoan loses about 42 000 megalitres a year in evaporation but the lake is still very valuable to the economy of the local town of Benalla. The *Weekly Times* identifies that Lake Mokoan is at the top end of the government's list for savings, and I ask the minister: if Lake Mokoan is the only storage that will provide any significant savings where on earth will the government find environmental flows of up to 28 per cent for the Snowy River?

Walwa and District Bush Nursing Hospital

Hon. W. R. BAXTER (North Eastern) — I raise a matter with the Minister for Small Business as the representative in this house of the Minister for Health. Previously in the house I have referred to the plight of the Walwa and District Bush Nursing Hospital and I advise the house that that hospital is still experiencing some financial stringency and is subject to a consultancy being funded largely by the federal government to seek a way forward to maintain the hospital's existence in the future. Bearing in mind its remoteness in the Upper Murray area of far north-eastern Victoria, I think everyone would agree that it is essential that hospital services, in particular accident and emergency services and some capacity for acute services, be maintained in the town.

The house would be aware that the former government negotiated for this and that this government has continued a subvention each year of something like $70 000 to enable accident and emergency services to

be maintained at the hospital. That is very much appreciated and the community thanks this government for continuing it. The community wishes that perhaps it could be increased yearly to keep up with inflation and that it might also be given a commitment for ongoing funding.

In particular, I note that on Sunday the local community will be having a celebration at the football ground to commemorate 25 years service to the district of Walwa by Dr David Hunt, who maintains a magnificent image in a very business practice, sometimes as a sole practitioner, but more recently with the assistance of Dr Rosie Saxton. The doctor would not be able to remain in the town if the hospital were to close. It would be a disaster for the district to lose its medical practitioners.

I know the minister has been invited to the event on Sunday. I am aware of the commitments ministers face, having been one myself at one stage, but it would be a tremendous tribute to the community and an indication of the government's preparedness to match its election promises of looking after country Victoria if the minister was to make a brief appearance. I invite the Leader of the Government to encourage her colleague to do so.

Road safety: four-wheel-drive vehicles

Hon. G. D. ROMANES (Melbourne) — I refer the Minister for Energy and Resources, as the representative of the Minister for Transport in another place, to an article in the *Age* of 18 March under the heading '4WDs deadly for other road users'. The article reports on the alarming figures in an Australian Transport Safety Bureau report entitled 'Four-wheel-drive crashes', which highlights that collisions involving four-wheel drives are nine times more likely to kill other road users than to kill the driver of the four-wheel drive and the number of fatal crashes in four-wheel drives jumped 85 per cent between 1990 and 1998 compared with an overall fall of fatal crashes on the roads by 25 per cent for the same period. The article highlights statistics that show by 1998, 12 per cent of fatal crashes on Australia's roads involved four-wheel drives compared with 5 per cent eight years earlier.

Paradoxically four-wheel drives enjoy favourable tax status with 5 per cent tariffs compared with 15 per cent tariffs on other cars, so we have a tax regime that encourages the purchase of four-wheel drives and sales are consequently soaring. As well, of course, four-wheel drives have a higher fuel consumption and therefore are a negative impact on the environment through higher production of greenhouse gases.

I ask the Minister for Transport to raise with ministers from other jurisdictions at the Australian Transport Council the need to consider for safety and environmental reasons disincentives rather than incentives regarding the purchase of four-wheel drives.

Roads: outer east

Hon. A. P. OLEXANDER (Silvan) — I draw the attention of the Minister for Energy and Resources, as the representative of the Minister for Transport in another place, to a recent report from the Royal Automobile Club of Victoria (RACV) featured in the latest *Royalauto* magazine. The report cites the cost to the community of substandard roads in the outer east of Melbourne and states that that cost has now blown out past $370 million as a result of car accidents alone over the past five years. The report directly attributes those car accidents and the resultant costs to narrow roads, bad surfaces, poor access from minor roads, congestion and non-duplication of roads. All those problems, according to the RACV report, have directly contributed to these accidents.

I note that the Knox municipality had the worst record. The report states that between 1995 and 1999 almost 1000 motor vehicle accidents occurred on substandard roads. Casey was the next highest with almost 600, followed by Maroondah with more than 350. The RACV is specifically suggesting in this report that the government needs to commit $1 billion over the next 10 years for critical transport projects, as it refers to them. The report gives this work equal priority with the Scoresby freeway. What is the minister's specific response to this report? How much will the minister allocate to critical road works in the outer east of Melbourne as a result of the report?

School buses: review

Hon. P. R. HALL (Gippsland) — I refer the Minister for Education Services to the school bus review conducted by the government last year. I raise this matter on behalf of Mr Frank Malcolm of Katunga, who is the board chairman of St Mary of the Angels Catholic Secondary College in Nathalia. Mr Malcolm participated in the school bus review and submitted a very good submission on behalf of his school community, but he and his school were disappointed with the recommendations of the review, particularly in that they did not address the inequalities that exist between the treatment of non-government school students and government school students in respect of

access to school bus services. I and the National Party share the disappointment that that issue was not addressed as part of the outcomes of the school bus review.

To date there have been very few outcomes but I understand that any changes to the school bus system will be considered as part of the formation of the 2002–03 budget. I take the opportunity tonight to seek a progress report on what we might expect to see as an outcome of those budget considerations in respect of school buses. Further, I take the opportunity to again urge this government to take this chance to address the inequalities that exist between government and non-government school students access to the school bus service.

Minister for Education Services: responsibilities

Hon. B. C. BOARDMAN (Chelsea) — I refer the Minister for Education Services to an answer she gave to a question from her colleague Mrs Carbines in question time yesterday when she stipulated that part of her new portfolio responsibilities included student welfare, disability and impairments. I ask the minister to expand on what those specific responsibilities are. Does the minister have direct control and influence over disability-related curriculum programs such as reading recovery?

Lake Muirhead: shooter access

Hon. R. M. HALLAM (Western) — I refer the Minister for Energy and Resources, as the representative of the Minister for Environment and Conservation in another place, to the question of access by shooters to Lake Muirhead, which is a well-known proclaimed game reserve in the south-eastern foothills of the Grampians. The question of shooter access to Lake Muirhead has not been a problem for the last few years because the lake has been dry. But this year it has held good water and good duck numbers.

There are several complications relating to Muirhead. Firstly, it is landlocked, apart from an unused road reserve, which happens to be subject to a long-term lease by an adjoining landowner. Secondly, the water commonly extends onto surrounding private land which means for all practical purposes the boundaries of the reserve are indiscrete, which raises the question of the liability of the adjoining landowners. Thirdly, the reserve is subject to grazing licences which introduces the rights of another category of parties.

In the run-up to this year's duck season I was trying to find a compromise which would recognise and respect the rights of the various parties. In my representations I learnt that the problems regarding access to Muirhead were not unique to that lake, or even unique to game reserves, but were common to many parcels of public land. I was also told that the local officer of the Department of Natural Resources and Environment who is responsible for this issue, and who I know personally, had prepared a good summary of the issues in a departmental briefing note. I was also told I was entitled to a copy of that briefing note as a basis for further discussions provided I sought ministerial clearance, which I did on 5 February — that was six weeks ago.

I know the issue has been overtaken to some degree by the arrival of a flock of brolgas, which prompted the decision that the lake should not be open for this season. Leaving aside the question of the brolgas, I assure the minister that the problem will not go away. I ask the minister to assure her colleague that I am genuinely seeking a solution to a real problem and that I would appreciate the courtesy of a ministerial response.

Dandenong Area Mental Health Service

Hon. M. T. LUCKINS (Waverley) — I raise a very serious matter for the attention of the Minister for Health in another place through the Minister for Small Business. I will be as succinct as possible. It regards a failure in the duty of care at the Dandenong Area Mental Health Service, which is part of Southern Health.

I met Mrs McDonald in August last year, and she raised concerns with me about her daughter, who is a chronic schizophrenic. Rachel requires, as part of her treatment, a secure environment, assistance with hygiene and protection from self-harm. She is currently an involuntary patient at the Dandenong Area Mental Health Service. On Wednesday, 6 February, at 5.00 p.m. Rachel spoke to her mother and was making statements indicating she would seek to take her own life. Rachel's mother phoned the staff at the hospital to alert them to her daughter's state of mind, but there was no written note made and no information was passed on at the end of the shift. At 8.40 p.m. Mrs McDonald received a reverse-charge call from her daughter, and when she phoned the hospital she was advised that her daughter was missing and had not been seen since about 7.00 p.m.

Mr and Mrs McDonald advised the police and provided a photograph. They sought advice from the staff about Rachel's clothing at the time of her disappearance, but

staff members said they were too busy and it was not appropriate for the parents to go through her things in her room. The police finally found Rachel around 11.30 p.m. and returned her to the hospital. The staff did not contact Rachel's parents directly to advise that she had been returned. Rachel was made to phone her parents herself by reversing the charge, and during the course of the conversation informed her parents that while she had been out of the facility she had been raped. Mrs McDonald informed nursing staff and urged them to seek both medical attention and a forensic rape examination for evidence. There is an emergency room at the facility, but for some reason police were not advised until 2.30 a.m., by which time Rachel could not provide all the details of her rape and other experiences.

Forensics were not called and Rachel was not given a gynaecological examination until 24 hours after she was found, when the staff advised the parents that she had showered twice and that an examination would not lead to any evidence. Rachel has since been diagnosed with a sexually transmitted disease.

I refer now to a note from the clinical director of Southern Health saying that the night Rachel left the unit it was reported that she left the ward before it was locked, although the details remain unclear. The note goes on to say that the service did not follow up the allegation with sufficient consistency and sensitivity. I ask the minister to please conduct a thorough investigation of the matter and report to the family.

University of the Third Age: Goulburn Valley

Hon. E. J. POWELL (North Eastern) — I raise through the Minister for Small Business for the attention of the Minister for Senior Victorians in the other place the matter of a permanent home for the Goulburn Valley University of the Third Age (U3A). I received a letter from the U3A and its representatives have subsequently been in to visit me in my office.

I raised the issue last year and supported the U3A in obtaining rooms at the North Shepparton Community House. There is now a youth program there, which the U3A does not disagree with, but it interferes with the U3A programming because it has loud music and the language is not quite appropriate for its type of meetings. The U3A is now looking for another home and this time is asking me to assist it with finding permanent accommodation.

Over the last 14 years the U3A has run programs in many different facilities in Shepparton and in numerous members' houses. It is now not appropriate for it to keep doing that. It used to be accommodated in a TAFE facility, but it had to move from there because the TAFE needed the space for more programs of its own.

The Goulburn Valley U3A has 113 members and believes it would be able to increase its membership if it had a permanent, identifiable home. U3As in neighbouring regions around our area have already established easily identifiable accommodation in places like Wangaratta, Wodonga and Benalla, and the Goulburn Valley people are getting very frustrated that they are not able to get a permanent home in Shepparton, which has a large ageing population.

Shepparton has a vibrant community of over-55-year-olds and, as I said, its U3A people are becoming very frustrated at not being able to obtain accommodation to promote and provide their services to their community. They would be pleased to co-locate with any other compatible groups, and they require only a large classroom and an office. It is important to ensure that older Victorians have access to continuing education, and particularly this group, because it has been providing services for older Victorians for quite a long time.

I ask the minister to work with Goulburn Valley U3A to investigate all avenues available to her to make available suitable accommodation or funds that could be allocated to buy property for its use. I stress the urgency of the matter. The U3A is looking for a home in the immediate future.

Police: Monash Province

Hon. ANDREA COOTE (Monash) — My question is for the Minister for Police and Emergency Services in another place through the Minister for Sport and Recreation. I refer to the increase in property crimes in my electorate over the past few months. In January cars in the Toorak and Armadale areas were the subject of a systematic graffiti attack. Then, in March, dozens of cars in Toorak had their tyres slashed and stabbed repeatedly.

In an article published in the *Stonnington Leader* of 11 March local residents expressed their concern over the police resources available in the area. I quote a Ms Kaine, who says several residents are incensed:

> 'I had two tyres done, but some had all four.'
>
> Ms Kaine said she believed police resources in the area were being spread too thinly, so much so that she is sending her $157 repair bill to Premier Steve Bracks.
>
> 'The Prahran police do a great job, but I believe they only have two vans on a Saturday night in this area — you might as well say they have none', she said. 'This is very serious. This is a high crime area. They need more police …'

…

Spokesman for police minister André Haermeyer, Tim Mitchell, said the Bracks government had recruited and trained 761 extra police in the past two years.

I ask the minister how many of those extra police are now working in the Prahran area and what is the total number of police from those 761 new officers now working in Monash Province.

Rail: Nunawading station

Hon. G. B. ASHMAN (Koonung) — Through the Minister for Energy and Resources I direct a matter to the Minister for Transport. This morning I tabled a petition containing 582 signatures. That petition drew the attention of the Council to the proposal by Connex Trains to remove staff from Nunawading railway station and leave it as an unmanned station.

That would be detrimental to the safety of public transport and, as the petitioners said, made the station vulnerable to vandalism, graffiti and other unwelcome elements. Connex has taken action, but tonight I wish to report to the house that I have another 238 signatures. These are on a faxed form and not the original petition form, but it is an indication of the level of community concern about this matter. It means a total of some 820 citizens have now voiced their concerns to us.

The honourable member for Mitcham in the other place has been silent on this subject, but he saw fit to lock himself in the ANZ bank protesting its closure — a matter where the state government has no jurisdiction. I am pleased to note the Connex response to the petition and the retention of the staff. The company is to be congratulated. However, I now ask that the Minister for Transport note this outcome and the level of support for continued staffing on all railway stations.

Human Services: Ringwood office

Hon. W. I. SMITH (Silvan) — I direct the matter I wish to raise to the Minister for Small Business for the attention of the Minister for Community Services in the other place. I am raising a matter of concern with the Ringwood office of the Department of Human Services and how its caseworkers are interfacing with the community.

One of my constituents, Anne Murphy, came to see me about six weeks ago. She was deeply concerned about the treatment of her grand-daughters by their mother, her daughter. I will not go into it, but she was deeply concerned about their safety. She had had trouble getting the caseworker at the Ringwood office to take an interest in the matter and was experiencing disinterest and a lack of concern about the issue. It is always difficult as a member of Parliament, and it is not my role to cast judgment. However, I was deeply concerned with what I was being told. I contacted the Ringwood Department of Human Services and on that occasion I was successful in speaking to the caseworker.

Some time later Anne Murphy came back to me. The situation with her grandchildren had deteriorated very significantly and she was deeply concerned, as was I. She had been trying to get the caseworker to take a phone call for about two weeks. I tried for a week to get the caseworker to return a call. I rang the office every day for a week and I got an answering machine. Even after my ringing every day for a week the caseworker did not ring back.

The grandmother was beside herself, not knowing what to do. She came to see me and said she was going to ring the Ombudsman. I told her to go for it and see what she could do. The Ombudsman took a great interest in the case. A member of his office called the Ringwood office of the Department of Human Services and magically within 24 hours Mrs Murphy had a new caseworker.

I am raising this matter because I am concerned about this. I have had other situations with other people coming to see me about the Department of Human Services Ringwood office. I ask the Minister for Health to investigate the procedures in that office and how its staff are communicating with the public.

Gippsland Lakes: regulation enforcement

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise a matter with the Minister for Ports. I have been approached by a constituent of mine, Mrs Joy Bishop, who with her husband owns a yacht which they keep on the Gippsland Lakes. Both Mrs Bishop and her husband are experienced recreational sailors.
Mrs Bishop has raised with me the issue of people hiring powerboats on the Gippsland Lakes during holiday periods, particularly Easter and Christmas.

She is particularly concerned about groups of hoons who have been hiring these boats and then terrorising other water users on the Gippsland Lakes. It has been reported to me by Mrs Bishop that a lot of these people have little or no experience in using powerboats and have little regard for the rules of the waterways or the safety of other water users. Mrs Bishop recounted to me a story of how she and her husband had had to rescue two young children in a small sailboat because they were being terrorised by louts in hired powerboats on

the Gippsland Lakes. It is only a matter of time before someone is hurt or killed as a result of this.

This problem relates largely to powerboats which are being hired, so it is not something which comes under the licensing regime introduced by the government. I seek from the Minister for Ports an undertaking that enforcement of water rules and safety issues on the Gippsland Lakes will be improved so that this sort of loutish behaviour is reduced and people who are legitimate users of the Gippsland Lakes can undertake their boating activities safely.

Rail: Mount Waverley station

Hon. ANDREW BRIDESON (Waverley) — I raise a matter for the Minister for Energy and Resources, representing the Minister for Transport in another place. This is an important safety issue relating to the state of eucalyptus trees adjacent to the railway track in the vicinity of the Mount Waverley railway station. Many of these trees are in excess of 20 metres in height and have reached maturity. There are many dead and/or dangerously long limbs, and these pose an obvious risk, particularly on days of strong wind. Some 3000 to 4000 pedestrians and commuters use that railway station each day. There is a car park adjacent to the station. I do not park my car under the trees, but many commuters do park their cars there. These trees are planted on an easement under the control of Victrack and hence under the control of the minister.

I am extremely concerned that if there were a death or injury to a person or damage to motor vehicles the state government would be liable, and that would have an eventual financial impact on the state economy with large insurance payouts et cetera. I request that the Minister for Transport arrange for an assessment of these trees. If any are found to be in a dangerous state they need to be pruned or chopped down; I did say they are mature trees. However, it raises a more general issue, that there are many trees growing on Victrack easements right around Victoria and I think for safety reasons all those trees should be assessed.

Rail: Somerville crossing

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Energy and Resources as the minister representing the Minister for Transport with a public safety issue in Somerville, a railway crossing on the Stoney Point railway line. This particular road is known as Park Lane, and I refer to the Park Lane crossing. Some years ago the crossing was relatively underdeveloped, but the rapid expansion of Somerville and a large increase in the number of senior citizens and schoolchildren and the amount of general vehicular traffic of a suburban nature means this narrow roadway now represents a true danger to many people as it crosses the railway line.

As a matter of fact, there is no adequate pedestrian crossing; the pedestrians have to walk along the road as they cross the railway line. There are no boom gates either. The difficulty is that the surface of the road in the immediate vicinity of the railway tracks is very rough. It is dangerous, and you have young children, senior citizens and traffic all at the same point with trains on a regular basis. It is dangerous and represents a true health hazard to hundreds of people across a wide spread of ages in the Somerville community. My question is: will the Minister for Transport undertake an urgent review of this crossing in the interests of protecting the people of Somerville?

Commonwealth Games: triathlon venue

Hon. I. J. COVER (Geelong) — I raise a matter for the Minister for Commonwealth Games. I refer to my adjournment item last night where in talking about Geelong missing out on the triathlon for the 2006 Commonwealth Games the minister revealed that he and the Premier could not care less about regional Victoria and the role it will play in the Commonwealth Games. By his response he clearly indicated that neither he nor the Premier had done anything to advance Geelong's lobbying for the triathlon to be held in Geelong.

In his response the minister went to great pains to indicate that both sides of Parliament had agreed to deal with Commonwealth Games issues in an non-political manner, but he took the opportunity to say what a fantastic job the local Labor members had done in lobbying for the triathlon in Geelong. If the minister had been bipartisan he would have also acknowledged that the event was supported by both sides of politics. The minister chose to be partisan.

In talking about the selection of St Kilda ahead of Geelong as an option for the triathlon event, the minister talked about the venues being assessed by the board against an agreed set of weighted criteria. He included in the criteria the approval of sanctioning bodies. The governing body in this case is the International Triathlon Union, which is staging a world cup event in Geelong on 14 April, a marvellous opportunity to showcase the venue and to allow an assessment of Geelong as a venue of the triathlon event. Is the minister aware that the governing body of the triathlon, the ITU, has not approved any venue as yet as the triathlon venue for the 2006 Commonwealth Games

and, in fact, the president of the International Triathlon Union, Mr Les McDonald, is attending the ITU world cup in Geelong next month as part of his body's assessment of suitable venues?

Stonnington: planning amendment

Hon. P. A. KATSAMBANIS (Monash) — I raise an issue with the Minister for Sport and Recreation as the representative in this house of the Minister for Planning. The issue relates to an amendment to the Stonnington planning scheme that will shortly be before the minister. I refer specifically to amendment C13 of the Stonnington planning scheme. It relates to a proposal to establish an additional gaming machine venue in the Chapel Street strip shopping centre in Prahran.

The establishment of gaming venues in strip shopping centres is contrary to the Stonnington planning scheme and contrary to the state planning scheme. When this was first proposed to the council, council officers recommended to the council that the amendment be abandoned because it was contrary to state planning policy and the Stonnington planning scheme. At a general meeting the Stonnington council chose to request the minister — I think a previous minister, but for this purpose it does not matter — to appoint an independent panel to assess the amendment.

The independent panel was appointed by the then Minister for Planning, the Honourable John Thwaites, which met and determined that the proposed amendment was contrary to state planning policy. It found as a result that the amendment should be abandoned. The council officers put this to the council. It was told that the independent panel that the council had requested, and that the minister had appointed, had found that the amendment was contrary to state planning policy and to the Stonnington planning scheme. As a result you would have thought the council would have found that the amendment should be abandoned.

Despite all that, at the last meeting of the council prior to the recent elections the council, in its wisdom, decided to approve the amendment and put that recommendation to the minister. This defies all logic, even for the operation of the Stonnington City Council. An independent body the council requested and the minister appointed found that the amendment was contrary to the state planning scheme and was contrary to the council's planning scheme, yet the council chose to approve the amendment, which will lead to the proliferation of gaming in Stonnington and specifically in the Chapel Street shopping precinct.

I call on the minister, given that the amendment is before her now, to seriously consider the decision of the independent panel and to make sure that the provisions of the state planning policy are adhered to.

Hazardous waste: Dandenong

Hon. N. B. LUCAS (Eumemmerring) — I raise a matter for the Minister for Energy and Resources, who represents the Minister for Major Projects in the other place. The matter I raise comes under the heading of the Pandazopoulos Dandenong hazardous waste soil treatment plant blackmail fiasco.

The government seems to be attempting to force the hazardous waste soil treatment plant onto Dandenong. There were 11 sites throughout Victoria, including one at Dutson Downs, that were being looked at for the soil treatment plant. That has now being whittled down to four, and two of those sites are in Dandenong. Given that the site in the bush is too far away, we now have two chances out of three of having this hazardous waste site in Dandenong.

Originally the Honourable John Pandazopoulos as Minister for Major Projects was responsible for this issue, but he was sacked and moved aside from that position and since then he has gone to ground. Who has not attended the meetings held in Dandenong recently? The Honourable John Pandazopoulos. He has not appeared. One local member from the Labor side has been seen hiding in the back at one public meeting, but the Honourable John Pandazopoulos has not been present. There is great concern in the community about the low profile shown by the local member, the Honourable John Pandazopoulos. The community has noted that he has been absent in this matter, and people are concerned that their local member is not representing them adequately on this issue. It is of continuing concern to them.

Interestingly, the latest noise from the Minister for Gaming is, 'I don't have to worry because it will not be in my electorate in the future. The site will be in the electorate of Lyndhurst, so it is not my problem. I have washed my hands of it; it is someone else's problem'.

I ask the new Minister for Major Projects who has responsibility for this issue and will not suffer an electoral backlash, which is why the Honourable John Pandazopoulos was moved to one side, to give urgent consideration to the genuine concerns of the residents of Dandenong and the fact that between 200 and 300 houses are within the buffer safety area proposed for the site. I ask the minister to rule the hazardous waste soil treatment plant out of order, because the

people of Dandenong do not want it. Nobody in Dandenong wants it. I do not want it, and neither does my colleague Mr Rich-Phillips.

Making the Most of Life event

Hon. K. M. SMITH (South Eastern) — I raise an issue for the attention of the Minister for Sport and Recreation concerning an event called Making the Most of Life. The event was established about nine years ago and is an official Victorian celebration of the United Nations Day for Older Persons organised by the Council on the Ageing Victoria. It was financially supported by grants from the then Department of Sport and Recreation and the Department of Human Services. The event was successfully developed into a major event promoting positive ageing.

In 2000 the event won the prestigious Minister for Sport and Recreation award — your award, Minister — for outstanding contribution to the industry by an individual, organisation or partnership. With its focus on positive ageing it won an award given by the minister. Approximately 10 000 seniors from metropolitan and country areas attend this highly successful event dedicated to active participation in all facets of recreation and leisure by older people in the community. Over the past five years it has achieved the status of the premier recreation and leisure event for the over 50s.

The minister may not be aware that after it won the award, funding was withdrawn. This event was very successful for older persons in Victoria, yet funding was withdrawn. I ask the minister to reconsider his position. The event is asking for a grant of $20 000 as part of the cost of $50 000 to stage the event. It will seek the rest of the money from sponsors. The minister recognises the fact that the event was worth giving an award for outstanding contribution to the industry, so I ask him to reconsider his position and to make available $20 000 to this wonderful organisation.

This year is the Year of the Outback, so we will be celebrating the pioneers of country and regional development and the promotion of the World Masters Games in Melbourne — making people aware of the event being staged in Melbourne. I ask the minister to redeem himself for what he did to these people. The minister is a disgrace.

Constitution Commission of Victoria: poll

Hon. BILL FORWOOD (Templestowe) — I refer the Leader of the Government, representing the Premier in the other house, to the activities of the Constitution Commission of Victoria. At page 9 of yesterday's Ballarat *Courier* there was a substantial article written by the Honourable Dianne Hadden. It includes her picture. It says:

> I also have concern at the inferences which appear in the commission's press releases which appear to the reader to be a constant denigration of the elected members of the Legislative Council of the Victorian Parliament.

We agree. I quote a separate paragraph from the same article:

> However, it is extremely disappointing when I am asked to explain to people the agenda of the constitution commission regarding its press releases which appear to be biased and not truly representative of a rural province electorate.

We agree; thank you very much! In her article Ms Hadden asks for some questions to be answered by the commission. Some of those questions are, and I quote:

> How did the pollster eliminate bias from the sample/s taken?
>
> …
>
> Did your pollster ask whether persons questioned knew the name of their lower house member of Parliament?
>
> Did your pollster ask whether persons questioned knew the name of their local shire councillor?
>
> …
>
> Is the commission intending to call each MLC to inform the commission of their role, workload (with only one staff member) and expectations of their constituency?

It goes on to say:

> I work extremely hard in the Ballarat Province … My car mileage is an indicator of the distances which I travel … My car is my second office.
>
> I am expected to be multiskilled as an MP, including being my own media adviser, typist, research officer, driver, and service my constituents' needs …

It is a big job; we agree. Ms Hadden has raised some serious concerns about the behaviour of the Constitution Commission of Victoria and some significant concerns about the denigrating of elected members of the Council. I ask the Premier if he will instruct his puppet, George Hampel, to answer Ms Hadden's questions and then make those answers available to all honourable members.

Responses

Hon. M. M. GOULD (Minister for Education Services) — The Honourable Peter Hall raised a matter with respect to an issue raised by Frank Malcolm from Katunga and the bus review. This government gave that as a key election commitment and a priority that we

understood was of particular importance to rural and regional areas of Victoria. It is a bit different from the action taken by the opposition. When it was in government it undertook a review. We did too, but we actually released our review; unlike Mr Brideson's, which was put away. The bus review that was undertaken by the opposition when it was in government has been parked and has never seen the light of day since.

We have gone through extensive consultation. That was conducted by the Honourable Theo Theophanous when he was a parliamentary secretary to the previous minister. The report has been forwarded to the people who participated in the review by providing submissions when attending public meetings or being involved in direct consultation.

The honourable member asked me to give a report on where the government is up to on that. That report has been submitted to the government, and I am considering it. I look forward to advising the house of the final outcome of that review in the near future.

Hon. P. R. Hall — Give me a date.

Hon. M. M. GOULD — I cannot tell you that. In the very near future I will be happy to give you a further update on my deliberations on those recommendations.

The Honourable Cameron Boardman raised a matter with respect to my responsibilities with student welfare. I am responsible for disability and impairments. The government has increased the budget considerably — in the order of $22 million — to cover the $17 million black hole that was left by the opposition when it left government. That is my responsibility — to ensure that we support children with disabilities and impairment and to assist them with their integration into the education system. The development of curriculum is the responsibility of my ministerial colleague in the other place, the Minister for Education and Training.

The Honourable Bill Forwood raised a matter for the Premier with respect to the Constitution Commission of Victoria survey. He questioned the outcome of that survey. I will raise that with the Premier, and he may consider responding.

Hon. C. C. BROAD (Minister for Energy and Resources) — In response to the Honourable Graeme Stoney, the report to which he referred is one of a whole series of investigations to secure water savings through a range of projects including, but not restricted to, improving the efficiency of bulk water storage systems. The projects will have benefits for water users as well as contribute to restoring environmental flows to the Snowy River.

The Honourable Glenyys Romanes requested the Minister for Transport to raise with other ministers at the Australian Transport Council consideration in relation to safety and environmental reasons for the removal of incentives for purchasing four-wheel-drive vehicles, and I will refer that request to the minister.

The Honourable Andrew Olexander requested the Minister for Transport to provide a response to an RACV report on the condition of roads in Melbourne's outer east, and I will refer that request to the minister also.

The Honourable Roger Hallam urged the Minister for Environment and Conservation to respond to the matters he raised regarding access and other issues relating to Lake Muirhead, and I will pass that request to the minister.

The Honourable Gerald Ashman requested the Minister for Transport to note the level of support for staffing of all railway stations, and I will pass that matter to the minister.

The Honourable Gordon Rich-Phillips raised for my consideration the matter of what he referred to as hoons and louts hiring power boats on the Gippsland Lakes and the need for enforcement. I am pleased to advise the honourable member that as a result of the government's commitment to reinvesting boat operator licensing revenues in boating safety some of those funds are indeed being invested in enforcement areas to support the work of the water police. That work will certainly be continued.

The Honourable Andrew Brideson requested that the Minister for Transport order an assessment of the safety of trees and of the public at Mount Waverley station and certain other locations. I will pass that request to the minister.

The Honourable Ron Bowden also requested the Minister for Transport to review safety at the Park Lane crossing, and I will pass that request to the minister.

The Honourable Neil Lucas raised a matter for the Minister for Major Projects, and I will pass that matter to the minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Bill Baxter raised a matter for the Minister for Health and in so doing acknowledged the $70 000 emergency services extension of Walwa Bush Nursing Hospital. He also

raised the 25th anniversary of Dr David Hunt's services in the area and sought a letter of support to Dr Hunt to acknowledge this milestone. I will certainly pass that on as quickly as I can to the Minister for Health so that he may follow that up.

The Honourable Maree Luckins raised for the Minister for Health a matter relating to the Dandenong Area Mental Health Service and a constituent's daughter who went missing from the centre and was raped while missing. She has now contracted a sexually transmitted disease, and the honourable member is seeking an investigation of the matter. I will pass that on to the minister to follow up. I acknowledge that the Honourable Maree Luckins has provided me with some further detail to pass on to the minister.

The Honourable Jeanette Powell raised for the Minister for Senior Victorians the matter of permanent accommodation for the Goulburn Valley University of the Third Age (U3A). It is happy to relocate with a compatible group, and the honourable member is seeking to have the minister consult with the U3A to find suitable accommodation. I will pass that on to the minister for her response.

The Honourable Wendy Smith raised for the Minister for Community Services a matter involving the Ringwood office of the Department of Human Services and a constituent who was concerned about the treatment of her grandchildren at the hands of her daughter and the failure of the caseworker to respond quickly to inquiries in that regard. I will pass that on to the minister concerned.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I will refer the question asked by the Honourable Andrea Coote regarding issues throughout the Toorak and Armadale area and police resourcing in Monash Province to the Minister for Police and Emergency Services in the other place.

In relation to the question asked by the Honourable Ian Cover regarding Geelong as a venue for the triathlon in the Commonwealth Games in 2006, I noted last night the outstanding representation of the Labor members in Geelong because those Labor members have lobbied the board substantially. They raised the issue with me and I referred them to the board. I do not recall Mr Cover contacting me. I certainly do not recall his contacting me in the same manner. I am aware that representatives of the International Triathlon Union (ITU) are attending the triathlon world cup in Geelong, and can I reinforce — —

Hon. I. J. Cover — On a point of order, Mr President, if I heard correctly, because it is a bit difficult to hear the minister when he is talking down into the top of his desk, as he is wont to do, I understood he was saying that I had not contacted the board of the Commonwealth Games about the triathlon in Geelong, while he was saying that Labor members had — —

The PRESIDENT — Order! Contacted him!

Hon. I. J. Cover — I was having difficulty hearing, because he was talking into his desk top. If he said that I had not contacted the board, I point out that in fact I met with the board chairman, Ron Walker, and Leighton Wood, the then chief executive, last October to present Geelong's case as the triathlon venue.

Hon. J. M. MADDEN — I take it there was no point of order, Mr President?

The PRESIDENT — Order! No.

Hon. J. M. MADDEN — I reiterate that I do not recall the honourable member contacting me in that manner. As I also mentioned, I am aware that ITU representatives are attending the world cup triathlon in Geelong. This is an event that was delivered to Geelong by this government, again reinforcing its substantial commitment to major events in regional Victoria.

Mr Cover may not be aware that the national triathlon series is also being conducted in Geelong in 2002, and that has also been delivered by the government. But that national event in 2003 and 2004 will be held in St Kilda because the national body negotiated the event. Again that reinforces that the national body is well aware of the courses and the way in which they are used and endorsed as venues for the triathlon. That reinforces some of those issues I mentioned about the weighting and ranking I discussed last night.

I reinforce with Mr Cover that while he may have highlighted that he met with the board in October last year, I am well aware that the Labor members in Geelong participated from a very early stage on this issue, discussing it with triathlon representatives. They raised it with me and have raised this issue substantially with the board over a long period. I reinforce that this is not unlike other events surrounding other events that have taken place in the Geelong region involving Mr Cover where he has not been involved as early as he should have been and doing his numbers. Again it proves that he has delivered too little too late.

I shall refer to the Minister for Planning in the other place the question asked by the Honourable Peter

Katsambanis about the Stonnington planning scheme amendments and the planning panel.

The Honourable Ken Smith asked about Making the Most of Life, regarding positive ageing. If I recall this award — I do not have the exact details in front of me — it was won by the Council on the Ageing. If it is the same group, we are talking the same language. Any funding support allocated in conjunction with the Department of Human Services for strategic initiatives was for a short period. But I am willing to seek clarification on the status of that issue with my department and shall provide the honourable member with the information.

Motion agreed to.

House adjourned 10.52 p.m.