PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Wednesday, 10 October 2007

(Extract from book 14)

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By authority of the Victorian Government Printer

The Governor

Professor DAVID de KRETSER, AC

The Lieutenant-Governor

The Honourable Justice MARILYN WARREN, AC

The ministry

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Minister for Roads and Ports	The Hon. T. H. Pallas, MP
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Minister for Gaming, Minister for Consumer Affairs and Minister Assisting the Premier on Veterans' Affairs	The Hon. A. G. Robinson, MP
Minister for Industry and Trade, Minister for Information and Communication Technology, and Minister for Major Projects	The Hon. T. C. Theophanous, MLC
Minister for Housing, Minister for Local Government and Minister for Aboriginal Affairs	The Hon. R. W. Wynne, MP
Cabinet Secretary	Mr A. G. Lupton, MP

Legislative Council committees

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

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

Select Committee on Gaming Licensing — Mr Barber, Mr Drum, Mr Guy, Mr Kavanagh, Mr Pakula, Mr Rich-Phillips and Mr Viney.

Select Committee on Public Land Development — Mr D. Davis, Mr Hall, Mr Kavanagh, Mr O'Donohue, Ms Pennicuik, Mr Tee and Mr Thornley.

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

Joint committees

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

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

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

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

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

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

Family and Community Development Committee — (*Council*): Mr Finn, Mr Scheffer and Mr Somyurek. (*Assembly*): Ms Beattie, Mr Perera, Mrs Powell and Ms Wooldridge.

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

Law Reform Committee — (*Council*): Mrs Kronberg, Mr O'Donohue and Mr Scheffer. (*Assembly*): Mr Brooks, Mr Clark, Mr Donnellan and Mrs Maddigan.

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

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

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

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

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

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT — FIRST SESSION

President: The Hon. R. F. SMITH

Deputy President: Mr BRUCE ATKINSON

Acting Presidents: Mr Elasmar, Mr Finn, Mr Leane, Mr Pakula, Ms Pennicuik, Mrs Peulich, Mr Somyurek and Mr Vogels

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Mr JOHN LENDERS

Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
Mr PHILIP DAVIS

Deputy Leader of the Opposition:
Mrs ANDREA COOTE

Leader of The Nationals:
Mr PETER HALL

Deputy Leader of The Nationals:
Mr DAMIAN DRUM

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

CONTENTS

WEDNESDAY, 10 OCTOBER 2007

Wednesday, 10 October 2007

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

BUILDING AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Planning).

ENERGY LEGISLATION FURTHER AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. T. C. THEOPHANOUS (Minister for Industry and Trade).

PETITIONS

Following petitions presented to house:

Clyde Road, Berwick: upgrade

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the urgent need to upgrade Clyde Road, Berwick, between Kangan Drive and High Street.

The petitioners therefore respectfully request that the Legislative Council of Victoria demands that the Minister for Roads and Ports, Tim Pallas, and VicRoads:

(a) commence scoping works to upgrade Clyde Road, Berwick, between Kangan Drive and High Street;

(b) the schedule of works to be considered includes:

traffic lights for the intersection of Enterprise Avenue and Clyde Road;

duplication of Clyde Road between Kangan Drive and High Street;

an underpass for the railway crossing.

By Mrs PEULICH (South Eastern Metropolitan) (124 signatures)

Laid on table.

Ordered to be considered next day on motion of Mrs PEULICH (South Eastern Metropolitan)

Mordialloc Creek Bridge: reconstruction

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the problems with the work being undertaken on the Mordialloc bridge, Nepean Highway, Mordialloc, and the daily traffic transport delays that residents of Mordialloc, Carrum and bayside suburbs encounter.

The petitioners therefore respectfully request that the Legislative Council of Victoria demands that the Minister for Roads and Ports, Tim Pallas, and VicRoads:

(1) immediately review the work and schedules of the Mordialloc bridge construction, including the 16-month construction time frame given for the project;

(2) conduct a public information session regarding the Mordialloc bridge construction to allow residents of Mordialloc, Carrum and bayside suburbs to consult with the minister and VicRoads for a timely resolution to the daily traffic transport delays.

By Mrs PEULICH (South Eastern Metropolitan) (36 signatures)

Laid on table.

Ordered to be considered next day on motion of Mrs PEULICH (South Eastern Metropolitan)

Hall Road, Carrum Downs: school crossing

To the Legislative Council of Victoria:

The petition of residents of Victoria draws to the attention of the house concerns about the safety of schoolchildren who are crossing Hall Road in Carrum Downs to attend local schools. The concerned residents and parents of local schoolchildren seek a:

change of the speed limit from 70 km/h to 40 km/h for the stretch of road immediately before and after the school crossing for a length of 2 kilometres between the hours of 8.00–9.30 a.m. and 2.30 and 4.00 p.m. on school days.

The petitioners therefore respectfully request that the Legislative Council of Victoria encourages the Bracks government, in particular the minister for roads, the Honourable Tim Pallas, to take action to ensure children can continue to travel to and from school in a safe and appropriate manner.

By Mrs PEULICH (South Eastern Metropolitan) (8 signatures)

Laid on table.

Ordered to be considered next day on motion of Mrs PEULICH (South Eastern Metropolitan)

Abortion: legislation

To the Legislative Council of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Council the urgent need to oppose the decriminalisation of abortion legislation currently before the Victorian Parliament.

The petitioners therefore respectfully request that the Legislative Council of Victoria oppose the legislation presented to the house. We, as the future of Australia and the ones most affected by this bill, protest against the decriminalisation of abortion. Equality is necessary for everyone and we will not rest until our fellow citizens which still live in a womb, have a right to life.

By Mrs PEULICH (South Eastern Metropolitan) (259 signatures)

Laid on table.

SELECT COMMITTEE ON GAMING LICENSING

Second interim report

Mr RICH-PHILLIPS (South Eastern Metropolitan) presented report, including appendix.

Laid on table.

Ordered to be printed.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I move:

That the Council take note of the report.

In doing so I draw this report to the Council's attention. In March of this year following the adoption of a sessional order with respect to the presentation of documents and a request from the Leader of the Government, the President sought legal advice from Mr Bret Walker with respect to the power of the Council to seek documents under that sessional order.

Following the presentation of that legal advice to the Council, the Select Committee on Gaming Licensing requested that the President seek further advice as to the capacity of the Council or its committee to seek advice in relation to matters where a claim of statutory privilege is claimed. That advice was presented to the President and subsequently provided to the Select Committee on Gaming Licensing on 4 October, and the committee now presents this interim report by way of communicating to the Council Mr Walker's opinion on the issue of statutory secrecy.

Debate adjourned on motion of Mr P. DAVIS (Eastern Victoria).

Debate adjourned until later this day.

PAPERS

Laid on table by Clerk:

Auditor-General —

Report on Improving Our Schools: Monitoring and Support, October 2007.

Report on Management of Specific Purpose Funds by Public Health Services, October 2007.

Budget Sector — Financial Report, 2006–07, incorporating the Quarterly Financial Report for the period ended 30 June 2007.

Office of Police Integrity — Report, 2006-07.

Subordinate Legislation Act 1994 — Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 111.

Victorian Law Reform Commission — Final Report on the Review of the Bail Act 1977.

GAMING: PUBLIC LOTTERIES LICENCE and SELECT COMMITTEE ON GAMING LICENSING

Mr P. DAVIS (Eastern Victoria) — I move, by leave:

That this house authorises and requires the President to permit the notices of motion standing in my name relating to the production of documents by the Leader of the Government, the Attorney-General's letter of 27 September 2007 in relation to the same matter and further debate on the motion to take note of the second interim report of the Select Committee on Gaming Licensing to be moved and debated concurrently.

Motion agreed to.

MEMBERS STATEMENTS

Trooper David Pearce

Mr FINN (Western Metropolitan) — I rise this morning to pay tribute to Trooper David Pearce of the Australian Army, tragically killed in Afghanistan this week by a terrorist bomb. He was the first Australian,

and hopefully the last, killed in action in that particular theatre of war.

The term 'hero' is often bandied about, but with David Pearce we have a true hero — indeed, a fair dinkum hero. In their grief I hope David Pearce's wife and his two young daughters will take some consolation in the knowledge that he died in the service of his country. I pray that his little girls will remember their dad as a hero in the tradition of so many other Australian fighting men and women who have made the supreme sacrifice in defence of freedom.

I am sure the house will join me in offering condolences to David Pearce's family, to his friends and perhaps just as importantly to his comrades still serving Australia in Afghanistan and in Iraq and wish them success and safety in their mission.

Taiwan: national day

Mr KAVANAGH (Western Victoria) — I wish to take the opportunity to congratulate the Republic of China on Taiwan on its national day. It was 96 years ago today that rebellion broke out against the Qing dynasty, inaugurating the Republic of China. In the subsequent 96 years the Republic of China has faced the most formidable challenges imaginable, including a brutal invasion and occupation by the empire of Japan. Although this is usually ignored, the Democratic Labor Party also notes that Taiwan remains not only one of Australia's leading trading partners but also one of the best. Taiwan buys much more from Australia than it sells to Australia, which is unusual among our trade partners.

On behalf of the Democratic Labor Party I wish to congratulate the Republic of China on Taiwan on its extraordinary achievements. In spite of the most difficult of circumstances, Taiwan is a society which is prosperous, free and democratic by any measure. The Democratic Labor Party calls on the United Nations to provide representation for the 23 million people of Taiwan who are at present entirely unrepresented at the United Nations, not only because it would be right in itself but also as a means of facilitating communication and peaceful resolution of the conflict between Taiwan and mainland China. As conditions improve throughout China it is hoped that the situation in Taiwan will be resolved peacefully.

Racial and religious tolerance: African communities

Ms HARTLAND (Western Metropolitan) — In the past two weeks Kevin Andrews, on behalf of the Howard government, has chosen to vilify the newly arrived African community. Could this be because it is an election year and the Liberal government feels it needs to play the race card again, as it did with *Tampa* and the children overboard?

As I live in Footscray I see what great citizens we have from Sudan, Ethiopia, Eritrea and Horn of Africa. I have had the privilege of working with the Sudanese congregation at St John's Anglican Church in Footscray, and with Dr Berhan Ahmed at the Kensington high rise, who runs fantastic programs for the Ethiopian young people. Christine Nixon, the Chief Commissioner of Police, who I have high regard for, summed it up on 3 October when she said:

> We don't believe there is a gang culture we just (believe) it's a group of young people together. Other young people who are white do the same thing and they're not called gangs.

I would also suggest that members watch or read the transcript of *Media Watch* to see how this story has been sensationalised on commercial television.

Port Fairy: port development grant

Ms TIERNEY (Western Victoria) — Last week in Port Fairy a number of announcements were made by the Minister for Regional and Rural Development in the other place, including a $1.5 million state government grant for the Port Fairy port. The Port Fairy economy centres around tourism and fishing, both of which will be significantly enhanced due to this grant. The Port Fairy port is home to a commercial fishing fleet of nine vessels with a total annual value of commercial fishing revenue estimated at $10 million. The marine heritage and fishing lifestyle, as well as the Port Fairy Folk Festival and Spring Music Festival, attract tourists to this wonderful part of the world. This tourism dollar is essential to the Port Fairy economy.

The project includes upgrading the marina wharf, upgrading walls on the west side of the Moyne River and continued works to the bluestone retaining walls. Victoria's local ports have long been in need of urgent capital works, and the Brumby government has responded to this need. This program will enhance local amenity and deliver services to local communities and enhance access and safety.

The $1.5 million grant is just part of the $363.8 million provided through the Regional Infrastructure Development Fund to finance 148 projects worth just under $1 billion across provincial Victoria. I look forward to continuing to work with the Moyne Shire Council on this and many other projects in the surrounding areas.

Rail: Seymour line

Mrs PETROVICH (Northern Victoria) — I rise today to speak on the issue of Seymour commuters left stranded by a timetable that is failing this community. At the end of August the Minister for Public Transport in the other place, Lynne Kosky, made a big song and dance about improving the V/Line services for Seymour, but it seems that the evidence is to the contrary. According to the information received by my office, commuters are now worse off. This region of Victoria is one of the fastest growing in the state with an annual increase in population of 2.95 per cent compared with the state average of 1 per cent. Of the 33 extra services, 28 are at the weekend, which hardly helps the increasing number of commuters travelling to and from work Monday to Friday.

It is disappointing that Minister Kosky has not taken into account the real needs of the people of Seymour. Once again, this government has shown incredible arrogance, with a total lack of community consultation. The new timetable has actually made it worse for people wanting to get home in the evenings. The 5.32 p.m. train has become the 5.40 p.m. train. The 6.l5 p.m. train goes express from Melbourne to Seymour, so if you live in Donnybrook, Wallan, Heathcote Junction, Wandong, Kilmore East, Broadford or Tallarook and you miss the 5.40 p.m. train, you have to wait for more than an hour for the next train, which leaves at 6.42 p.m. — providing of course that it leaves on time, which it rarely does.

Why is the member for Seymour in the other place, Ben Hardman, not standing up for his constituents? Does he actually know what is happening in his electorate? How long has it been since he regularly caught a train to work, not as a joy-rider but as a daily commuter? If he bothered to find out about this, he would understand the frustrations of the commuters — —

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

South Road extension, Heatherton: opening

Mr THORNLEY (Southern Metropolitan) — On Wednesday, 5 September, I was delighted to be in attendance at the opening of the South Road extension, along with my colleagues in the other place, Janice Munt, the member for Mordialloc, Rob Hudson, the member for Bentleigh, Hong Lim, the member for Clayton, and of course Tim Pallas, the Minister for Roads and Ports. The South Road extension is a $24.5 million project that has been invested in as part of the government's Meeting Our Transport Challenges blueprint. The South Road extension is yet another example of a Labor government investing in necessary infrastructure to improve the flow of traffic, particularly along Warrigal Road, improving travelling times and generally providing a safer and more modern road for motorists. I congratulate the minister, VicRoads and the community for pursuing this important project.

Great Western Steeplechase: l50th running

Mr KOCH (Western Victoria) — The Western District has a long tradition of thoroughbred racing, which was again demonstrated with the l50th running of the Great Western Steeplechase at Coleraine. Although the weather was wet and windy, along with hundreds of other racegoers I enjoyed the family atmosphere of country horseracing at its best. Coleraine is home to Australia's oldest continuing steeplechase, and the cup meeting is older than the Melbourne Cup meeting. The Coleraine Cup was won by Sacred Surmardi, which is trained by Daryl Cannon and was ridden by apprentice jockey Jack Hill, while the steeplechase was won by the Sue Murphy-trained Icy Chances, which was ridden by Jamie Julian. Even the Premier, John Brumby, made an appearance at this sesquicentennial celebration of racing in Victoria. The Premier, after accepting an invitation he received on the day he became Premier, had decided it was more important for him to attend the interstate NRL (National Rugby League) grand final, so he became a late scratching. But then our indecisive Premier changed his mind and attended both events, at a cost to taxpayers of some $14 000.

Congratulations to the Coleraine Racing Club Committee and the many supporting volunteers who made this special day a great celebration of thoroughbred racing in western Victoria. I also extend my best wishes for a full recovery to the club president, Robert Roads, who became seriously ill straight after the meeting

Multifaith Multicultural Youth Network: celebration

Mr EIDEH (Western Metropolitan) — Recently I was privileged to attend a multifaith dinner which a number of members from both houses of Parliament attended. This occasion was to mark the need for greater dialogue between all cultures as well as to promote an understanding of the common threads that run through different faiths. So it is with great pleasure that I express my support for the Brumby Labor government's commitment to the very same dialogue and the very same approach to understanding through

the appointment of the Multifaith Multicultural Youth Network.

While it is obviously important for all of us to create and maintain dialogue with others as the first step to peaceful and harmonious relations, the key to a positive future is the next generation, our young people. Unless we listen to their views and give them some ownership of the future, we are not truly representing that next generation in this Parliament. To quote the Premier of Victoria, John Brumby:

> This network of young Victorians will provide key advice to the Victorian government on issues and initiatives relevant to Victorians of all faiths and cultures.

The young people involved will acquire invaluable life skills in communication, understanding, leadership, mentoring, working with teams and much more that will hold them in good stead as they take their roles as positive adults in our society. I congratulate the government and wish the members of this special youth network well in their endeavours.

Housing: Fitzroy units

Ms LOVELL (Northern Victoria) — I wish to raise a matter for the attention of the Minister for Housing. In February I wrote to the minister raising concerns of residents who live in the Office of Housing units in Miller Street, Fitzroy. Following my representation to the minister on behalf of the residents, I am advised that the minister and his adviser visited the Miller Street flats to assess the situation. During the visit the minister advised residents that many of their concerns, including installing security screens for ground floor tenants, restricting access from an adjoining park and a feral cat problem, amongst other things, would be addressed.

The minister confirmed this to me in a letter in June. However, in September a ground floor resident received a letter from the department advising her that the security screens would not be fitted to her apartment as they are a non-standard item. The resident rang the minister's office to discuss this, and was told by the minister's office to contact her local member. Her local member just happens to be the member for Richmond in the other place, Richard Wynne, the minister — of the very office she rang in the first place.

I will supply copies of both of these letters to the minister, and I call on him to honour his commitment to address the concerns of the residents as outlined in his letter of 19 June. I also call on the minister to ensure that his staff are aware of the location of his electorate and his responsibilities as a minister and a local member, not only to his constituents but to all Office of Housing tenants.

HEALTH (FLUORIDATION) AMENDMENT BILL

Introduction and first reading

Mr KAVANAGH (Western Victoria) introduced a bill for an act relating to the addition of fluoride to a public water supply, to amend the Health (Fluoridation) Act 1973 and for other purposes.

Read first time.

GAMING: PUBLIC LOTTERIES LICENCE and SELECT COMMITTEE ON GAMING LICENSING

Mr P. DAVIS (Eastern Victoria) — I move:

That this house:

(1) notes that the documents ordered by the resolution of the Council on 19 September 2007 to be tabled in the Council by 5.00 p.m. on 27 September 2007, have not been received by the Council;

(2) affirms the privileges, immunities and powers conferred on the Council pursuant to section 19 of the Constitution Act 1975, the power to make standing orders under section 43 of that act and the power to adopt sessional orders pursuant to standing order 25.02;

(3) affirms the right of the Council to adopt sessional order 21 and call for the production of documents which are necessary for the proper exercise of its functions;

(4) affirms the need to protect the high standing of Parliament and to ensure that the Council may properly discharge its duties and responsibilities; and

(5) requires the Leader of the Government representing the Premier to table by 5.00 p.m. on Monday, 15 October 2007, the following documents referred to in the resolution of the Council of 19 September 2007:

(a) any reports prepared by the Victorian Commission for Gambling Regulation in connection with registrations of interest received for a public lotteries licence and presented to the Minister for Gaming in August 2005;

(b) any reports prepared by the Victorian Commission for Gambling Regulation in connection with applications received for a public lotteries licence and presented to the Minister for Gaming in May or June 2006;

(c) any amended reports prepared by the Victorian Commission for Gambling Regulation in connection with applications received for a public

lotteries licence and presented to the Minister for Gaming in November 2006;

(d) any reports prepared by the Victorian Commission for Gambling Regulation in connection with applications received for a public lotteries licence and presented to the Minister for Gaming in June, July or August 2007; and

(e) any minutes, file notes or other records of meetings howsoever described relating to consideration of the Victorian Commission for Gambling Regulation reports by the Lotteries Licence Review Steering Committee.

I move:

That the Council take note of the Attorney-General's letter relating to the production of documents.

Debate on second interim report of select committee resumed from earlier this day; motion of Mr RICH-PHILLIPS (South Eastern Metropolitan):

That the Council take note of the report.

Mr P. DAVIS — In moving the motions in my name and speaking to the motion to take note, I want to firstly allude to what I think is an analogous matter. We note that 26 January next will be Australia Day, when we will celebrate more than two centuries in Australia of an ordered civil society, which most of us will presume has been substantially uninterrupted from the commencement of European settlement after the landing on 26 January 1788 by Captain Arthur Phillip, who later became Governor Phillip.

However, there is something that many Australians have not been aware of for many years. If they are aware of it, it is usually a schoolboy sort of image of something fanciful that happened around the time of the governorship of William Bligh.

Mrs Coote — Or a schoolgirl.

Mr P. DAVIS — Or a schoolgirl. But I am referring to what since the 1930s has commonly been referred to in Australia as the Rum Rebellion. I allude to that because it is important for us to understand the commitment that Australians have generally given to the construct of our constitutional arrangements and the importance of respect for the proper authorities under which we are governed.

On 26 January 1808 there was an armed rebellion in the colony of New South Wales and William Bligh, as governor, was deposed at the point of a gun — in fact, at the point of more than 300 guns. Three hundred armed members of the New South Wales Corps, with bayonets fixed, marched on Government House. Cannons were loaded and trained on Government House and William Bligh was sought out and imprisoned. He was held in detention for a considerable time. In fact the installation of a military dictatorship in the Colony of New South Wales by Major George Johnston, later Lieutenant-Colonel Johnston, lasted for a period of 23 months. This rebellion, the governor's displacement and the dictatorship were all manipulated by John Macarthur, well known for his sheep-breeding activities, who was in the end declared mad. Johnston's trial at a military court martial found him guilty of an act of mutiny.

Members will be curious as to why I make this allegory. I am suggesting to the house that what is going on here in Victoria at the present time is the executive government seeking to usurp the proper civil, constituted authority of the Parliament of Victoria by refusing to allow public service officers to provide to the Parliament documents which have been called for by this house, which have been ordered by this house and which this house has every entitlement to receive under the constitutional arrangements that empower each house of Parliament to administer its own affairs, including undertaking its serious obligation in relation to supervising the government.

There is a basic premise about Parliament, and that is that it has two functions. It clearly has a legislative function, but it is not just a legislature. To describe the Parliament as the legislature is a misnomer. Parliament is more than a legislature. If that were all it was, I suggest we would not need the trappings and support the Parliament has available to it. It certainly would not need select committees making inquiries into matters of public administration. It would not need joint parliamentary inquiries to undertake the work they do usefully in regard to public policy matters. Importantly, beyond just the legislative function, the Parliament is the place where the community, the people of this state, can expect that between elections there is accountability, that there is a place where the government of the day can be supervised. That is our task.

I make that point because we have had advice consistently from the government, principally in the form of the Attorney-General, that suggests that this house has in effect no right to inquire into matters of public administration and that it has no power to call for the documents that would allow in the first instance the Select Committee on Gaming Licensing or subsequently this house in its own right to require the government to produce documents for examination to determine the probity of public administration. The

Attorney-General is the only authority I can find who argues that this house does not have that power. I have been so perplexed by this matter that I have done a reasonable amount of research to investigate whether or not the Attorney-General is right — because if he is right let us accept that he is right and get on with something more useful — but clearly he is factually wrong. Every paper produced by anyone with an authoritative opinion about parliamentary procedures argues essentially that each house of Parliament has the power to call for documents

The Attorney-General's role is multifaceted according to the *Constitution of Victoria*, which was written by Greg Taylor and published by the Federation Press under a grant from the Victoria Law Foundation. It is an excellent text that I recommend all members read. Taylor argues that the Attorney-General has six classes of function: the usual ministerial administrative functions, political functions as a cabinet minister, functions relating to the judiciary, the chief legal representative of the state, the chief legal adviser to the government and miscellaneous public interest functions. Taylor also advises that there is an additional role, which is as defender of the judiciary. He also argues in relation to the independence of the Attorney-General, and I quote from page 178 of this edition:

> The smooth operation of Victoria's constitutional system therefore depends on the integrity of the Attorney-General.

I repeat 'depends on the integrity of the Attorney-General'. Taylor further argues:

> … as chief legal adviser to the Crown and the government as a whole, the Attorney-General has an obligation to provide the best rather than the most convenient legal advice …

I purport that with regard to advice of the Attorney-General to ministers, to officers employed in the public service, to the parliamentary select committee inquiry and to this house, he is providing more convenient legal advice than the best legal advice, which then comes back to the issue of the office-holder's integrity. The word 'integrity' is often thrown around with great abandon in parliamentary debates, but it has never been more important to dwell on it than now, when one considers what is being argued by the Attorney-General on behalf of the government. I am looking forward to a learned response to my comments from the Leader of the Government, given that he has been properly trained in the law at a university. It will be interesting to see if he has a different view from the Attorney-General.

I return to the notion of responsible government. As I say, there are two concepts of the role of this Parliament — one is the legislative function and the other is the supervision of the executive government. Taylor argues:

> The responsibility of ministers, in the broader sense, is both collective and individual, and owed to the whole Parliament (not just one house of it) as representatives of the people. In this sense, 'responsible' is more or less a synonym for 'accountable'.

I will come back to that in a moment. I want to further say that Taylor argues that the Constitution Act 1975 also makes the point that each house shares one characteristic which is an important component of the moral authority lying behind its constitutional power — each consists of representatives of electors.

In dealing with the issue of accountability, we have a bicameral parliamentary system. Clearly under the constitutional arrangements both houses have equal authority. The authority is vested in the Parliament under our constitution, and indeed it refers more specifically to the powers that were available in the House of Commons prior to 1855.

It has been argued, again by the Attorney-General, that there was no effective power to require the government to produce documents that it did not want to produce prior to 1855. I looked for a relevant reference in the current edition of *Erskine May's Parliamentary Practice* — the 23rd edition, published in 2004 — which is a useful reference for all of us who are interested in procedures in this place; however, I could not find a suitable reference, so I have gone back to *May's* third edition of 1855, which says at page 411:

> Parliament, in the exercise of its various functions, is invested with the power of ordering all documents to be laid before it which are necessary for its information. Each house enjoys this authority separately …

I do not believe there is anyone who is involved in the exercise of constitutional law who doubts that this house has the proper authority to require the government to yield papers that do not directly relate to a cabinet deliberation. The argument may be put later today by members of the government, and indeed it has in effect been put by the Attorney-General consistently, that they do not share that view, but clearly that is not what the authorities will say.

I want to go to an issue of principle. That issue of principle relates to the transparency of government and the role of the Parliament in scrutinising government. Consistently Labor, in seeking support from the electorate, has made claims about improving the

transparency of government. Firstly I cite *Making Parliament Work — Labor's Plan for a Harder Working, More Democratic Parliament*, which was published in May 1997 when Mr Brumby was Leader of the Opposition. A certain Mr Lenders of 23 Drummond Street, Carlton, authorised publication of that document. I understand Mr Lenders was then the secretary of the ALP in Victoria.

The Independent members of Parliament elected at the 1999 election, before assenting to support the Labor Party in government on the floor of the house, proposed what was referred to broadly as the Independents charter. The then Leader of the Labor Party, who was about to become Premier, Steve Bracks, responded through the Labor Party's independent charter by talking again about transparency and accountability — for example, item no. 1 on the schedule in Mr Bracks's response was 'Promoting open and accountable government'. He then iterated in some detail what essential initiatives that would entail.

Further Mr Brumby, on his election as Premier more recently, on 7 August, avowed in a press release and at a press conference to strengthen accountability in Victoria, and he set out a number of initiatives that would lead to greater accountability in respect of the Parliament. All I can say is that all of this is claptrap. It is absolutely meaningless and has not produced an outcome in terms of the behaviour of the government consistent with the high expectations of this house with regard to government accountability. More specifically I turn to the various commentaries by the Attorney-General in relation to requests for documents.

Correspondence from the Attorney-General in another place was copied in the report of the Select Committee on Gaming Licensing that was tabled in July — that is, the first interim report. All members have access to that, and it would be useful to consider it. The Attorney-General responded in part provocatively, which I suggest gave us an insight into the way this matter was going to unfold from the outset. The Attorney-General, in his initial letter to the secretary of the committee on 11 April, wrote in the closing paragraph:

> The actions of the committee, no doubt in the full knowledge of all of the matters referred to above, have the potential to undermine the committee process in this state. Further, they add more weight to the assertion that this current inquiry is nothing more than a political exercise.

I quoted that passage specifically because I am concerned that from the very outset, while the committee has been exercising functions delegated to it by this house, the Attorney-General has taken a view that in his conduct as the first law officer in Victoria he should express a highly charged political sentiment rather than stick to the script of arguing a case about principle. He chose not to do that; he went further than that. He formally wrote to all of the officers in various roles within government who had received summonses for documents required by the committee. In the words of one of my colleagues in a previous debate on this issue, he intimidated them into not complying. In effect he told them that they should not comply with a proper order from the Parliament of Victoria. That is self-evident.

I think it is clear from the Attorney-General's correspondence that is again before the house today that the executive privilege exemption he refers to, the public interest exemption and the confidentiality provisions — all of these matters that he claims give grounds for the government to claim an exemption from tabling documents — are completely spurious. They are knocked down on the basis of the argument that is put forward in the third edition of *May*, which I have recited; by the principles recited in the advice before the house, the opinion of Bret Walker of earlier this year; and of course they are rebutted again by the opinion that is before the house as a result of Mr Rich-Phillips tabling the second interim report earlier today. All in all the Attorney-General has a very limited basis on which to argue that he and the government are above tabling documents which have been so ordered.

It is important for us to be clear. As we have had the debate on a previous occasion I am not going to reiterate it, but what I am going to say is that in principle we have argued that there is a natural logic to the power of the Council as expressed in section 19 of the Constitution Act, which refers to the powers vested in the House of Commons before 1855. As is stated in the third edition of *May*, which I have referred to, these clearly provide a power to generally call for papers and documents, and it is simply a matter for each house of Parliament to regulate the way in which that is done. Earlier this year we had a considerable debate about how that should be transacted. We adopted a sessional order to bring some order to that process and indeed to allow, if you like, an appeal process, a process that would give the executive some comfort that if there were sensitive documents, they could be reviewed confidentially by a third-party judicial authority who would advise how we should proceed.

The amendment made during the course of the debate on that matter further constrained the number of people who could sight documents that may be in contest. I think that should have given incredibly close comfort to

the government that these matters would be treated with respect. However, the government has been obdurate in its refusal to produce the documents. I hope that as a consequence of consideration of this motion today, if it is passed, the Leader of the Government will have a different view to that of the Attorney-General and will comply with the order of the house.

As we move forward with the debate it is important for us to note that, as Mr Rich-Phillips alluded to when he tabled the second interim report of the gaming licensing committee, the advice and legal opinion on these matters before us — we now have two separate advices dealing with the same matter, the production of documents, from Bret Walker — were obtained as a consequence of a request to the President by the Leader of the Government, not by the opposition. The opposition did not feel it needed independent legal advice in relation to the issue of principle, because it believed there was sufficient authority in papers produced by and available from the commonwealth Parliament, from our own Parliament, from the *Egan v. Willis* issue and from the *Egan v. Chadwick and Others* matters in relation to the New South Wales Legislative Council, which have been tested in the High Court of Australia. We believed that all of those matters led quite unequivocally to a position where it was clear that the Council had the proper authority.

However, the government, wanting to protect itself from investigation, chose to seek an opinion through the President, and it did not like the opinion. It is quite clear that the opinion provided by the most eminent constitutional lawyer in these matters in Australia, an opinion which I think is soundly based, is now apparently irrelevant to the Attorney-General, who, for reasons best known to himself, thinks he has a superior qualification at law. I would suggest that that is probably not the case.

I want to come to a principle in relation to this house's supervision of the executive. We have a bicameral system. It is clear that for any government to survive, it requires a majority in the Legislative Assembly. That is without question. The government is formed in the Assembly, the government will be disposed off when it loses its majority in the Assembly. As a consequence of party discipline in a contemporary political environment, there is no doubt that the primary role of lower houses of parliament in Australia, if not throughout the commonwealth, is simply to be electoral colleges. Unless there is, as there was between 1999 and 2002, a hung parliament in which minor parties or Independents have the balance of power, the government's command of the lower house is absolute, there is no question that the government will continue and the role of the lower house will be literally that of an electoral college. That is a political reality.

However, this house is different. It is arguable that as a result of the reforms to the constitution in 2003 this house has a much wider mandate in its responsible role. It certainly has a different electoral franchise, because it is elected on a different premise; therefore it could be argued that it is potentially more representative. I am sure there are a number of members on the cross-benches who would argue that.

It seems to me in that circumstance that the primary role of this house, apart from the legislative function, is to be the place that supervises the executive. Therefore unless this house insists on its unfettered right to do so, it means there will be no supervision, no accountability and no check or balance in regard to the exercise of executive power. We have a great responsibility in terms of this debate and the process of encouraging the Leader of the Government to comply with an order of this house to ensure that in future the house can conduct the necessary inquest into affairs of state that will allow the community, the electorate and the people of Victoria to have confidence between elections that government is in good hands. I would have thought that it is in the interests of the Leader of the Government himself indeed to argue that is the case.

I want to make clear that the motion proposes to restate or insist on the direction given to the government to produce certain documents which are in fact required to satisfy the scrutiny of the gaming licensing currently being undertaken by a delegation of this house to a select committee. As the government failed to comply with the order of the Council which is referred to in the motion, it is clearly expedient to again propose that a representative of the government produce those documents. Therefore the Leader of the Government in this house is nominated as he is the senior minister and the Premier's representative in this house.

Through the Leader of the Government this motion insists on asserting the rights of the Council in the performance of its functions. What it specifically does, to refresh members' minds, is to clearly set out the documents that are required. It is the same set of documents that were sought previously in the debate of Wednesday, 19 September, in the motion moved by Mr Rich-Phillips. Those documents, the motion notes, that were so ordered to be tabled were not tabled by 27 September as required. The motion affirms the privileges, immunities and powers conferred on the Council. It affirms the right of the Council to adopt the sessional order to deal with the process of ordering documents. It affirms the need to protect the highest

standing of the Parliament and it requires the Leader of the Government as representing the Premier to produce the documents.

I am mindful that the arguments have been substantially covered in previous debates, and I do not intend therefore to go over them all again. The evidence is clear. The government has a view that it is above scrutiny. It is a view that I certainly do not share. I suspect the overwhelming majority of members of this place do not share the view that any government can be above scrutiny, because if it is putting itself above scrutiny, it begs the question about proper probity in its administration. According to the *Macquarie Dictionary* 'probity' is about integrity, uprightness and honesty. That is what we require of our representatives in government. I often have referred in the past to the quotation from *Proverbs* which says, 'Where no counsel is, the people fall but in the multitude of counsellors there is safety'. I would argue it is by the multitude of counsellors in this place pursuing probity issues that there can be some safety.

On the basis that I know there are a number of other members who wish to participate in this debate, and that I will have an opportunity to close the debate subsequently, I will draw my current comments to a conclusion. But I would put this briefly to the house: the government has a mandate, but the Parliament more broadly — that is, the two houses of Parliament — has a responsibility to represent and reflect the interests of Victorians as a whole between elections.

In our bicameral Parliament the upper house fulfils the crucial duty of scrutinising government and ensuring there is probity and accountability. The upper house is certainly in a constitutional position of authority and is a key part of the form of democratic tradition. This tradition gives our civil society a democratic foundation with stability and strength. It needs to be responsive to the views of the people and move with the times. Clearly it is not possible for the Parliament to retain its integrity if indeed it does not perform the function for which it is here. I argue that beyond legislation the function is to undertake a proper scrutiny of the government.

It is critically important that we refer always to our constitution. In my view the case the Attorney-General has been putting that our constitution does not give us the authority to call for documents is arguable. It is such an implausible argument that I cannot believe the first law officer in Victoria should repeat it. I think it is clear that the practice of government — certainly the current government — in relation to its refusal to provide documents to this chamber as ordered indicates a serious contempt of this place. It is an appropriate time to give the Leader of Government in the Legislative Council the opportunity to set out his view about why it is that the government is obdurate in its refusal to deliver papers which have been properly called for under the proper authority of the sessional orders of this house and the Victorian constitution.

Mr LENDERS (Treasurer) — I rise to join the cognate debate on the motions and say at the outset that the government will certainly be supporting the two motions to take note of the Attorney-General's reply and Mr Walker's advice. We will certainly be supporting the noting of those documents. But on the larger motion moved by Mr Davis regarding calling for documents, I advise — and I think they have already been circulated — that the government will be seeking to move three amendments to that motion. The first one, essentially, would be to delete item (2), the second to delete item (3) and the third to delete item (5), which means we support items (1) and (4) of that motion. I now formally move as amendments to the motion moved by Philip Davis that is listed as item 2, general business to take precedence, on the notice paper:

1. Paragraph (2), omit this paragraph.

2. Paragraph (3), omit this paragraph.

3. Paragraph (5), omit this paragraph.

That gives a good idea of the structure of where I will take this debate.

Firstly, a few opening observations: this is an issue that has been debated virtually weekly in this house this year. It is interesting that most of the votes in this place have gone 21:19, so despite multiple hours of debate there are a couple of issues of difference here in the house between parties, and I will allude to those. It is interesting to note that when the debate started this year there was a lot more passion about the debate, and now it has come down to what actually are the powers of this house. It has come down to that, and there has been a long discussion on that.

However, in opening there are two observations on Mr Davis's comments that I cannot let pass. He opened by talking about the Rum Rebellion, bayonets in the streets of Sydney — interesting observations on a range of things — and the inalienable right of a majority in this house to do what that majority chooses to do because it is a majority. While I am not accusing Mr Davis of being in the same category, as we speak here today the House of Representatives in Harare, Zimbabwe, is probably voting by 120 votes to 30 to take away the rights of landowners, the rights of

farmers, in that state. The fact that that government has a majority does not make it right. What makes it right is the rule of law and the rights of a house of Parliament to exercise powers within the law we operate under.

This government is moving amendments to delete some of the clauses because the proposed motion is ultra vires — beyond the powers of this house. There are a number of points I will come to in pursuing my argument on these matters. Firstly, if we go to the absolute core document if we are talking about the rule of law, it is one where the Attorney-General and Mr Walker differ, and I accept that. This house repeatedly votes 21 to 19 to back the view of Mr Walker, but let us just reflect on the laws underpinning this house.

If we are to distinguish ourselves as the Legislative Council of Victoria from the Zimbabwean House of Representatives, what distinguishes us other than that we probably are far more civil minded than a majority in that house — I do not want to get into foreign affairs too much in this place and I do not accuse the opposition of being like the ZANU-PF Party — but the principle used in the Zimbabwean house is, 'We have the majority; we are a Parliament; we will exercise it; therefore it is okay'.

Section 19 of the Victorian Constitution Act goes to the basic point where Mr Walker and the Attorney-General have different views. It goes to the basic point of what are the powers of this house. It is a fairly fundamental point. The rule of law means you exercise the powers you have, judiciously, and it means you do not claim to have powers you do not have. Section 19(1) provides that each house of the Victorian Parliament has the powers that the House of Commons in the UK had in 1855. Mr Walker seems to forget that New South Wales does not have such a clause in its constitution. New South Wales operates under the common law, not the constitutional constraints of section 19 of the state constitution. Therefore Mr Walker comes to a number of assumptions based on New South Wales law and experience, where he has made good money giving advice, as opposed to the constitution of Victoria.

Let us dwell on that for a moment, because the main premise this government has consistently used is that there are three cases — and they are enshrined in our freedom of information laws — and when you take aside the issues of the executive government needing to operate the cabinet-in-confidence issue, the commercial-in-confidence issue and the client-professional-privilege issue, our FOI laws have been very open. The general premise of this government, with those three exceptions, has always been to make information available. As I argued in the original debate in this place, once a licensing process is over, once a tendering process is over, different rules apply from those that apply when the process is in place.

Under section 19(1) we have specific things about the powers of this house, which are the same as the powers of the House of Commons in 1855. Governments have since moved to legislate to expand those powers, because in 1855 there were no powers. In the three areas of cabinet in confidence, commercial in confidence and legal client privilege they have moved to exempt those, but other than that they have moved to open them up. Above and beyond that, section 19(2), which is far more pertinent in terms of these particular documents — and I would argue that those powers are limited anyway, but let us assume Mr Walker is correct and let us assume that those powers are there — changes the complexity completely. It states:

> The Parliament may by Act legislate —

to take away those powers.

Mr Barber interjected.

Mr LENDERS — For the benefit of the house and Mr Barber, who seems to be shaking his head in shock, the Gambling Regulation Act 2003 specifically put in place a series of rules around the release of documents. The proposition of the motion that Mr Davis is moving today is to say that, as a minister of the Crown who is sworn to uphold the law of this state under oath, I am meant to totally ignore the Gambling Regulation Act 2003, a specific piece of legislation, which among other things says essentially that the documents that are dealt with here under clause 5 of Mr Davis's motion fall within the terms of being protected information under the control of regulated persons. There are a lot of very specific definitions in the Gambling Regulation Act. It actually means that they are not documents that willy-nilly get thrown around the place because 21 members of the Legislative Council say they are entitled to have them.

This is not a debate about arrogance or about people being willing to hand over documents; this is a debate about section 19 of the constitution, which specifies what the powers of each house of Parliament are — and there is debate over what they are. But section 19(2) specifically says where another piece of legislation is put into place it supersedes those rights of the House of Commons of 1855. On both those premises I make the case very strongly that this is acting beyond powers.

I will go through the motions we have before us from Philip Davis. Clause 1 of the first motion says that the notes and documents ordered by the resolution of the Legislative Council et cetera have not been received. Obviously the government supports that; it is a statement of fact.

Clause 2 affirms the principles, immunities and powers conferred on the Council pursuant to section 19 of the constitution, therefore legitimising sessional order 25.02. I reject that assumption on the grounds that it is beyond the powers. Under section 19.1 of the constitution these general powers are arguable, and I would say they are not there — and this is unequivocally the case under section 19.2, because the Gambling Regulation Act overrides these matters.

Clause 3 of the motion affirms the right of the Council to adopt the sessional order. For the same reasons I stated earlier, the government will oppose that item.

Clause 4 affirms the need to protect the high standing of the Parliament. We obviously support that. For the record it is music to my ears that Mr Davis has become a convert to having this place as a house of review. He is from a party that opposed reform to this place for 147 years, always dragging the chain on the franchise, on the rights and on a whole lot of things. It is music to my ears to hear Mr Davis affirming this as a house of review, when putting it in place was Labor Party policy in 1985, 1988, 1992, 1996, 1999 and 2002. I am delighted that Mr Davis is on board on that, and I welcome him to the house of reform and review. Clause 5 deals with those five particular issues.

To go to the nature of what has been said, I have said that the rule of law is a critical item in this place. The rule of law says you have to have the capacity to carry out a law, not just assertions. Assertions are not enough. Assertions are what is happening in the House of Representatives in Harare today. We need more than assertions; we need law. There is a genuine point of difference here. I believe many of those on the other side actually believe that the powers are there under section 19 — I do not believe everyone does, but I believe many do. I certainly do not accept that those powers are there under section 19 of the constitution and specifically under the Gambling Regulation Act.

If this motion is agreed to in its full form it will put me in a dilemma. Clauses 2 and 3 are assertions of powers in a sense. The house is entitled to assert whatever it chooses to assert. However, clause 5 is very problematic. I have taken an oath as a minister of the Crown to uphold the law of the state. Firstly, what I am being asked to do here is breach the Gambling Regulation Act 2003. I am being asked by a house of Parliament to breach an act of Parliament — an act of both houses. Secondly, whatever discretion there is under the Gambling Regulation Act is actually conferred on the Minister for Gaming.

If this motion is passed, presumably what the house expects is either for me to break the law or for me to go to the Minister for Gaming in the other place and say, 'The Legislative Council believes it has these powers. It is asking for five sets of documents to be provided to the Parliament. I ask you to consider that. Consider your oath as a minister to uphold the law of the state, consider your commission, consider the administrative arrangements that allocate an act of Parliament to you and says that this information is of a certain stature, and then make the call: are you going to break the law of the state of Victoria?'.

If this motion is agreed to, that will be my dilemma. Firstly, I am not empowered to breach the law; secondly, the Gambling Regulation Act is not allocated to me under the administrative arrangements; and thirdly, the best I can do in that environment is request the Minister for Gaming to consider the resolution. Obviously if this motion is passed I will request the Minister for Gaming to consider the resolution, but the Council needs to be aware that the premise of the government is that this is ultra vires.

Philip Davis made comments about the integrity of the Attorney-General. I would back the Attorney-General any day. He is the first legal officer of the state, one of the best and longest-serving Attorneys-General in the history of the state, a leader among his peers across the country. I would back the Attorney-General over Bret Walker any day, but ultimately — —

Mr P. Davis — Over Bret Walker? You are joking.

Mr LENDERS — I will take up Mr Davis's interjection. The Attorney-General actually understands the laws of the state of Victoria. I suggest Mr Bret Walker is a good constitutional lawyer under the laws of New South Wales, but he does not appear to have read section 19 of the Victorian constitution.

That is the case I will put. I again urge the house to note the letter of the Attorney-General, note the advice of Mr Walker, to support clauses 1 and 4 of Mr Davis's motion, and support the government's amendments to delete clauses 2, 3 and 5.

Mr DRUM (Northern Victoria) — The Nationals will be supporting this motion. We have had six months to work through this inquiry. Every step of the way we have been held back by the government. We have tried

to get to the bottom of the problem. In my opinion this is not about the law so much as it is about the actual issue. We are put in this chamber to try to hold the government to account — —

Mr Rich-Phillips — On a point of order, President, there appears not to be a minister in the house.

The PRESIDENT — Order! The minister is now in the chamber.

Mr DRUM — As I was saying this debate is about this house and members of the select committee trying to get to the bottom of what forced the lotteries licence process to be extended for a period of 12 months over and above what was clearly set out in 2005. The process was clearly outlined and enunciated to the inquiry by the witnesses who came before it. The process was crystal clear — the process to be followed by the bid document team, the Victorian Commission for Gambling Regulation (VCGR) and everyone in the department. The probity measures surrounding the bid process that was laid down for those companies interested in applying for the opportunity to bid for the lotteries licence — the process put in place to acknowledge that some organisations were preferred tenderers — meant that those organisations were called in to have the opportunity to bid, but as the process unravelled and played out clearly something had gone horribly amiss.

After listening to the evidence given to the select committee over the past four months, it is very clear to me that the evidence we should have been hearing was withheld because the Attorney-General in the other place wrote to all the witnesses that he had control over — those in the public service — and simply told them to take executive privilege. We were frustrated in our endeavours to uncover what it was that forced the reports not to be accepted by the minister — reports that were prepared by the VCGR bid teams — and what it was that forced the Solicitor-General to effectively advise the minister that the first report should not be accepted so that the VCGR sent the teams away to do it again and had the same group present a second report three months later. Again the minister was given advice that he should not accept that report, and claims were made in the papers about a denial of natural justice by one of the companies involved.

To the letter, every time the evidence from witnesses got to the point of telling us somewhere near the truth about what happened behind these report documents that were recommending to the minister how he should take the lotteries renewal process forward, every time it got close, the witnesses simply claimed the fifth amendment. When it got too hot, they were instructed they should not say more.

We have tried everything in our power. After listening to the Leader of the Opposition and the Leader of the Government I sit very comfortably with the view that we need to trust the legal advice that this chamber procured. Members of the inquiry from all parties within the chamber were in disagreement at the early stages of the inquiry, and it was apparent that we would need legal opinion to take this inquiry forward. At that point we simply wrote to the President of the chamber asking him to procure a legal opinion. He did so. When we were about to move forward, because the Victorian Labor government did not like the legal opinion that this Parliament received, it got its own legal opinion. All of us know that if you want to get a legal opinion to say whatever you want, you can always find a lawyer to give you what you want. That is the action that this Labor government went about doing.

It has been a very frustrating process to try to unearth the truth behind this extension. It has been more than an extension; it has been a bit of a sham, and we want to find the truth. Philip Davis has moved a motion that calls on the Leader of the Government to produce the documents that will clearly show us why the government was not able to hand over the next 10-year licence at the appropriate time and will hopefully show us what caused the delay in this process. We sometimes forget that involved in this process are many hundreds, if not thousands, of lotteries agents throughout the state of Victoria who are getting a bit edgy about the way the government is handling this lotteries process. They need some security and have a sense of certainty as to what will happen from June 2008. They will need to have a sense of certainty as to how the future of Victorian businesses will be rolled out.

Will they be in competition, as was reported in the papers two weeks ago, with scratchies sold out of supermarkets? Is that something the government wants — that every day housewives will have the opportunity to choose between breakfast cereal or scratchies in a supermarket? I think that would be a very difficult thing for this government to agree to. Again, as I said, the whole process has created a great deal of uncertainty. The way this has played out has been an amateurish and a sham.

Members of this chamber simply want to find out what it was. With every chance we have had to go forward we have been hamstrung by a government whose members are absolutely paranoid about letting the people of Victoria know what went wrong. We have heard some of the most unbelievable evidence given by

people who came before the committee. Certainly a Mr Danny Pearson gave evidence that was simply unbelievable. I do not know where that sits in relation to any member of the public coming before a parliamentary committee and giving evidence. I think that had he given that evidence in a court of law he could have found himself in serious trouble.

On behalf of The Nationals I indicate that we will be supporting this motion because we simply want to get to the bottom of this issue. We want to know what went wrong with the reports, and we want to find out about the elements of the reports. We have had some evidence saying that the reasons the reports were not able to be accepted by the minister were largely form related, so a couple of punctuation marks might have been missed or paragraphs might have been wrong. Again, it is totally unbelievable that it might have taken some 3 months to fix some form issues about the reports and then that there could have been a delay of another 12 months because of those form issues. We have in effect had people come before our inquiry and lie through their teeth.

If members get an opportunity to unearth what was really the underlying problem with the reports prepared by the VCGR teams so that they were unable to be presented and received by the Minister for Gaming, that will be a positive step for this chamber in this whole process. I call on members of this chamber to support the motion so that we can hopefully get to the bottom of this process.

Mr BARBER (Northern Metropolitan) — I will start by quoting one paragraph of Mr Walker's advice:

> In my opinion, one would simply not expect legislation such as the act, or for that matter any legislation or delegated legislation concerning gaming and its regulation, to be the place where radical truncation was to be carried out of the constitutional functions of the houses of Parliament.

In reference to the question he was asked to address, which was whether this statutory secrecy in the Gambling Regulation Act could override Parliament's powers, he said:

> … it is appropriate to start with some scepticism that a fundamentally important power, part of the essential character of the houses of Parliament, has been swept away by a general expression —

meaning an expression in the act.

> The scepticism is properly sharpened by the query why Parliament would have intended these statutory secrecy provisions to have frustrated parliamentary scrutiny of government policy and its implementation on the topic of gambling and its regulation.

That is a view the government has clearly not even attempted to grapple with.

This, as was noted, is a legal opinion and when you call something an opinion I suppose that is just asking people to step up and say, 'Well, there are other opinions; this is all contentious; he is just one person' et cetera. I ask members of this place to just consider what they think of that general proposition put by Mr Walker as a principle, not as an opinion. I ask: do you agree with that general principle? Certainly I do; I agree that it is fundamental.

The government's main argument against providing the material requested has been to claim what it calls executive privilege, which is a fancy sounding phrase. I think it would be properly characterised as some kind of public interest immunity — it would be a subset of public interest immunity. If there were a public interest in not releasing this material, then a case could be made out, but to simply claim executive privilege as some inherent right or get-out-of-jail-free card that the government can play when things get sensitive is of course wrong.

An argument can be made that the functioning of the cabinet and the public interest inherent in having that system of government could create privilege over cabinet documents. I think if there ever were a general principle of executive privilege, successive state and federal governments blew it. They blew it when they allowed ministerial time to be auctioned off at party fundraisers. They blew it with the establishment of a revolving door, when they allowed ministerial advisers, even advisers to the Premier, to head off and become lobbyists and come back again and work on a re-election campaign and then go off and advise their corporate clients again. They blew it when they destroyed the public's trust in government by accepting corporate money and ducking and weaving and avoiding scrutiny every step of the way. Every time that is done governments only widen the case for cracking open the cabinet oyster.

In this case, we are not actually proposing to do that. We are asking for documents that advised a minister. The issue of whether members of a cabinet subcommittee were involved in making this decision — received the advice, talked about proposed courses of action and sent the minister back to implement those — is something that the government has been very cagey about. All witnesses have been cagey about it, and ministers have refused to attend the select committee hearings. I think that is a key issue in this inquiry, but this particular motion does not attempt to crack open the cabinet oyster; it is based on a literal reading of the

act that it is the minister who makes the decision after having received advice from the Victorian Commission for Gambling Regulation (VCGR). It is simply that advice that we are seeking.

I come back to the issue of the Senate inquiry into the Victorian casino, where the specific issue raised by Labor senators Carr and Ray was that during the bidding process more than one minister may have had access to the information as the process went along, not merely at the end, as the act envisages — that is, that the VCGR writes advice and then the minister makes a decision. We know that in this case there has been a whole series of interceding steps and a lot of movement back and forth. The issue raised by the senators and also by the Attorney-General, Mr Hulls, at the time was that a number of ministers had access to advice that made them aware of who the bidders were and what the bids might have consisted of at multiple stages during the process.

In 1996 Mr Hulls, then the member for Niddrie in the lower house, made a speech in which he made reference to Uncle Ron, being Mr Ron Walker, who was then the treasurer of the Liberal Party, and there was an analogous situation in this case. Leaving aside the issue of the cabinet decision, for which the government might have some defence for claiming secrecy, we are simply talking about a decision of a minister based on advice from a department and given under a statutory framework.

Philip Davis made the argument that this Parliament has a legislative function and in addition has a function of keeping the government accountable. It would be just as easy to argue that in order for members to carry out our legislative function we need access to the best information possible and therefore the legislative and accountability functions are the same. If we are expected to make laws that regulate gambling — as I am sure we will again be required to do for an extension of poker machine licences — then we are going to need to know that the VCGR is capable of and effective in doing its job. We need to know also that its role is as an independent statutory authority — independence having been described as the cornerstone of gaming in Victoria by the then Attorney-General, Mr Kennan, in 1991, when he introduced the predecessor act. We need to know that. We need to know that in fact an independent gambling regulator exists and that it is doing its job competently and free of inappropriate ministerial interference.

There is further authority for the arguments that have been put here today. A book entitled *The Constitution of Victoria* by Greg Taylor, held in the parliamentary library — I presume it is fairly authoritative — goes to the same sorts of arguments as were raised by Mr Walker, so it is not simply a matter, as the Leader of the Government said, of some New South Wales import getting it wrong. This stuff was written about in an authoritative sense, not in relation to this particular issue but at a previous time looking at it in a general context. Mr Taylor's book states at page 277:

> Authority is against the view that privileges recognised at common law are available against the houses of Parliament, as they are not bound by the rules of evidence; nor will statutory secrecy provisions, unless worded quite strongly, prevail against the rights of the 'grand inquest of the nation'.

It states further:

> The availability of cabinet privilege against the houses of Parliament in Victoria is not the subject of any case law. I suggest that no power on earth, or in Victoria at least, can resist a demand by Parliament for documents unless some valid statute provides to the contrary (and statutes will not ordinarily be read as doing so by general secrecy provisions, because Parliament is not presumed to take away its own powers except by clear words).

That is the argument the government came in and made this morning. It said, 'Oh well, we wrote a law here and that changed everything'. Yesterday we voted on a piece of legislation to regulate the control of mug shots. I presume that if the Parliament now, for its purposes, wanted to look at somebody's mug shot, under those provisions the Chief Commissioner of Police would say, 'Hang on a second, I'll just look at the provisions of that act. Oh well, guess what guys? You just altered parliamentary privilege by that act'. That could be the case with any number of other bills that get passed on a daily basis here.

The Taylor book at page 262 hunts through legislation and talks about those bits that may be considered to have explicitly altered privilege. In none of the examples he gives was privilege actually reduced. In some instances it was sought to be codified slightly and in other instances it was explicitly noted that privilege was not being changed. Apart from those detailed — at least if this work is authoritative — there are no other examples of legislation seeking explicitly to alter privilege. So really what we have here is a bunch of lawyers tricks, which might play well out in the wild and woolly world of the Magistrates Court or somewhere but certainly will not stand up to scrutiny around here on a highly contentious matter.

Eventually this will end up being tested in court, and I have to concede the possibility that maybe the argument I am presenting now might turn out to be wrong. If that were to be the case, I can assure members that that would be part of our platform at the following

election. We would say, 'Elect us and we will correct this anomaly through some mechanism, such as an explicit codification of the privileges of Parliament'. I suppose the best outcome for the government would be to win the case in court but to then simultaneously create a political issue, that issue being to say, 'What is the Parliament here for, if not to scrutinise you guys?'.

It is essential that we sort it out. The head of the VCGR (Victorian Commission for Gambling Regulation), who is a highly experienced legal professional and is in fact a professor of law, came to the committee and said that he was backing the government's argument, that he was backing the statutory secrecy position. It was a kind of unfortunate situation for him to be in. I queried him on where he got his advice from and to what extent he had felt pressured to follow the government's line on this rather than drawing his own conclusions or seeking external advice. He was not particularly forthcoming on that particular matter.

If things turn out at the next federal election the way they appear to be heading, Labor will run everything in Australia. It will run the federal government, and it will run every state government. Of course Labor runs local government as well. We can see what it is doing down at the Melbourne City Council — slicing and dicing and turning that council's jurisdiction and powers and responsibilities into a mess of Swiss cheese. At one level it might be incredibly pleased about that — you could not really get any better than that — but at another level we may see that it is reaching the top of its parabolic arc. If it continues to behave in this form in every other state and at the federal level, it will not be long before people will be barracking for the Parliament against the overlords.

Mr Viney — Are you making the case for the retention of the Howard government, Mr Barber?

Mr BARBER — Not at all. To take up Mr Viney's interjection, I think it would be a shame to lose what we have in Victoria in an otherwise competent government for the sake of a lotteries licence.

Accountability is something this government talks about quite a bit, but the one thing I have noticed it pretty much always falls back on is saying that it has restored the powers of the Auditor-General and has tinkered with FOI. That is its big claim. It did that back in 2000 or whenever, and it is still the thing it falls back on when it talks about accountability. When we got a new Premier, he talked about accountability and said that the government would broadcast Parliament and tinker with the FOI act. In the immortal words of pop star Janet Jackson, at the moment we would be asking, 'What have you done for me lately?'. It might work well on them.

Mr Jennings — I was worried about a wardrobe malfunction there for a second.

Mr BARBER — I have quoted a number of authorities today, Mr Jennings, and certainly the most street smart of those is Janet Jackson. She sang her song *What Have You Done for Me Lately?* to her boyfriend. The government's relationship with the Victorian people is very similar. The Victorian people do not want to hear about what it did 10 years ago or longer; they want to hear about what it is going to do for them next. It is fortunate I suppose, although it is not surprising, that the context here is not just a process story, a set of dry constitutional matters, but is grounded in very real public interest issues — the issue of gambling policy, regulation and licensing and the issue of public land and open space, which is being examined through a second select committee — involving some of the same dialogue. Both are issues which members of the public are incredibly passionate about and incredibly interested in and which they believe affect them. It is in that context that we have this particular debate. For those reasons the government wants to think very carefully about its strategy here.

Members of the government have options; they have always had options in respect of these matters. One is to talk to the committee about its inquiry to offer up a better level of accountability. The government could have offered to give evidence in camera and leave it to the committee to take responsibility for whether that information is released or not. They could have partially complied with some of these requests, but they effectively nailed their feet to the floor and said, 'This is where we are standing'. That in itself makes the government vulnerable.

In summary, the Greens will support this motion. I am sure it will not be the end of the process. It will continue to play out not just here in the Parliament but where it really matters — that is, in the electorate.

Mr KAVANAGH (Western Victoria) — As a member of the Select Committee on Gaming Licensing I feel that I have a responsibility to explain my vote in favour of the motion moved by the opposition today.

First of all I make the observation, as I have before in the chamber, that the situation does seem to clarify and emphasise a deficiency in our constitutional system. At both our state and the commonwealth levels it would seem to be advantageous for the Parliament to obtain advice from the leading courts within each jurisdiction.

It should be possible for us to ask the Chief Justice of the Supreme Court for an opinion on the matters which divide us today and to get an authoritative answer, because what we are arguing about is legal constitutional law rather than political points.

On balance it is my opinion that the legal constitutional arguments presented by the opposition are stronger than those argued by the government. In saying that I note that the government seems to have been consistently obstructive when it comes to scrutiny of the government. As I have noted before in this chamber, the Attorney-General, for example, seems to have not only exploited every opportunity for obstruction of the committees investigating the government but where no such opportunities existed has created them himself, reaching a low point a couple of months ago when the Legislative Assembly passed a motion effectively saying that this house has no powers of scrutiny over the government.

In my view the main raison d'être of this house is to scrutinise the government. If the government is to argue that the house in particular circumstances does not have that power, then the onus is on the government to show that. In my opinion the government has failed to show that. The better opinion is that this house does indeed have the powers asserted by the passage of this motion.

Mr RICH-PHILLIPS (South Eastern Metropolitan) — When one of the central tenets of the motion moved this morning by Philip Davis is to require an action by the Leader of the Government and when the Leader of the Government has proposed three amendments to the motion it is disappointing to see that the minister chooses to absent himself from the debate and to depart with such haste as to leave the chamber wanting a minister.

The Leader of the Government spoke about the house of assembly in Harare. He made the point that just because a parliamentary majority has the numbers to do something and wants to do something does not make it right. I say to the Leader of the Government that his words in this regard would have far greater impact if they were not sullied with the hypocrisy of his actions as Leader of the Government between 2002 and 2006, when he used the Labor Party's majority in this place to ram through standing orders and sessional orders that severely truncated the ability of members of this place to participate in debate and to hold the government to account. It is a little rich for the Leader of the Government to talk about members of parliamentary chambers using their majorities when his own record in this regard is wanting.

It should be a matter of embarrassment to the government that this motion is even coming before the house this morning, because as the Leader of the Opposition has indicated, on 19 September this house passed a resolution requiring the Secretary of the Department of Premier and Cabinet, Mr Moran, to present certain documents to this house in accordance with that order by 27 September. It should be a matter of regret for the government and certainly a matter of concern to the members of this place that that order — correctly executed by the Clerk, correctly made by this house acting in accordance with its sessional orders, its standing orders and the constitution of Victoria — was ignored by the government. Mr Davis's motion this morning seeks to highlight the fact that that order of 19 September was ignored by the government. It seeks to affirm the privileges and powers of this house to make such an order, and it imposes a requirement upon the Leader of the Government, representing the Premier as the senior minister in this place, to comply with the order for those documents that was ignored by the Secretary of the Department of Premier and Cabinet.

The Leader of the Government has formally moved three amendments to Mr Davis's motion. The first is to delete paragraph (2), which I have to say I find astounding because Mr Davis's paragraph (2) is that the Council:

> affirms the privileges, immunities and powers conferred on the Council pursuant to section 19 of the Constitution Act 1975, the power to make standing orders under section 43 of that act and the power to adopt sessional orders pursuant to standing order 25.02;

For reasons unknown, the Leader of the Government is seeking to delete that affirmation of the Council's power. He is seeking to delete Mr Davis's paragraph (3), which states:

> affirms the right of the Council to adopt sessional order 21 and call for the production of documents which are necessary for the proper exercise of its functions;

He seeks to delete the requirement that he table those documents that were considered by the Council's earlier motion. While the Leader of the Government did not speak at any length to his amendments, it is curious that the government is actually seeking to remove an affirmation of the Council's very powers to make its own sessional orders with respect to this and other matters.

As Mr Kavanagh noted in his contribution, in July and August of this year the Council adopted a resolution seeking to invite certain members of the Assembly to appear before the Select Committee on Gaming Licensing. The resolution of this house, which took the

form of a request that leave be granted by the Assembly, was consistent with the standing orders of the Council, and indeed it was consistent with parallel standing orders that allow the Assembly to make a similar request of the Council. The response to that request from the Assembly was quite extraordinary. It was a notice, on motion of the Attorney-General, that disputed the very power of the Council to make such a request, and it accused the Council of seeking to interfere in the proper activities of the Assembly.

It is a matter of surprise, therefore, given the Attorney-General's assertion that the very action of the Council seeking to have the Assembly grant leave for members to appear before a Council committee consistent with standing orders was somehow an interference in the matters of the Assembly, that he has consistently sought to interfere in the proper conduct of the Legislative Council's Select Committee on Gaming Licensing.

As Mr Davis outlined, the Attorney-General wrote to a number of government witnesses who had been served with summonses for the production of various documents. He directed them as to how they were to respond to those summonses. More recently, from public hearings the committee has conducted, we see that the Attorney-General has written again to government witnesses and has directed them as to how they were to give evidence and what evidence they were not to give before public hearings of that select committee. It strikes me as an extraordinary example of hypocrisy for the Attorney-General to argue that this Council cannot make a simple request to the Assembly, and yet he then seeks to interfere in the proper conduct and processes of a select committee of this Council.

I turn now to the letter that was provided by the Attorney-General to the Clerk of the Council following the failure of the Secretary of the Department of Premier and Cabinet to respond to the order made by the Council on 19 September. In his letter to the Clerk of the Council, the Attorney-General restates the government's claims as to why it is not going to comply with this order of the Council and as to why public servants and other government entities should not comply or cooperate with any of the other requirements of the select committee on gaming licensing.

One of the key premises in the Attorney-General's response is the government's claim of executive privilege over documents. This is important for two reasons. Firstly, the Attorney-General has asserted that the house, in using its sessional order 21, cannot seek documents which the government claims executive privilege over. Accordingly the government has lowered the veil and claimed executive privilege with respect to every document sought by this house under the order of 19 September.

After this sessional order was first introduced the Council obtained advice from Mr Bret Walker, SC, that addressed the very question of a claim of executive privilege. Mr Walker's advice made it very clear that the extent to which the government can claim a document is beyond the reach of the Council extends only to a genuine cabinet document, described by Mr Walker as a document that reveals the deliberations of the cabinet. The Attorney-General's claim of executive privilege over every document sought by the Council with respect to his order is completely at odds with the advice that this Council has received.

The next matter raised by the Attorney-General in his letter is a statement that he understands, to quote the letter, 'the Minister for Gaming intends to certify for the purposes of the Code of Conduct under the Public Administration Act 2004' that the government is claiming executive privilege for the documents that have been sought by the Council, and it would therefore be a breach of the Public Administration Act for any public servant in possession of those documents to provide them to the Council, commensurate with the order made on 19 September.

I have to say that again it is an example of the gross hypocrisy of the Attorney-General in having the Minister for Gaming, a member in the other place, writing to various parties in an attempt to prevent them from complying with an order of the Council. It seems completely beyond belief that we have this position taken by the Attorney-General after he has sought to lecture this house, by way of his response from the other place, on the issue of members being given leave to appear before the Council claiming a level of independence for both houses, with a member of the other house seeking to use the Public Administration Act to prevent public servants from complying with an order of this Council.

The next matter touched upon by the Attorney-General in his response is the issue of statutory secrecy. His letter states:

> Further, the confidentiality provisions of the Gambling Regulation Act 2003 abrogate any powers of the Legislative Council to compel a 'registered person' to produce documents or to disclose 'protected information' where those documents or that information was obtained by the person in performance of functions under relevant gaming legislation.

In his contribution this morning the Leader of the Government sought to hang his hat on section 19(2) of

the Constitution Act, a section that allows this Parliament to modify its privileges, the privileges that arise from the 1855 precedent. The Leader of the Government's argument was that this Parliament, through the Gambling Regulation Act, and acting in accordance with section 19(2) of the Constitution Act, has put these matters beyond the reach of the Parliament by virtue of section 10 of the Gambling Regulation Act. But in making that argument, of course, the Leader of the Government did not turn to what section 10 of the Gambling Regulation Act actually says. There is nothing provided in that act which suggests it was the Parliament's intention that those secrecy provisions apply to this Parliament.

As noted in the second interim report of the Select Committee on Gaming Licensing that I tabled this morning, the committee, through the President, sought further advice from Mr Bret Walker, SC, on the very question of statutory secrecy, and Mr Walker's opinion is unequivocal. He made it very clear that if a Parliament was seeking to put documents beyond its reach via a secrecy provision in an act, then such a provision would have to be explicit. He went on to comment specifically on the Gambling Regulation Act. He has formed the opinion that the act which the Leader of the Government was hanging his hat on this morning, and which the Attorney-General in his response to the Clerk on 27 September is hanging his hat on, does not provide the explicit provision which would indicate that in passing the Gambling Regulation Act it was the Parliament's intention that these protected documents be beyond the scrutiny of this Parliament. The Council now has multiple legal advice which makes it clear that the claims made by the Attorney-General do not stand up to scrutiny. Yet we have heard from the Leader of the Government that it is the government's intention to pursue this claim and to block access to the documents the Council is seeking.

This debate is an important one for the Council. As the motion suggests, it is looking to affirm the Council's powers to seek documents and other matters. It also goes to the heart of the relationship between the Parliament, the Council and the executive government. As Mr Kavanagh noted in his contribution to the debate, these are important issues that need to be determined if this Council is to perform its proper function as a house of review, and a resolution of these matters needs to be achieved.

Consistent with the various opinions from Bret Walker, Mr Davis's motion this morning seeks to affirm the Council's capacity to do what it is seeking to do. It seeks to provide the Leader of the Government with a second opportunity for the government to comply with the order of the Council made on 19 September. Consistent with the government's rhetoric on being open and accountable, and consistent with its claim in the previous Parliament that it would make the Legislative Council a house of review, I now urge the members of the government and the members of the house to support Mr Davis's important motion this morning.

Mr VINEY (Eastern Victoria) — I do not intend to take up very much time in this debate. I do not know how many times we have to have it, and I am not sure there is very much — —

Mr P. Davis interjected.

Mr VINEY — I do not owe you any apologies at all, Mr Davis. I am not sure that there is much more I can say. I know Mr Pakula shares my view that we have gone through months of debate on this — as Mr Lenders said, almost weekly debates on this — in this chamber. We have used up countless hours of this chamber's time on a fruitless exercise by opposition members to try to create some dirt and find some mud for them to attempt to throw at the government — and the fact is they have found nothing, because there is nothing to find.

The evidence has been consistent that the processes have been appropriately followed in the awarding of the gaming licences tender. We have had witness after witness giving evidence to the select committee that this was a very good process, and also public servants saying that in all of their careers in the public service — under Liberal and Labor governments and in state and federal jurisdictions — this was the best that they had experienced. We have had those discussions.

What does an opposition do when it thought it had a fantastic story but the story disintegrates? It goes for process. It is trying to kick this story along with these fruitless debates about the production of documents that it knows well on reasonable grounds — we have had these debates and I took the house through them in the last sitting week, I think — why the government and the executive cannot produce the documents that are being sought.

What is interesting in this motion as well of course is that it is really fixing up what was mucked up last time, because now the motion names a responsible minister whereas the first one did not. Now the opposition has had to come back and call on a particular minister to produce the documents. Of course a minister could comply with today's motion by producing five documents, because the motion calls for any reports —

not all reports but any reports. That is how sloppy the opposition is. A minister could comply with this by producing, probably, any number of reports — the five listed in relation to the Victorian Commission for Gaming Regulation. You could produce five different pieces of paper and comply with this motion. That is how appallingly worded it is. It is not asking for all documents but for any documents.

Just to show how political this debate is becoming, we have heard today an attack by Mr Rich-Phillips on the Attorney-General for giving advice — and his attack then went to the Minister for Gaming — to public servants about what they can and cannot do or say or produce for this house or for the select committee.

It is as if there were some dastardly conspiracy by ministers of the Crown. *Erskine May's Parliamentary Practice* states at page 760 under the heading 'Evidence from civil servants':

> Civil servants frequently give evidence to select committees, although successive governments have taken the view that they do so on behalf of their ministers and under their direction …

It is not just common practice, it is what happens everywhere in every jurisdiction, and that is the way it has to be. Philip Davis talked about a civil society. The fundamental tenet is that a civil society is one where there is accountability of the executive under the rule of law. That is the position the government is taking in relation to this matter. It is not just that the house can assert that it has some authority, but the house has to have some authority to do it, and the house does not have the authority to do it under section 19 of the Victorian constitution. Where the government differs from Mr Walker's opinion is that Mr Walker has not referred to the fundamental issue that the Attorney-General dealt with in his letter of advice — that is, section 19 of the constitution, which talks about 1855. It is absolutely appropriate that the government comply with the law according to the constitution.

Mr Barber talked about the government not doing enough in relation to openness and accountability. He cited two instances of what the government did, which were in relation to the Auditor-General and freedom of information. But that was not all that this government did. It made the Ombudsman and the Auditor-General officers of the Parliament instead of accountable to the Premier, as it was under Mr Kennett, reforming this house itself, putting the — —

Mr P. Davis — What reform? You won't allow it to do its job. What reform is that?

Mr VINEY — I remember the debate when we reformed the house, and Mr Davis argued vehemently against the reform of the house. There has been a raft of things that this government has put in place for accountability right through to the Auditor-General actually looking at the budget before it is tabled in the Parliament. There is a raft of things that we have been doing and will continue to do, but you cannot ask the government to break the law in relation to the advice that the government has received and the view that the government has.

In my final comments I come down to the issue of whether or not particular documents should be released. Let me show the house just a small number of documents that will never be released. These documents here and a truckload of documents upstairs will never be released. They are the minutes of the deliberative meetings of the select committee. Not only will they not be released, these minutes cannot be released and will not be released. They will not even be released under the 30-year rule. They are never, ever released. Here we have a bunch of politicians on a select committee who are on a witch-hunt and are having deliberative meetings that are never, ever made public. My challenge to the members of the select committee is to open up every single meeting of the select committee to the public. If they want to go down this path of accountability, let us open it all up to the public, and then we will cut through all the political nonsense that is taking place on that select committee.

Mr Barber — Good idea!

Mr VINEY — Then move the motion, Mr Barber, and get a change to the sessional orders. This is a farce and a nonsense. People are standing on their high horses, suggesting that this is about some grand principle of openness, when the select committee itself is secretive.

Mr DALLA-RIVA (Eastern Metropolitan) — I have been listening with amusement to the debate this morning, in particular to the government side, in respect of these very serious motions before the chamber. I am also surprised by the statement Mr Viney made in his introduction. He said that the select committee has found nothing because there is nothing to find. That is an interesting point, because if there is nothing to find, then on that basis the documents ought be released. But we do not know if there is nothing until we find out there is nothing in the documents that we are seeking. It is a bit of a red herring for Mr Viney to argue that there is nothing found because there is nothing to find, when in fact in the documents we are seeking we might

actually find something. I do not quite understand his logic in that respect.

We then got on to some arguments about other matters, and I thought Mr Viney was off fishing, trying to catch the red herring, because we did not get to the substantive motions that are before the chamber. It is quite clear that the motions seek the tabling of documents. I note the amendments proposed by Mr Lenders. I heard his contribution, which really did not add much, but his amendments really paint where this government considers the Parliament to be in the context of the executive. The constitution makes very clear the privileges of Parliament as outlined in part II, division 2, section 19(2), yet the Leader of the Government in this chamber proposes to move an amendment to remove paragraph (2) from Mr Davis's motion, and that is that he wants to remove the house's affirmation of the privileges, immunities and powers conferred on the Council pursuant to section 19 of the Constitution Act. He wants to get rid of it. He does not believe it should exist, irrespective of the arguments in the motions that are before the chamber.

The fact is that we have an amendment before the house from the Leader of the Government in this chamber to remove the privileges, immunities and powers conferred on this place by the constitution. Forgetting about anything else, he wants to remove them. He wants to remove the powers to make standing orders under section 43 of the Constitution Act, and he wants to remove the powers to adopt sessional orders pursuant to standing order 25.02. That is his amendment. That is the government's amendment. It wants to remove it from the motion. The government is saying it does not believe this chamber should have any privileges, powers or immunities enjoyed or exercised in this house or by committees attached thereto.

Then, looking at the amendment that proposes to omit paragraph (3) from Mr Davis's motion, the Leader of the Government wants to remove the affirmation of the right of the Council to adopt sessional order 21 and call for the production of documents which are necessary for the proper exercise of its functions. In other words he does not want this chamber to have the capacity to properly discharge its duties and responsibilities. That is his motion. That is the proposal of the Leader of the Government. That is what he wants to do. He wants to remove those privileges and rights of the Council. While that might be the context of the motion, what I find is staggering in the debate is that we have the Leader of the Government proposing to remove the rights that we enjoy as members of Parliament in the discharge of our duties.

I will touch briefly on another point that was raised by other members. We heard at length the discussion of the opinion of Bret Walker that was tabled. It is important that we just consider a few issues. I thought it was important that I read into *Hansard* Bret Walker's point 8:

> The general importance of the role of the Legislative Council, like that of any house in any Parliament in Australia, in responsible government lies in its capacity to scrutinise the workings of government, and particularly those of the executive, whose members (i.e. the ministers) sit in one or other of the houses (in a bicameral system). This need not be elaborated. I regard it as beyond serious question.

That goes against the arguments put forward in the letter from the Attorney-General in another place.

In point 9 Mr Walker talks about the reference in *May's Parliamentary Practice*, 10th edition of 1893. He says that chapter starts with the words:

> Parliament is invested with the power of ordering all documents to be laid before it, which are necessary for its information. Each house enjoys this authority separately, but not in all cases independently of the Crown.

Finally, in point 11 a question is asked:

> Does the Legislative Council possess an inherent power under the Constitution Act 1975 to call for the production of documents in accordance with the sessional order adopted on 14 March 2007?

His response was:

> The Council does have such a power, in general terms.

What does the government say about the particular issues raised by Bret Walker? The amendments before the chamber seek to rule them out. They seek to rule out our capacity to enjoy privileges, immunities and powers. They seek to rule out the capacity of the Council to adopt sessional orders.

The most telling document is the Attorney-General's letter of 27 September, which has been spoken about. I will read into *Hansard* the last paragraph on the first page, because it pricked my attention and is where I think the executive is going. The Attorney-General wrote:

> I understand that the Minister for Gaming intends to certify for the purposes of the code of conduct under the Public Administration Act 2004, that disclosure of the documents for which executive privilege has been claimed would be prejudicial to the public interest, and —

I emphasise what it says here —

> will direct those persons having custody and control of the documents not to provide the documents to the Council.

In other words, at this stage there is no direction to stop them providing documents but the executive intends to certify that under a code of conduct under the Public Administration Act 2004. In this letter the Attorney-General says that the sessional orders are not an act of the Parliament, so what makes a code of conduct an act of Parliament whereby they can now direct certain individuals not to provide documents? The Attorney-General contradicts himself in his letter.

This goes to the substantive motion before the chamber. The motion says the documents should be provided, must be provided if this government is fair dinkum about being open, honest and transparent. I implore members on all sides of the chamber to support the motion before the house.

Mr PAKULA (Western Metropolitan) — Much like Mr Viney, I suspect that most of what I want to say about this motion has already been said. It is recorded in *Hansard*, having been said by me in the debates on 14 March and 19 September. As Mr Viney properly alluded, this debate has been going on and on like *Blue Hills*. However, I think a fundamental point was made well by the Leader of the Government. The point is that the opposition can conceivably cobble together a majority to say, 'Give us a look at something', anytime it likes, but that is not in and of itself a justification.

I think I made the point on 19 September that we have heard a lot about the how — that the opposition has 21 votes and less emphatically that it has an opinion from Bret Walker — but we have heard very little about the why of the Victorian Commission for Gaming Regulation report being made available to this house. We heard from Philip Davis, the Leader of the Opposition. Listening to Mr Davis we could have been forgiven for thinking that the case for the production of these documents is somehow uncontested, that it is above argument that the constitution is clear, that it is above argument that there is settled law in this area, that somehow Mr Walker is not only an eminent constitutional lawyer but perhaps the nation's only constitutional lawyer and the only constitutional lawyer whose opinion matters, that any constitutional lawyer who suggests something other than what Mr Walker has suggested must be either a cowboy or a renegade, and that the Attorney-General in another place believes that his view is somehow superior to that of Mr Walker.

With respect to the Leader of the Opposition, that is nothing but rhetoric and nonsense. Of course the Attorney-General has not just formed a view in a vacuum. The Attorney-General has taken advice from other constitutional lawyers, and the fact is that the law in regard to this matter is far from settled. Opinion on this matter is divergent and any number of constitutional lawyers would provide a different view from that provided by Mr Walker. Those different views from and the different emphases placed on the view of Mr Walker have been put by me and by other speakers for the government in previous debates, and I do not intend to restate them. However, the suggestion that the government is being obstructionist in the face of uncontested constitutional opinion is simply not accurate.

Mr Drum's overblown rhetoric, along the lines of, 'Every time we got close to the truth, witnesses took the fifth', is nothing more than rhetoric. In fact, witnesses gave copious amounts of evidence about a whole range of things. In not answering certain questions, a number of witnesses relied on the claim of executive privilege made by the government, the provisions of the Gambling Regulation Act and the fact there was a live tender process, but the vast majority of the detail sought by this inquiry at its outset has been provided to the inquiry during the taking of witness evidence.

As I said, it has been suggested the government is simply being obstructionist for the sake of being obstructionist and in the face of settled constitutional opinion. That is not the case, and I suspect the opposition understands that that is not the case. While we have, on numerous occasions now, gone through the reasons for prudence and caution in the production of documents during a live tender process, it is probably appropriate to briefly restate them.

Firstly, as I have indicated, there is a live tender process on foot, and the information that is being sought is extremely sensitive. There are participants in the process who have provided commercially sensitive information in the expectation that it will be treated as such and not be pored over in detail by the opposition. The committee has not been the bastion of secrecy that it ought to have been. There have been numerous leaks from the committee, and numerous parts of the committee's processes have found their way into the daily newspapers, in particular the *Herald Sun*. It has not been a leak-free environment. Most of what has been presented to the *Herald Sun* has been supposition, rumour and innuendo.

Mr P. Davis — So you are saying there haven't been leaks?

Mr PAKULA — There have indeed been leaks. We all saw the spectacle of the shadow Minister for Gaming being in possession of documents that he should not have had, and he still has not given any account of where he got them.

The principle of the bureaucracy being able to give frank and fearless advice to government is potentially trampled on. There are issues of cabinet confidentiality and legal professional privilege. There are the words of the probity auditor himself, who has expressed his concern about the potential consequences of the attempt being made by the opposition. There is the impact on future tender processes and the preparedness of international law enforcement agencies to cooperate with Victorian government tender processes if that cooperation is not treated with the respect and seriousness it deserves.

All of that occurs against a background where the hearings, which have been comprehensive and have heard from 17 witnesses, have not presented a single shred of evidence of any wrongdoing by any government official. As I went through in the last debate in September, we have not had a single piece of evidence of interference in this process by a minister or any part of the executive government. Mr Davis's claim that the government has simply sought to avoid scrutiny in an environment where this committee has delved deeply into the lotteries tender process, where it has heard from 17 witnesses and received reams of material, none of which has pointed to any impropriety or any improper conduct by any member of the government, simply does not stack up.

Despite that the Liberal Party simply wants to keep digging in the hope that something might turn up because this inquiry is going down like the Hindenburg. It was set up to find high corruption by the government and it has failed to do so, because it does not exist. The Liberal Party figures it had better keep on digging, as Mr Viney says, to give the story a kick along. The opposition's motion would have much more validity if it were based on anything, if there had been any evidence presented to the committee which gave anybody in this chamber any reason to think that anything improper had gone on.

As Mr Lenders, the Leader of the Government, eloquently reflected in this place, the Legislative Council could cobble together a majority to do lot of things but it does not make it within power or right. Twenty-one votes is not of itself a justification. As Mr Lenders said, the law on whether or not this request by the upper house is ultra vires has not been settled and is absolutely contested. It is conceivable, for instance, that the Labor Party could cobble together 21 votes to commence an investigation into the Millers Inn in Altona which was referred to in the *Australian* yesterday, a paper of record.

Mr Barber interjected.

Mr PAKULA — Mr Barber might support us on this. We could conceivably cobble together 21 votes to subpoena its last 10 years of records and have a bit of a squiz at them, pore over them, because we got 21 votes to do it.

Mr Viney — Who runs the pub?

Mr PAKULA — The pub is owned by Julian and Peter McGauran. We could conceivably cobble together 21 votes to subpoena or request Julian and Peter McGauran to take the stand and take us through their last 10 years of records. While we have got them there, we might ask Peter McGauran how he let the equine influenza virus get out of quarantine. My question is whether opposition members would consider that to be justified simply because we cobbled together 21 votes. I suspect they would not; I suspect they might think it is a witch-hunt and a completely inappropriate use of a majority.

This inquiry has effectively discovered that David White is a lobbyist and that the former Premier told Tatts that there would be a process — that is what it has discovered. Nevertheless the opposition continues to behave absolutely politically by simply seeking to fish and dig in the hope that something might turn up. As I have indicated before, in the government's view it is totally headline driven. It is entirely about seeking to provide the opposition with the opportunity to get headlines in the daily newspapers. If that is not the case, and if that is not the basis of the opposition's select committee strategy, it looks like there will be a chance for the opposition to prove its bona fides in the public land hearings. I note with approval Mr Tee's comments in yesterday's *Age* calling on that inquiry to investigate the actions of Mr Kennett, Mr Gude and Mr Hayward in their dealings with Baillieu Knight Frank during the term of the Kennett government. I hope that he persists with that attempt, because it gives the opposition a chance to demonstrate to the Parliament that it is interested in something more than simply creating star chambers to cause the government embarrassment.

Turning back to the opposition's motion, I and the government argue that it should be rejected for the reasons outlined by the Leader of the Government, Mr Viney and me today and for the reasons outlined by government speakers in the debates in March and September. We believe the request is ultra vires. We believe that the opposition is seeking to have the Leader of the Government breach acts of this Parliament. We believe the opposition's motion is inconsistent with the constitution and that on those grounds it ought to be rejected.

Mr P. DAVIS (Eastern Victoria) — I will respond briefly, as the substantive arguments have all been led, but in summary it would seem to me that Mr Pakula, Mr Viney and the Leader of the Government are consistent in one respect — that is, that because they do not presently have a majority in this house anything proposed by the non-government parties is ultra vires. Some 12 months ago I might have had some empathy for the view that, if you do not have a majority, then whatever is proposed by the majority might not be reasonable. It is very frustrating, and I am sure we are hearing an expression of frustration from the government about the fact that it no longer controls this place absolutely. But that is the way it is, and I suggest to the members of the government that they just get over it.

Mr Viney, along with Mr Pakula, wanted to re-argue issues that have been argued in the committee about the detail of what issues should be pursued and have been argued elsewhere in terms of the value of certain matters under discussion by the gaming inquiry. That is not my purpose with this motion today. I am not intending that this debate be one about the detail of those matters that have been previously argued both here and in another place.

I want to focus on the fact that in the last sitting week the Parliament required the government to provide certain documents. The government has failed to provide those documents, and it has gone further through the Attorney-General and essentially argued that this place has no authority to even request those documents. The motion before the Chair is therefore specifically about insisting that the powers and privileges of this house be observed.

Curiously, Mr Viney seemed to centre his speech on a surprising thing: he wanted to argue about the wording of the motion. Specifically he challenged the use of the word 'any' in respect to the seeking of documents. I was curious as to why he would put such a ridiculous proposition, and I thought I should go to a learned authority. As Mr Viney likes to quote Erskine May day after day, week after week, year after year, I thought I would go to a much higher authority. I have gone to the third edition of the *Macquarie Dictionary* and looked up 'any'. It states, in part:

> in whatever quantity or number, great or small —

and also it may be in the sense of —

> if you have any witnesses, produce them.

The point I make is that Mr Viney was being facetious in his use of that as a debating point.

Mr Viney interjected.

Mr P. DAVIS — He interjects and alleges that the wording of the motion is sloppy. I argue and say to Mr Viney that there is nothing I do that is sloppy. This motion has been very carefully worded, so I reject his proposition.

I want to move to the relevant issue that has come before the house in terms of the government's position, as put by the Leader of the Government. He argued in relation to the Constitution Act, specifically in regard to section 19(1) and (2), in particular 19(2), that there is a capacity to amend. I quote the subsection:

> The Parliament may by Act legislate for or with respect to the privileges immunities and powers to be held enjoyed and exercised by the Council and the Assembly and by the committees and the members thereof respectively.

I have to agree with the Leader of the Government absolutely. There is the capacity under the Constitution Act to amend the powers, privileges and immunities. However, there is no legislation that I am aware of in respect to the matters before this house that has done so — none whatever. To take the simple premise argued by the government, that in the Gambling Regulation Act there are certain secrecy provisions, and to argue that they apply to the Parliament is a completely ridiculous notion. It would require, quite clearly, a specific constitutional amendment to amend the powers, privileges and immunities in any material way. It would require a specific clause in the Gambling Regulation Act consistent with the practice of this Parliament in using section 85 provisions, for example, that restrict access to the Supreme Court, which we do as a matter of course in regard to legislation. We all know that we regularly amend the constitution by section 85 provisions. Mr Viney, Mr Pakula and Mr Lenders have not made that case. They have made no case — absolutely zero, void! — to sustain their argument that the powers, privileges and immunities of this place have been in any way diminished by the Gambling Regulation Act.

I put it to Mr Viney that this was the poorest attempt by a government to respond to a matter of high constitutional principle that anyone can possibly imagine. I suspect if I trawled the *Hansard* of this Parliament and any other Parliament I would find that this was probably the poorest debate we have seen from a government trying to defend its indefensible position.

I go back to what the constitution provides. Section 19(1) of the Constitution Act states:

> The Council and the Assembly respectively and the committees and members thereof respectively shall hold

> enjoy and exercise such and the like privileges immunities and powers as at the 21st day of July 1855 were held enjoyed and exercised by the House of Commons of Great Britain and Ireland …

I refer again to my earlier reference to the 1855 third edition of *Erskine May's Parliamentary Practice*, which says:

> Parliament, in the exercise of its various functions, is invested with the power of ordering all documents to be laid before it which are necessary for its information. Each house enjoys this authority separately.

I have to say to Mr Viney, Mr Pakula and the Leader of the Government, who I wish was present to listen properly to the debate, which is actually about him, that it is important for us to treat this matter much more seriously than I think the government is treating it. In fact what the government is proposing to do is to do nothing. It will continue to display contempt for this house by ignoring it.

The government was given a clear direction by an order of the house last sitting week to produce documents. It declined to do so and further insulted the members of this house through the Attorney-General's response. Separately the house today has tabled before it an opinion that was specifically in relation to questions raised by the Select Committee on Gaming Licensing asking for further advice through the President with regard to statutory secrecy. The opinion that has come back — again, this is not an opinion that was sought by the opposition but by the Parliament; it is an independent opinion that was sought independently by the Parliament to inform members of the house — clearly sets out that there is no case with respect to statutory secrecy regarding the matters before the gaming inquiry and this house concerning gaming licensing. I therefore put to the house that the government has not made a case. The members of the non-government parties have spoken and addressed all the issues of principle. What are the issues of principle?

Mr Viney — We have made a case but you may not have liked it

Mr P. DAVIS — If that is the best case you can make, Mr Viney, I have to say that you are off your game. You were about as weak as I have ever seen you. I inform members who are new to this place that Mr Viney has taken great pride in participating fully in debates in this house in the time he has been here, and I have great respect for his endeavour, in which he is unlike some other members on his side of the house, who have not made such a diligent attempt to participate in debate. I have to say to Mr Viney, through the Chair, that this was a pretty sad and sorry attempt today.

At the end of the day what is the issue of principle that we are considering here today? We are considering the capacity of this house of Parliament to do the job which, in effect, it has been constitutionally established to do. It is in two parts, and I will restate them. Certainly the legislative function is an important part of our work, but separately the scrutiny and supervision of government is essential to the good order of our society. We stand here between elections to represent the people. Without us being conscientious about our work and about exercising the powers and privileges vested in us by the constitution, we are delinquent. Were we to simply allow the government to ignore what it is that we are seeking we would be completely delinquent in our responsibility as members of Parliament and the oath we have taken to serve in high office.

In my own view the government has failed to make any case whatever. The government moved a series of amendments to the motion which would materially alter the effect of the motion, and therefore I reject them absolutely. The opposition will oppose the Leader of the Government's amendments 1, 2 and 3 and will support the motion before the house.

The ACTING PRESIDENT (Mr Vogels) — Order! In relation to notice of motion 2 moved by Philip Davis regarding the production of documents by the Leader of the Government, Mr Lenders has moved a number of amendments. The question is that amendment 1 moved by Mr Lenders be agreed to.

House divided on Mr Lenders's amendment 1:

Ayes, 17

Broad, Ms	Pulford, Ms
Darveniza, Ms	Scheffer, Mr
Eideh, Mr (*Teller*)	Somyurek, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Theophanous, Mr
Lenders, Mr	Thornley, Mr
Madden, Mr	Tierney, Ms
Mikakos, Ms (*Teller*)	Viney, Mr
Pakula, Mr	

Noes, 20

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

Hartland, Ms	Vogels, Mr

Pair

Smith, Mr	Coote, Mrs

Amendment negatived.

House divided on Mr Lenders's amendment 2:

Ayes, 18

Broad, Ms	Pakula, Mr
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr
Elasmar, Mr (*Teller*)	Somyurek, Mr
Jennings, Mr	Tee, Mr
Leane, Mr (*Teller*)	Theophanous, Mr
Lenders, Mr	Thornley, Mr
Madden, Mr	Tierney, Ms
Mikakos, Ms	Viney, Mr

Noes, 20

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

Pair

Smith, Mr	Coote, Mrs

Amendment negatived.

House divided on Mr Lenders's amendment 3:

Ayes, 18

Broad, Ms	Pakula, Mr (*Teller*)
Darveniza, Ms	Pulford, Ms
Eideh, Mr	Scheffer, Mr
Elasmar, Mr	Somyurek, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Theophanous, Mr
Lenders, Mr (*Teller*)	Thornley, Mr
Madden, Mr	Tierney, Ms
Mikakos, Ms	Viney, Mr

Noes, 20

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

Pair

Smith, Mr	Coote, Mrs

Amendment negatived.

The DEPUTY PRESIDENT — Order! I will now put the question in respect of the motion moved by Philip Davis that is listed as notice of motion 2 on the notice paper.

House divided on motion:

Ayes, 20

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

Noes, 18

Broad, Ms	Pakula, Mr
Darveniza, Ms	Pulford, Ms (*Teller*)
Eideh, Mr	Scheffer, Mr (*Teller*)
Elasmar, Mr	Somyurek, Mr
Jennings, Mr	Tee, Mr
Leane, Mr	Theophanous, Mr
Lenders, Mr	Thornley, Mr
Madden, Mr	Tierney, Ms
Mikakos, Ms	Viney, Mr

Pair

Coote, Mrs	Smith, Mr

Motion agreed to.

The DEPUTY PRESIDENT — Order! In relation to Philip Davis's motion listed as notice of motion 3 on the notice paper, the question is:

> That the Council take note of the Attorney-General's letter relating to the production of documents.

Question agreed to.

SELECT COMMITTEE ON GAMING LICENSING

Second interim report

The DEPUTY PRESIDENT — Order! The question is:

> That the Council take note of the second interim report of the Select Committee on Gaming Licensing.

Question agreed to.

JUSTICE LEGISLATION AMENDMENT BILL

Second reading

Debate resumed from 20 September; motion of Hon. J. M. MADDEN (Minister for Planning).

Mr DALLA-RIVA (Eastern Metropolitan) — I am pleased on behalf of the Liberal Party to make a contribution to debate on the Justice Legislation Amendment Bill. In doing so I will indicate that the Liberal Party supports the bill as it stands before the house. However, I note that yesterday we debated and passed the Justice and Road Legislation Amendment (Law Enforcement) Bill. At that time I said that it seemed unusual that the government, which is failing to bring in a significant amount of legislation, has to bring in two bills when they could be dealt with under the same umbrella in one piece of legislation.

We have a process where the government goes to great lengths to make it appear as though it is bringing in a substantial amount of legislation when in fact this is a small bill, as was the bill that was passed yesterday. What ends up occurring is that Parliament's time is taken up on two pieces of legislation which are essentially identical — they are both justice legislation amendments — and could have been debated concurrently as part of an omnibus bill.

This legislation is very brief, to say the least. Essentially the bill has two main provisions. The first amends the Control of Weapons Act. That brings in some minor changes by providing a new offence of being unlawfully in possession of a prohibited, controlled or dangerous weapon in or around licensed premises, which is defined as being within 20 metres of such a public place. The bill also increases the penalty to between 60 to 120 penalty units for new offences relating to the point of sale of prohibited weapons and doubles the penalties for other offences such as possessing body armour and the like. The other point to note is that self-defence can no longer be used as justification or lawful excuse for carrying a dangerous article. The change brings dangerous articles into line with controlled and prohibited weapons. The processes provided for by the amendments before the chamber are pretty straightforward.

The second component of the bill relates to an old war horse of mine in the form of the Corrections Act 1986. It brings it into line with the community's expectations regarding the victims register. Offenders who are sentenced to a term of imprisonment for crimes such as culpable driving, dangerous driving causing death or failing to stop and render assistance where death or serious injury results will now be placed on the victims register so that victims will be able to track offenders through the prison and parole system and make submissions to the parole board.

We know that this is a particularly topical point. Whilst submissions can be made in written form to the parole board, I still believe there ought to be the capacity for verbal representation to the parole board in circumstances where the victim feels aggrieved about the person who committed the offence or other offences and may be able to explain to the parole board the impact of the offences on them or their family.

The other point I want to make about this amendment to the Corrections Act concerns letter writing by prisoners. We know that this is a topical issue with the Julian Knight case raising its head in recent months via the media. It needs to be understood that a number of years ago legislation was brought into the chamber that allowed for vexatious complainants like Julian Knight and others to continually utilise the court system to bring up their trivial issues. We supported legislation to stop people like Julian Knight from utilising the court system. This new regime will allow the prison governor to intercept or censor letters sent by prisoners to a person — it need not be the victim — that contain material which may be regarded by a victim, not necessarily the victim, as distressing or traumatic. Julian Knight fits that particular situation very well.

However, one of my concerns is that there is no area in the legislation to cover a situation where, for example, the prisoner — in this case it could be Julian Knight — may seek to have the governor's decision reviewed by a court. What you may end up finding is that this or any other prisoner may undertake actions that lead to the letter they have written to a person being subject to a lengthy court process. Nothing in this bill appears to prevent people like Julian Knight or others from bringing their matters to court and challenging the prison governor's actions. That is a concern that we may end up seeing addressed down the track in a further amendment. Having said that, we support the bill before the chamber.

Whilst we do not believe too much in retrospective legislation, for a range of reasons that have been outlined, in this particular case the clause relating to letters to victims is retrospective, and the opposition supports that where it is able to be utilised. The last thing we want to do is to support Julian Knight, who has already written letters, or to prevent his having that capacity curtailed to some degree.

We also note minor amendments to the Legal Aid Act 1978 that extend the maximum period a practitioner may sit on a specialist practitioner panel from three years to five years, and we support that. The new offences, which I outlined earlier in my contribution to the debate, relating to prohibited weapons being in the vicinity of licensed premises can be heard summarily in a Magistrates Court, and again that is straightforward.

As I said earlier, this is a very straightforward piece of legislation. Although I could extend my speech to nearly 8½ minutes, there is really not much more I can add, other than to say that the opposition supports the legislation.

Mr HALL (Eastern Victoria) — I am pleased to indicate that The Nationals also support the justice legislation amendment that the house is dealing with this morning. First of all I should point out that four acts of Parliament are amended by this bill. They are the Control of Weapons Act 1990, the Corrections Act 1986, the Legal Aid Act 1978, to which there is a small amendment, and the Magistrates' Court Act 1989, to which there is a consequential amendment to an amendment the bill makes to the Control of Weapons Act 1990. I will just make a couple of comments, particularly on the amendments to the Control of Weapons Act and the Corrections Act.

The first amendments I want to comment on are those to the Control of Weapons Act. Essentially three main areas in that act are amended. The first relates to prohibiting the carrying of dangerous articles for the purpose of self-defence. I think most reasonable members of our community would see the sense in an amendment to this effect. I do not think it is reasonable to expect that people could make an excuse to suggest that a dangerous weapon they might be carrying is needed for their own defence. In most instances they would not need the weapon for that purpose.

The second amendment provides for the new offence of the possession of weapons in and in the immediate vicinity of licensed premises. This is a substantial issue, and I will comment a bit further about that particular aspect in a minute. The third area in the Control of Weapons Act that is to be amended relates to an increase in certain penalties for existing offences under the act. The Nationals have a strong record in supporting adequate penalties for crimes that people commit, and we certainly support the strengthening of penalties under the provision of the Control of Weapons Act.

What we could say is that in summary the amendments to the Control of Weapons Act are all about improving community safety, and that is something we should all aspire to. I might add that community safety is not just an issue confined to the metropolitan area of Victoria. In country Victoria community safety is an issue of paramount concern. That is certainly so for the communities in my electorate, and I am sure the experience of other members who represent country electorates is the same.

In particular I want to commend local governments that seem to be addressing this issue head-on in conjunction with local police. Local government has taken some wonderful initiatives to address this issue of community safety. I want to highlight just one of those in my contribution to debate this morning — that is, some of the efforts Latrobe City Council is making to address the issue of community safety. Latrobe City Council covers places like Moe, Morwell, Traralgon and Churchill, being the four predominant towns in that municipality. Because it is a fairly close-knit sort of local government area, there seems to be a congregation of a lot of night activities in Traralgon. There are a few very well patronised nightclubs in the area — not by me, I might add; I am way past that. Young people seem to enjoy the companionship shared at some of the facilities in Traralgon, but when a large number of young people leave some of these venues in the early hours of the morning community safety issues become the concern of law enforcement officers as well as others who wish to safely enjoy their times of recreation.

As a means of trying to reduce the incidence of crime and improve community safety the City of Latrobe, in conjunction with nine licence-holders in Traralgon, funded security guards to man the Traralgon taxi rank for a period of time. They found that that significantly increased the level of community safety. Young people who were frequenting night activities felt more comfortable having security officers at the taxi rank, for example, whereas before, if there was unruly behaviour at the taxi rank, young people were discouraged from doing the right thing and getting a taxi home instead of driving themselves or walking long distances in the dark.

It worked very successfully for six months, but then funding for the particular project ran out. I am pleased that in recent times the federal government, through the federal member for Gippsland, Peter McGauran, found $150 000 to continue the project. Funding is now available for two security officers to man the taxi rank in Traralgon. The taxi organisations within the city of Latrobe got together and agreed that, where appropriate, some of the taxi services based in the towns of Morwell, Moe and Churchill would also work

out of Traralgon to assist in getting young people home from these nightspots in a timely and safe manner. The grant from the federal government also enabled the improvement and upgrading of lighting and various other aspects within the city to improve community safety. This was a great initiative and one that we ought to commend. As I said, I do not think Latrobe is by itself in doing this. We need to acknowledge the efforts of local government and the way it has worked with the local police force and other law enforcement agencies to improve levels of community safety.

I might also add that we can have all these measures like the amendments to the Control of Weapons Act and the Crimes Act, but any changes we make to acts of Parliament are only as effective as the resources available to enforce them. In this regard I have some concerns about the vacancies and underresourcing that we again have in police services across country Victoria. I note that Paul Mullett, the secretary of the police union, recently visited the Latrobe region and identified that there were currently 28 positions not staffed within the Latrobe police servicing area.

When you have that many positions vacant, police resources are going to be stretched and police will be unable to respond in a proactive way to some of the issues that we would like them to respond to. It is all well and good for us to pass legislation of this nature, but it needs to be supported by adequate resourcing by the state government to ensure that there is a capability for the provisions we make in these acts to be appropriately and properly enforced.

I appeal to the government to look at the issue of police numbers, particularly those in country Victoria. Although the government will claim it has increased police numbers — and that may be so — we are still desperately short. We are underresourced. As I said, the Latrobe police area itself has recently been identified as having 28 unfilled positions, and we need some action on that matter. I make those comments in respect of the Control of Weapons Act.

The other major piece of legislation amended by this bill is the Corrections Act. There are four amendments to the Corrections Act I wish to identify. The first amendment is to provide that certain serious road safety offences are criminal acts of violence for the purposes of the victims register. I take on board the comments made by Mr Dalla-Riva when he spoke on this. We had similar legislation before the Parliament yesterday that went to the issue of the victims register. Perhaps the issue could have been addressed in the one piece of legislation rather than separating it into two.

However, to move on, the second amendment to the Corrections Act is to enable the governor of a prison to stop or censor letters sent to or from a prisoner that may be distressing or traumatic to a victim. The Nationals strongly support this. While I can understand that prisoners would wish to communicate with others outside the prison, I think it is somewhat presumptuous for them to think that they can communicate freely and openly with people who are victims of the crime for which they have been imprisoned. Communication would have to be done in a very sensitive and proper way, with the permission of the victim. I can understand that inappropriate communication could have a severe impact on somebody who could still be experiencing the trauma of the crime of which they were the subject. We strongly support the right of the governor of a prison to vet any correspondence coming from prisoners, particularly to people who were victims of the crimes of that person.

The third area of amendment is that it makes it an offence for a prisoner to send or attempt to send a letter to a victim that may be distressing or traumatic to the victim or to any other victim who might reasonably receive it. That is just an extension of the previous amendment that I referred to.

The fourth amendment is to make further provision for the power to make regulations with respect to the issuing and use of firearms by escort officers. Again, I think this sort of issue will receive more comment tomorrow when we are debating the firearms legislation, but having looked at the particular amendments in this provision The Nationals have no objection to them.

I close by once again thanking The Nationals spokesperson in this area, the member for Benalla in the other place, Bill Sykes, once again for his usual extensive consultation on bills of this nature. I know Dr Sykes has spoken to the Crime Victims Support Association, to the Police Association, to the union representing the corrections officers and also to the Combined Firearms Council of Victoria with respect to these issues. The responses he received from those various organisations were positive in general, and that reinforced our position to support this legislation. With those brief comments, again I am prepared to indicate that The Nationals will be supporting this Justice Legislation Amendment Bill.

Sitting suspended 12.58 p.m. until 2.03 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Schools: public-private partnerships

Mr P. DAVIS (Eastern Victoria) — I direct my question without notice to the Treasurer. I refer him to the Premier's recent announcement about the use of public-private partnerships (PPPs) to fund new schools on greenfield sites, and I ask: why are PPPs now being examined for schools when the government said its 10-year plan for new schools and upgrades was fully funded by the state budget?

Mr LENDERS (Treasurer) — I am delighted that Mr Davis has asked a question. I languished here yesterday when I was not asked a question in question time. I am delighted that he maintains an interest in education, which is our no. 1 priority. I just hope he mentions it to federal education minister, Julie Bishop, so that she keeps it as her no. 1 priority as well, just for old time's sake.

Mr Davis asked a serious question about public-private partnerships in education and a serious question about funding for the 10-year plan for education. This government's no. 1 priority is and will remain education, because it is such an important and critical item for the future of young people. Mr Thornley, who has invested more time in human capital than most in this place and has played a key role in the national agenda on this matter, knows, as everyone else in the house knows, that investing in our young people is the best thing for the social environment of this state and the best thing for the economic environment of this state because it ultimately delivers where things matter.

Mrs Peulich — Word, words, words.

Mr LENDERS — Mrs Peulich says, 'Words, words, words'. I can assure Mrs Peulich that we will continue to focus on education as our no. 1 priority and invest in it.

Moving on to what the investment is and where it comes into public-private partnerships, we want the best outcomes. In the last Brumby budget we invested money in capital funding for 131 schools totalling $555 million and — there is more — money for the ultranet so that we will have the best information and communications technology system in our schools to equip young people.

Mrs Coote — Why can't we have a better one here?

Mr LENDERS — I suggest Mrs Coote save that for next year's debate on the parliamentary appropriation bill. I will focus on schools now. What we are looking at is delivering great outcomes, and we will continue to do so. Our money is on the table, the runs are on the board and we are delivering. However, one of the things that Premier Brumby has put forward, and he has asked Bronwyn Pike as Minister for Education in the other place and me as Treasurer to come on board, is options for PPPs in schools, as Mr Davis said. If we think it through, what the Premier is asking is that we look at options to do even more. As members in this house will know, I talked about education a lot when I was the minister in this place, and one of the options for education is to make the 1594 government schools in this state and the 702 non-government schools in this state centres for the community.

Hon. J. M. Madden — They would sell them.

Mr LENDERS — I take up Mr Madden's comment. Others sold 300 schools while they were in government. This government is about investing in schools and investing in infrastructure, and PPPs may just give us the opportunity to, firstly, get even better value for taxpayers out of partnerships with the private sector, and secondly, they may just offer that access to some of the other organisations.

I would certainly invite Mr Davis, for example, to go to St Joseph's in Ferntree Gully, which is a Catholic school in the electorate of Mr Atkinson, Mr Dalla-Riva, Mr Tee, Mr Leane and Mrs Kronberg, if he wants to look at what public-private partnerships can do. This school was on the decline. This Catholic boys school was losing enrolments. It started looking at partnerships with the local community.

The school now has a gymnasium which the school uses during the daytime and the private sector provider uses outside school hours. The school gets a good value gymnasium, and the private sector provider gets access to land to do it on, so what we have is a good public-private partnership. We also have a partnership with the local municipality, the City of Knox, for the basketball stadium. That, again, is a partnership with someone outside. It is a new kind of thinking, adding value for those students at St Joseph's in Ferntree Gully. Thirdly, the school is now in negotiation with the provider for a swimming pool. What we are looking at by exploring PPPs is the opportunity to bring in even more value and to make Victoria an even better place to live, work, learn and raise a family.

The PRESIDENT — Order! I ask the young schoolkids in the gallery to lean back off the rails and resume their seats, purely for their own safety. I might let them know that if they were to fall, not too many in here would be able to breathe life into them.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — I ask the Treasurer a supplementary question. Given the government has not yet announced all of the 131 schools, which he referred to a moment ago, that will receive funding for upgrades in the next two years and that the government failed to fund the Victorian schools plan in the forward estimates beyond 2008–09, will the minister inform the house if the Victorian schools plan will be funded from borrowings?

Mr LENDERS (Treasurer) — Firstly, for the benefit of Mr Davis and his enthusiasm to be back on education again, we have announced all 131 schools in last year's budget, unless my recollection is very wrong, but I am very confident. What the Minister for Education, Bronwyn Pike, will be announcing is the remaining 369 schools that we promised to deliver in the term of this Parliament. She will announce that in conjunction with me over the next three budgets. We are absolutely confident that we will deliver this. We made it a strong election commitment that we would deliver 500 schools within the four-year term of this government. That is a pledge that was made, and the government will obviously honour it. We will deliver the 500 schools.

It is also part of the government's plan to deliver infrastructure where it matters in this state — targeted infrastructure. We target schools, because schools are where our young people learn. I may be sounding like a Jesuit here, but I am not. If you get them young and they have a good education, in all seriousness what happens is that that child has an opportunity. We are talking about what happens to our future in terms of social and human capital.

As it was for most people here, when I entered the workforce there were five people in the workforce for every retiree. When I leave the workforce, hopefully at a time of my choosing and when I expect to, there will be three people in the workforce for every retiree. The answer to that is greater productivity and greater use of human capital — people staying in the workforce longer. We know there is a direct correlation: the longer a person goes to school, the longer they stay in the workforce and the longer they are productive. This is a big, targeted investment we will deliver because education remains this government's no. 1 priority.

Economy: performance

Ms MIKAKOS (Northern Metropolitan) — My question is to the Treasurer, John Lenders. The Treasurer has informed the house in the past of Victoria's AAA credit rating and of his objectives in the Treasury portfolio. Can the Treasurer now inform the house of any recent updates on the status of the state's finances?

Mr LENDERS (Treasurer) — I thank Ms Mikakos for her question and for her interest and absolute enthusiasm for AAA being here to stay, for a positive credit rating, which the Brumby government has got from both Standard and Poor's and Moody's Investors Service. The AAA is here to stay. It is here to stay because of sound financial management, budget surpluses and targeted infrastructure expenditure and service delivery.

Ms Mikakos asked what further I could report on this. I am delighted to report that this morning I had the privilege of tabling in the house the annual financial report for the state of Victoria. We actually put out how the budget applied — the budget we brought into Parliament in 2006 — how that financial year rolled out and how the budget measured up. The annual financial report is there, and I would urge all members to read it.

Mr D. Davis — The first time a budget has ever been reported.

Mr LENDERS — I take up David Davis's interjection. He said it is the first time a budget has ever been reported. Mr Davis clearly remembers the days when he was a backbench member of the Kennett government, when this Parliament seldom sat and budgets were seldom reported. What we see here now is a reporting.

Honourable members interjecting.

Mr LENDERS — I remind Mr Davis and the house that on 15 January 2003 the *Australian Financial Review* accused this government of being 'too transparent' in how often we reported information. We were too transparent. I would say the *Australian Financial Review* would still have that view, because we believe in reporting information. We believe in a powerful, independent Auditor-General who supervises government and gives reports advising government. We believe in a Public Accounts and Estimates Committee, and we believe in a Parliament that sits and actually holds ministers accountable.

The information Ms Mikakos specifically sought was about the state of the Victorian economy. The Victorian economy is travelling better than we thought it would at budget time.

Mrs Coote — It is going south.

Mr LENDERS — I take up Mrs Coote's interjection that the Victorian economy is travelling south. Presumably she means it is going to a place 'less better' than where it is at the moment. For the information of Mrs Coote and the house, consumer sentiment for October 2007 — a figure prepared by the Australian Bureau of Statistics — shows that Victoria has gone up 0.6 points. This can be contrasted with a fall of 0.4 points nationally. On one index, consumer sentiment, Victoria has gone up and the nation has gone down. ANZ job advertisements were up by 1.7 per cent in Victoria during September, compared to a fall of 0.7 per cent nationally. The job ads are up in Victoria and down nationally. Consumer sentiment is up in Victoria and nationally it is less so.

We can go on. Building approvals are something my colleague Mr Madden has great interest in. He presides over a very good story on building approvals. We have had yet another month with record building approvals. What we are seeing on building approvals is that Victoria had $17.8 billion in building approvals in the last year compared to Queensland, the resource state, with $17.3 billion and New South Wales with $16.6 billion. On those three measures alone, taking up Mrs Coote's interjection about the economy heading south to Tasmania, we have a much stronger record than the rest of the country. But there is more. The number of loans to owner-occupiers rose by 2.3 per cent in Victoria compared to a rise of 1.6 per cent nationally.

We have a strong economy in this state. I am waiting for an interjection from Mrs Peulich, who always says, 'Thank the Howard government'. It is strange that the Howard government, which starves Victoria of money, suddenly has the best performing non-resource state in this state — we are the best performing non-resource state. Through good management we have seen a larger budget surplus than anticipated. Part of the reason for that is good management by the state government and part of it is due to two unforeseen circumstances which were beyond this government's control.

One was the commonwealth government's changes to superannuation. So many people sold their homes to invest money in superannuation that we had a windfall on land transactions, which this government will spend prudently. Secondly, the absolute strength of the share market has meant we have had another windfall. We are often told in this house that on the one hand we are overspending and being crazy while on the other hand we are hiding a surplus. You cannot hold a deficit and a surplus simultaneously — if you can, someone should explain to me how that works.

What I can say is we have had a strong result, and above and beyond that strong result we have had windfalls in two areas. This government will invest that money well in targeted infrastructure delivery. Under the stewardship of the Brumby government this state has become an even better place to live, work and raise a family. The other news is that AAA is here to stay.

Information and communications technology: internet regulation

Mr RICH-PHILLIPS (South Eastern Metropolitan) — My question is to the Minister for Information and Communication Technology. Is the minister aware of concerns expressed by Victorian-based internet service providers about the duplicate layer of consumer regulation being imposed by the Victorian government on top of the Australian Communications and Media Authority's requirements?

Hon. T. C. THEOPHANOUS (Minister for Information and Communication Technology) — I thank the member for his question. This is the first question I have received from the honourable member in relation to information and communications technology (ICT). I congratulate him on his first question.

The ICT industry in this state is a huge success story. It has been a huge success story under the current government because we have gone out there and actively sought to increase the number of people who work in the ICT industry and to actively increase the amount of investment in this industry. Over the last two years an additional 10 000 people have been working in this industry. In excess of 80 000 Victorians are now working in the ICT sector, which has an annual turnover in excess of $20 billion. This is a huge industry which helps drive the Victorian economy. Not only does it help drive the Victorian economy as an industry in its own right but it is an important enabling industry. Some studies have shown that over the last 20 years roughly one-third of all of the productivity gains that have taken place throughout the rest of the industries have come about as a direct result of ICT improvements. The information technology industry has been an important enabler for productivity gains.

I am happy to stand by the programs that have been put in place by the Bracks and Brumby governments in relation to the ICT sector, because it is one of those sectors that is a huge success story. The problem in this sector, which the honourable member needs to understand, is not what the Labor government is doing, nor is it about the regulatory issues associated with the Bracks and Brumby governments. The issue is what the

Howard government has done, or to put it more precisely, what the Howard government has not done. Over the last five years the Howard government has allowed the ICT industry to float. On the one hand it has made no decisions of any note to drive this industry and on the other hand it has done the absolute minimum when it comes to the development of broadband, which is the mechanism that will drive this industry and a whole range of other industries in the future.

We are so far behind in relation to the speed of our broadband in this state and country because of the federal government's inaction over the last five years. To cite one figure, our average speed in Australia is 1.9 megabits and the average speed in the European Union is 9 megabits. I think the average speed in Japan is around 60 megabits. This is where we are currently because of inaction by the federal government for the last five years.

It is a bit rich for the member to come in here — with our having such a successful industry that has been running along at such an exponential rate with initiatives that have been put up by this government, which has been spending real money in developing broadband in our schools and regional centres — and try to somehow suggest that the Victorian government's regulatory structure is the problem in the ICT industry. He knows very well where the blame ought to be sheeted — to the federal government.

Supplementary question

Mr RICH-PHILLIPS (South Eastern Metropolitan) — I ask the minister: does the Victorian government support national uniform regulation of telco and internet providers?

Hon. T. C. THEOPHANOUS (Minister for Information and Communication Technology) — Our starting point on regulation, whether it be in this sector, the energy sector or a whole range of other sectors, has always been as far as the Victorian government is concerned that we prefer national consistency. We would rather, for example, that the federal government took up its responsibilities in the energy sector and immediately introduced an emissions trading scheme so that the states do not have to individually go and work out what would be an appropriate emissions trading scheme for their state. There should be a national one. This pattern of inaction by the federal government has occurred in all sectors of industry. The ICT industry is another one of those industries where there has been a complete lack of leadership in relation to regulation. We prefer national consistency, but we have also always said one other thing: we will not sell out Victoria in the name of national consistency. We do not do that because we want to make sure that there is a regulatory structure in place, preferably at a national level. However, if the federal government is not in the game of showing leadership on national regulation, we will do it in accordance with what is in the best interests of Victoria.

Water: Victorian plan

Ms BROAD (Northern Victoria) — My question is to the Treasurer, John Lenders. We are all aware of the effects of the drought right across Victoria, especially in rural areas, on families, businesses and communities. In the light of the Treasurer's statement to the house about the very healthy state of Victoria's finances, what is the Brumby government doing to assist in Northern Victoria Region to deal with climate change and water trading?

Mr LENDERS (Treasurer) — I thank Ms Broad for her question and her interest in all matters in Northern Victoria Region, particularly water. She was with me and other ministers at the community cabinet in the shire of Gannawarra at Swan Hill and in the shire of Buloke, where we met with the local shire councils and various other people. We talked about the emerging and pressing issues in northern Victoria and in particular the effects of climate change on water trading and adjustments to it. I thank her for her interest.

Mr Atkinson interjected.

Mr LENDERS — I take up Mr Atkinson's interjection about water bandits. The state government is seeking to get the best possible use of a resource.

Mr Dalla-Riva interjected.

Mr LENDERS — Mr Dalla-Riva says 'stealing'. Let us just pause and consider what he is saying. In the Goulburn system in an average year about 900 billion litres of water is wasted because the water is not managed correctly and there has not been the most effective use of it.

In response to the first part of Ms Broad's question about what we are doing with some of the capital surplus, the government announced in July that we will spend $600 million, which we can fund through the exceptional circumstances we have here, for saving water. If you go back to those original 900 billion litres of water I referred to that is being wasted, with our food bowl project, if half of that water could be saved so the

wastage went down and the usage went up from 70 per cent to 85 per cent — —

Honourable members interjecting.

The PRESIDENT — Order! I have had enough; I do not know about everyone else. There is too much interjection and banter across the chamber from all and sundry. I remind members that we have schoolchildren and senior citizens in the gallery. We are professional, so let us start acting like it.

Mr LENDERS — If we increased the usage of water from 70 per cent to 85 per cent, we would find an extra 450 billion litres of water would be available.

Ms Lovell interjected.

Mr LENDERS — Ms Lovell talks about stealing water. Some of her supporters talk about the issue of what would happen. People are prepared to dam the Mitchell River as part of the proposal and take Gippsland's water. It is a most strange series of arguments. I will stick to the proposition of the food bowl here. We are proposing a capital investment of $1 billion into the food bowl — $600 million from the state government — —

Ms Lovell interjected.

The PRESIDENT — Order! Ms Lovell!

Mr LENDERS — There will be $300 million from Melbourne Water and $100 million from local users. We are proposing finding an extra 225 billion litres that can be used, whether it be for urban use, irrigation use or environmental flows. We could double that. We could make that 450 billion litres, if the commonwealth would use some of its surplus, some of the $17 billion that Peter Costello is squirrelling away, to invest in this water. If we did that, we could perhaps address some of the things that Ms Lovell and others keep on talking about — sending our water to South Australia! It is okay to send our water to South Australia because the federal Liberal-National government wants to, but it is not okay to conserve it and use it in Victoria.

In response to the first part of Ms Broad's question, we are talking about a significant investment in the food bowl. We are looking at seeing the usage of water go up from 70 per cent to a target of 85 per cent. If we get halfway there, we will find this 225 billion litres of water savings in Victoria. If we get the matching funds from the commonwealth, we will save a further 225 billion litres of water.

The second part of Ms Broad's question related to the stress caused by water sales in the market up there. A number of members of the house have raised this with me as an issue — for example, Mr Drum asked me to meet with some of the mayors of municipalities in north-west Victoria. What the government announced in Kerang, in Gannawarra shire, was that it would deal with this unbundling of water by making a one-off contribution of $18 million plus to assist the seven shires — six of them in north-western Victoria and one in Gippsland — to deal with this adjustment. Simply by making water a tradeable commodity we have taken it off the value of the land. That is a good thing for water markets and for agriculture. It is a good long-term strategy, but in the short term it means that each of these communities has lost money. In the case of the Shire of Gannawarra, from memory, about 14 per cent of its rateable revenue was lost through this change.

What the government is now proposing — and the councils have welcomed this — is that we pick up 100 per cent of that lost rateable income in the first year, 75 per cent in the second year, 50 per cent in the third year and 25 per cent in the fourth year. This will enable those municipalities to adjust. In a market sense of course they can adjust, but in a time of drought and stress there needs to be a cushioning so that those councils can adjust.

In response to Ms Broad, there are two issues, but the fundamental issue is that the one-off capital I referred to in an earlier answer is being diverted to one of the critical issues, water infrastructure. That will free up 225 billion litres of water in northern Victoria and in so doing will allow more water for irrigators, urban areas and the environment so that we can deal with issues like flushing out rivers, blue-green algae and the other issues we want to deal with.

Port Phillip Bay: channel deepening

Mr GUY (Northern Metropolitan) — My question is to the Minister for Planning. Given that the panel report on the supplementary environment effects statement into channel deepening should have been presented to the minister at least nine days ago, and further that the government has introduced the Port Services Amendment Bill to deal with the effects of channel deepening, I ask: if the decision has been made by the minister on the supplementary report, can he now advise the house what it is, when he made it and why he has failed to make the decision public?

Hon. J. M. MADDEN (Minister for Planning) — I welcome the question from the budding leader of the Liberal Party. I ask Hansard to note the smile on

Mr Guy's face when I said that. I also thank Philip Davis for allowing Mr Guy to ask that question when obviously Mr Guy is a threat to the Leader of the Opposition in this chamber as well as to the Leader of the Opposition in the other chamber.

I welcome the member's question because there are many people right across the Victorian community who have a specific interest in the channel deepening project. As I have said a number of occasions, I am the relevant authority who will give planning approval for the project one way or the other. I will make the determination. The report has been provided to me by the panel. I welcome the completion of the report and the fact that the panel has conducted its hearings in a very methodical and thorough way. Mr Guy would be aware that whenever a report of this kind is presented to a minister, the minister does not make the decision on the spot but asks for advice from the department. That report is being processed within the department, and the department will provide me with additional advice in relation to the report.

I look forward to making announcements in relation to any determinations regarding the panel report at the earliest opportunity. I look forward to making them after thorough consideration, as is my duty as planning minister. I look forward to receiving additional questions from the opposition in relation to these matters, and I welcome questions from any member of the opposition, particularly the anointed leader of the Liberal Party on the other side of the chamber.

Mr Atkinson — On a point of order, President, you have been very specific about ministers not referring to members of the opposition in a derogatory fashion and not pursuing the substance of questions. I think the opening remarks of the minister challenged and flouted your rulings fairly flagrantly, and in fact he returned to the same point at the end of his speech. I suggest that he needs to be reminded of your rulings.

The PRESIDENT — Order! Mr Atkinson is correct in reminding the house that I have on numerous occasions made rulings with regard to derogatory comments, and I have been consistent in disallowing them. However, I disagree with Mr Atkinson on this occasion in so far as question time in particular is a little bit more robust than normal debate in the chamber. I also cannot accept that the reference made by the minister to the member about his possible future is derogatory. More importantly, the member is in the chamber, and if he were to take offence at the comment, he could raise the point of order himself.

Honourable members interjecting.

The PRESIDENT — Order! I remind members that I am on my feet. I will be heard in silence. There is no point of order.

Supplementary question

Mr GUY (Northern Metropolitan) — I note that the Labor Party treats the issue of channel deepening as such a joke, but I ask the minister to inform the house how Victorians could possibly have faith in the integrity of planning processes in Victoria when the government has announced funding and chosen a site for the desalination plant and introduced legislation for the go-ahead of the dredging of the bay, all before environmental effects statements have been completed.

The PRESIDENT — Order! I remind the minister to be careful with that envelope.

Hon. J. M. MADDEN (Minister for Planning) — I welcome the member's question. I acknowledge your ruling, President, and if anybody finds the potential nomination of being the Leader of the Liberal Party offensive, I withdraw any comments that might have offended any member of this chamber. I do appreciate it. Whether it be derogatory or offensive, I would withdraw that in particular.

I take up the remarks of Mr Guy and welcome his supplementary question. What Mr Guy may not fully appreciate is that the process in relation to any major projects in this state, when they come to this minister, as planning minister — —

Honourable members interjecting.

Hon. J. M. MADDEN — This is where there are those who would like to think that a process should take a position one way or the other or they want it both ways: they want the project to go ahead as soon as possible, but they do not want the necessary requirements undertaken in terms of environmental issues being considered. What is imperative about the planning process — what Mr Guy obviously interprets the planning process as, and this is a fundamental flaw in the way the Liberal Party sees the planning process, is as being a yes or a no — is that you should never see the planning process as an absolute yes or an absolute no.

Honourable members interjecting.

Hon. J. M. MADDEN — I take up the rowdy interjections from the opposition. This is a fundamental flaw in their characters: they see planning as yes or no, as black or white, as being confrontational. And that is

the problem with the way the Liberal Party would implement planning — it would be confrontational.

Honourable members interjecting.

Hon. J. M. MADDEN — I will stick to the question, President. Planning is not and should not be seen as confrontational. That would be a fundamental flaw in any proposition about planning. It is about getting the best result for the community.

Mr Guy interjected.

Hon. J. M. MADDEN — Mr Guy should never lose sight of the fact that the planning process is about getting the best result. It is not about process; it is not about getting embroiled in the process.

Mr Guy interjected.

The PRESIDENT — Order! Mr Guy!

Hon. J. M. MADDEN — It is not about getting embroiled in the process. It is about getting a process that delivers the right community outcome. It is about qualifying — —

Mr Guy interjected.

The PRESIDENT — Order! This is the third time now, and Mr Guy is warned.

Hon. J. M. MADDEN — The process should deliver the best community outcome, not a yes or no. It should qualify either the yes or the no. The planning process should qualify that. The environmental assessments in relation to each of these projects will determine the best community outcome, the best public outcome, as opposed to what the opposition wants, which is a yes or no answer. This will deliver the best community outcome in relation to any of these major projects delivered by the government. When those projects come to me, they will be qualified one way or the other to ensure that we get the best community outcome.

Rail: rolling stock

Mr ELASMAR (Northern Metropolitan) — My question is to the Treasurer. We have heard today that Victoria's finances remain in a strong position. Can the Treasurer outline to the house any measures that the Brumby government is taking to ease urban congestion?

Mr LENDERS (Treasurer) — I thank Mr Elasmar for his question and his interest in the economy and in dealing with urban congestion. As I outlined in response to my first question in the house today, we have had a very strong financial position announced in the annual financial report today, and a portion of that is a one-off. I am delighted to advise Mr Elasmar and the house that the Premier this morning announced a large injection of capital into rolling stock on our railways. This is a government that delivers.

Mr D. Davis interjected.

Mr LENDERS — I find it extraordinary that Mr Elasmar asked a serious question about rolling stock and David Davis said, 'It's taken eight years'. This government has invested in public transport. The government Mr Davis was part of not only sold schools, it closed railway lines. Opposition members wonder why Russell Savage won the election in Mildura — they closed the railway line. They wonder why Craig Ingram won the seat of Gippsland East — they closed the railway line. They wonder why Susan Davies won the electorate of Gippsland West — they closed the railway line.

This government invests in public transport because targeted infrastructure delivery is of critical importance.

Honourable members interjecting.

The PRESIDENT — Order! If Minister Madden and Mr Guy want to have their conversation, they can have it — just not in here.

Mr LENDERS — This government believes in an infrastructure injection. If we talk of the rolling stock, last year the then Premier and the then transport minister announced Meeting Our Transport Challenges, which is a 10-year plan at a cost of $10.5 billion. One of the things proposed is to bring in more rolling stock to assist with our railway services. In the budget we announced 10 trains. Today the Premier announced a further 8. 'A further 8' means the equivalent of 18 trains and means that when they are up and running it will be the equivalent of 14 500 people — —

Ms Tierney interjected.

Mr LENDERS — Fourteen thousand, five hundred people, Ms Tierney, who will be on the trains and not on the freeways. That is the equivalent of 12 000 fewer cars and more than six freeway lanes.

Mrs Peulich interjected.

Mr LENDERS — Mrs Peulich's comment about what it does to the Monash Freeway is exactly that — the equivalent of 12 000 cars off our roads, the equivalent of 14 500 passengers and the equivalent of

six freeway lanes. The government will invest in infrastructure delivery, and it is not just that. In addition we have announced over 200 new train services a week, we have opened a new electrified line to Craigieburn, with new stations at Craigieburn and Roxburgh Park, and we have added new services from Craigieburn. We have seen a 20 per cent increase in patronage.

Mr Finn interjected.

Mr LENDERS — I take up Mr Finn's interjection that it took us eight years. We inherited a system from a government which closed the railway line to Mildura and lost the seat, closed the railway line to Leongatha and lost the seat, and closed the railway line to Bairnsdale and lost the seat. It is a tad rich to be saying that it has taken eight years. We are rebuilding and putting on rolling stock because the fundamental premise of the Brumby government is that we will have targeted infrastructure delivery where it makes a difference to Victorians. Targeted infrastructure delivery means eight more trains which will take pressure off our roads and reduce urban congestion.

Mr Elasmar knows that will make a big difference to his constituents in Northern Metropolitan Region, a big difference to those using our roads and a big difference to the environment. It is a classic Brumby government triple bottom line initiative. It is good for the environment, good socially and good economically. This is one of the critical things in making Victoria an even better place to live, work, invest, commute and raise a family.

Western Health: investments

Mr P. DAVIS (Eastern Victoria) — I direct a question without notice to the Treasurer. Will the Treasurer inform the house when he first became aware that Western Health had an investment exposure to the United States subprime mortgage market?

Mr LENDERS (Treasurer) — I thank Mr Davis for his question. I am absolutely flattered and excited that he is asking questions today. To assist in our understanding of the subprime loans in the United States of America, they are essentially soft home loans that have become an endemic apart of the United States system.

Mr O'Donohue interjected.

Mr LENDERS — Mr O'Donohue says, 'We understand that'. If Mr O'Donohue thinks that when a member asks a question the minister can sit down because he knows the answer, I think that is an arrogance that would make him a very good member of the Kennett government. Unfortunately for him this is not the Kennett government and fortunately for Victoria it is not. I will answer the question as to what the subprime problem is in a helpful way for Philip Davis and the house so the question can be put into an appropriate context.

The subprime issue is about the fact that 15 per cent of United States home loans are very soft loans that are not secured. In fact they were securitised out, and they became a problem when their magnitude was realised. The first thing is that this is about 15 per cent of the United States home loan market. In Australia it is less than 2 per cent, and in this state it is probably even less than that.

A number of Australian institutions, whether they be local government or companies, have had trouble getting the credit they would like because of the credit squeeze that has arisen out of the subprime loan crisis in the United States. We have seen the United States Federal Reserve response to that by freeing up credit to try to address some of these issues. This is a global issue that has had very little effect in Australia, partly I might add, and the handshakes say so, through a fairly good regulation by the Australian Prudential Regulation Authority under the custodianship of federal Treasurer, Peter Costello. I am giving credit where credit is due. APRA has done a good job.

Ms Mikakos — Since HIH!

Mr LENDERS — I take up the interjection from Ms Mikakos that it has done a good job since HIH. What we have across a number of investments in Australia is some exposure to the subprimes, and they are being managed. If Mr Davis is suggesting that as Treasurer of Victoria I should be managing every single fund in the state and that we should not delegate to health authorities some of this responsibility, then I would suggest that he have a discussion with his federal leader and his — I was going to say thug mate, but that would be inappropriate — aggressive mate Tony Abbott, who likes to knuckle everyone in the face. If Mr Davis is suggesting — —

Mr P. Davis — On a point of order, President, it is totally out of order for the Treasurer of Victoria to be accusing a federal cabinet minister in such derogatory terms as being a physically brutal person.

The PRESIDENT — Order! I accept the point of order. The reference to the federal Minister for Health and Ageing could be construed in no way other than

that he is supposedly a thug. That is inappropriate, and I ask the minister to withdraw that comment.

Mr LENDERS — I certainly withdraw. If the Prime Minister had a friend who was a pugilist, for example — no, I withdraw completely. In a policy sense the question I propose is that you cannot have it both ways. You cannot in one breath be saying every single health board should be autonomous and making local decisions and yet in another breath be saying it is the responsibility of the state minister to regulate every part of the business of the health board, particularly a state minister who is not responsible for administering it.

That is a response to the answer, but I say to Mr Davis that this government has given autonomy to health boards. This government respects the autonomy of health boards and respects the autonomy of the regional health board authority. We look forward to continuing to work with them and reject the proposal of the federal coalition to basically step in, unravel everything and impose its own regime, which really makes Moscow on the Molonglo look quite free trade. They are the things that matter, and that is my response.

Supplementary question

Mr P. DAVIS (Eastern Victoria) — I thank the Treasurer for an extraordinary answer in which he indicated that he takes no particular interest in the detailed financial reporting of statutory bodies. I ask: will the Treasurer provide a report to the house on any exposure of all Victorian government departments, statutory authorities and other bodies to the subprime mortgage market crisis?

Mr LENDERS (Treasurer) — I do find Mr Davis's questions quite extraordinary.

Honourable members interjecting.

Mr LENDERS — I find Mr Davis's questions quite extraordinary. I am in a bit of a dilemma, and I will share this with the house. On the one hand it really is — —

Mr Somyurek interjected.

Mr LENDERS — There you go. I must say there is an extraordinary degree of coordination between the two houses, and I do not know who is plagiarising whom in asking this question — Mr Davis or Mr Wells, the member for Scoresby in the other place. Nevertheless, coincidentally it is being asked simultaneously in both houses.

I do stand by my response. This is a fundamental policy question. Of course I am interested in the Victorian economy, and that is why I would inform myself on the subprimes and my department would be working on that. We do have governance arrangements. The fundamental or central question here is: are the policies of the alternative government in Victoria — those that Mr Davis is suggesting the government adopt — to take the autonomy of self-governing health boards outside the financial frameworks that the Minister for Finance, WorkCover and the Transport Accident Commission and the Minister for Health overlay over them? Is the proposition that we centralise everything in Spring Street and take away the autonomy of local health boards? I guess it is like the Kennett government sacking councils. Its members wanted to centralise all power locally, so they dismissed councils willy-nilly.

This government believes that the prime responsibility of a health board is to deliver health services in a local community. This government has increased by 300 000 the number of people who are treated in our hospitals each year. In this four-year period we have made a $1.9 billion capital investment in hospitals, we are treating more patients and we are making the health system more accountable. That is what is significant. The governance of this means that we devolve responsibility for administration to the health authorities. If Mr Davis has suggested that we come to a Stalinist, centrally controlled system, where all power is vested in a minister like the federal Minister for Health and Ageing, Tony Abbott, then he is in the wrong party and the wrong jurisdiction, and he should have a word to his federal leader.

Information and communications technology: broadband access

Ms PULFORD (Western Victoria) — My question is to the Minister for Information and Communication Technology. Can the minister inform the house of any recent state government investments in broadband technology that will provide better access and services to regional Victoria?

Hon. T. C. THEOPHANOUS (Minister for Information and Communication Technology) — I thank the member for her question and her interest in ICT (information and communications technology) in regional Victoria. Just recently I outlined to the house the importance of the ICT industry to Victoria. I want to also advise the house that on 26 September I announced in Bendigo that $6.3 million had been allocated to the spatial imaging project, which will assist in the state's ability to manage environmental issues such as water quality and degradation. This

project is part of the $15 million Broadband Innovation Fund set up by the Bracks and Brumby governments. It is yet another example of the Brumby government leading the way in bringing in this technology and developing the ICT sector in the absence of action being taken by the federal government.

Let me just outline what this project is, because it is very important. It involves using broadband to enhance the reach, level and quality of the use of spatial information in the field. It is in some senses similar to using Google Earth, which some members would perhaps have used — —

Mr Guy interjected.

Hon. T. C. THEOPHANOUS — Second Life is another example. Mr Guy is looking for a second life as the Leader of the Opposition. He could probably log in, set himself up an avatar and become the leader of the Liberal Party in Second Life. We might even be able to show him how to do it. He would be able to walk around Melbourne and say, 'I'm the Leader of the Opposition' and see how he goes in Second Life, because he is not doing too well in his first life.

Honourable members interjecting.

Questions interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! Unfortunately for Mrs Peulich, my ears are pretty good. Reference to the minister by his first name is unacceptable. I will be consistent. She will leave the chamber for 30 minutes.

Mrs Peulich withdrew from chamber.

Questions resumed.

Hon. T. C. THEOPHANOUS (Minister for Information and Communication Technology) — What this technology will do is allow field officers to have access to data at their fingertips. It literally allows mobile computing in an interactive sense. A field officer will be able to go into an operation and feed back data, whether it be on flora and fauna or geographic details, and that will be integrated with other data back at the home base and decisions can be made. The farmer, miner or business involved will be able to get instantaneous information and make instantaneous decisions as a result. Work that would normally have taken two or three weeks, with people going back to head office and trying to work out the significance of the collected data in relation to the data already available, will be able to be done instantaneously and on the spot.

It will be a fantastic tool for regional Victoria. It uses aerial photography, satellite imaging, digital map-based products, data sets associated with agricultural production and natural resource management activity. The spatial imaging project is one of the Victorian government's projects that are designed to enhance broadband delivery to Victorians. As I have said before and continue to say, I just wish that we had seen some action by the federal government in relation to the delivery of broadband into regional Victoria, because this kind of technology would have been able to have been delivered a lot earlier had it not been for the inaction of the federal government.

Questions interrupted.

DISTINGUISHED VISITOR

The PRESIDENT — Order! I draw to the attention of the house a visitor in the gallery, the Mr John Delzoppo, a former Speaker of the Assembly.

Questions resumed.

Port Phillip Bay: channel deepening

Ms PENNICUIK (Southern Metropolitan) — My question is for the Minister for Planning, Mr Madden. Yesterday the Port Services Amendment Bill was introduced in the Legislative Assembly. I refer to a media release of the Minister for Roads and Ports, which says:

> … the new legislation would enshrine port authorities' powers to place dredged material in approved designated areas.

Given that the dumping of up to 4 million cubic metres of contaminated material dredged from the Yarra River in the dredged material grounds, uncapped for from anywhere from 140 days to 5 years, was a topic of much discussion and contention at the inquiry, is the minister concerned that the Minister for Roads and Ports has pre-empted his assessment of the supplementary environment effects statement or has a cabinet decision to proceed with channel deepening already been made ahead of the release of the minister's assessment and the inquiry report?

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Pennicuik's question in relation to this matter. I have not made a decision in relation to the channel deepening at all. As I have said, the panel has submitted its report. It was presented and is currently

being processed by the department, and in the not-too-distant future I will make my personal assessment of all the relevant information provided. I think that it is worth highlighting that in the legislation that was introduced into the Assembly yesterday and also in the comments made by the Minister for Roads and Ports it was mentioned that he was not pre-empting my decision. There is no possible way that he can pre-empt that decision, because a decision has yet to be made.

As I have said before, what is critical about any decision I make in relation to this project or any other project, in particular on environmental issues, is the qualifications I do or do not make in relation to many matters that are provided to me through the panel report or through information provided by the department. It is critical that those qualifications deal with the issues that are raised in any report provided to me by any panel.

I look forward to making announcements in relation to the channel. I also look forward to doing that at the earliest possible time and to informing the community of the details of that decision, regardless of what that decision is.

Supplementary question

Ms PENNICUIK (Southern Metropolitan) — Given the minister's answer and Minister Pallas's statement in his media release that 'The bill would apply to existing dredging operations, as well as the proposed channel deepening project' how can he say that that is not pre-empting the release of the inquiry report and his assessment?

Hon. J. M. MADDEN (Minister for Planning) — I welcome questions from right across the opposition benches in relation to this matter. I know that conspiracy theories will always abound in the minds of opposition members, particularly when they cannot do a lot on the policy front. They have to look at other avenues to express their opposition. But can I point out to the opposition that regardless of their scepticism on any of these matters, regardless of their scepticism on the projects on which the government is the proponent and the government is the authority — —

Honourable members interjecting.

Hon. J. M. MADDEN — Can I just point opposition members to the project at Nowingi. It was a project that many members of the opposition had conspiracy theories about on all fronts. They decided that they did not have a clear policy position on it, but what they did not believe in was the legitimacy of the process. They had no belief in the legitimacy of the process.

Mr D. Davis interjected.

Hon. J. M. MADDEN — Mr Davis, when you fix that website, come and talk to me.

You cannot say the process is flawed, which is what opposition members said throughout the course of Nowingi, but then say, as they did when it gave them the favourable outcome they sought, 'Oh, the process was terrific'. That is the position of the opposition parties. They want to derail the process and they want to have conspiracy theories about the process, but if the process were to deliver what they wanted, they would happily accept it. They cannot have it both ways. They cannot criticise the process and then accept the process when it gives them what they want. If the opposition wants the channel deepening project in whatever shape or form and if the process delivers the project, it cannot criticise the process. In the same way that The Nationals — —

Mr Drum interjected.

Hon. J. M. MADDEN — I take up Mr Drum's interjection.

Mr Drum interjected.

Hon. J. M. MADDEN — Keep interjecting, Mr Drum, please, because it gives me material to work with every time. You cannot have conspiracy theories about the planning process, you cannot have conspiracy theories about the planning minister, when at the end of the day the process may well give you what you want!

Mr Guy interjected.

Hon. J. M. MADDEN — How do you know?

The PRESIDENT — Order! I am always reluctant to intervene during a contribution or response by a minister, particularly in question time, but I draw the minister's attention to the standing order that relates to tedious repetition. I suggest to the minister that he has got a number of points across already, and it is not necessary to continue to repeat them.

Hon. J. M. MADDEN — Thank you.

Mr P. Davis — On a point of order, President, could you ask the minister to speak up? I am having trouble hearing him.

The PRESIDENT — Order! That is as close as Mr Davis will ever get to a frivolous point of order. If it

had been frivolous, I would have used standing orders and ejected him for 30 minutes. As I said, it is as close as he will ever get.

Hon. J. M. MADDEN — I am surprised that Mr Davis has got a sense of humour. I acknowledge, President, that I may have repeated myself on a number of occasions throughout this answer to the question, but it has been said that it is not until you are sick of hearing what somebody has to say that it has actually sunk in. I take up your point, President. I may have repeated myself, but hopefully the opposition may now understand the point I am making — that if the process delivers what it wants, it cannot criticise the process.

Exports: awards

Mr TEE (Eastern Metropolitan) — My question is to the Minister for Industry and Trade. Can the minister inform the house of any recent announcements that have acknowledged the success of Victorian exporters?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I thank the member for his question. The Governor's export awards recognise the success of Victoria's top exporters. They are very important awards. I was very pleased to be at Government House at the invitation of the Governor to participate in the ceremony where our top exporters were recognised. I was very pleased to see that on this occasion the new opposition spokesperson, Philip Davis, was also present at the Governor's residence, having accepted the invitation from the Governor. I congratulate him for doing so, because it is a step up from his predecessor, who did not turn up and who insulted the Governor instead by accepting and then not turning up.

The winner of this year's Victorian Exporter of the Year award is a company called Securency. It could be called 'Securrency' because it is involved in making bank notes for about 25 countries around the world. It is a great Australian company which through innovative research and development and developing a world-class product has been able to export right around the world. When you go around the world, quite often the bank notes that you use have been made in Australia, even if they are notes of a different currency.

There were of course other winners, and I want to mention them. The small to medium manufacturer award went to Blackmagic Design, the regional exporter award went to Mobius Software, the emerging exporter award went to Remote Vision Solutions Pty Ltd, the information and communications technology award went to CPT Global Ltd and the minerals and energy award went to Newcrest Mining Ltd.

These are all worthy winners who, amongst others, had presentations made to them on the night. It is important for us to recognise the effort that is put in by these companies in exporting out of Victoria. Exporting out of Victoria is something that has to be earned. Because we are not in the same position as the resource-rich states of Western Australia and Queensland, where it is simply a matter of major cheques being written out for minerals and they are simply exported around the world, we have to earn our exports by going out there with high-quality manufactured goods. When you see, for instance, that the automotive sector has increased its exports to around 45 per cent of all cars produced — —

Mrs Coote interjected.

Hon. T. C. THEOPHANOUS — Forty-five per cent are sent outside of Australia — it is a phenomenal achievement for that product. Victoria is on target to achieve its export target of $35 billion of exports.

Despite Philip Davis turning up to the Victorian Exporter of the Year awards, having seen one of his press releases of late I have to say he might be slipping back into some of the things that his predecessor did. He is putting out figures he must have got from an old David Davis press release, because I think the figures he put out for export are not only dated but also wrong. I want to make it clear that Victorian exports — —

Mr P. Davis — How are we going?

Hon. T. C. THEOPHANOUS — I am happy to tell you because your press release is completely wrong. I am happy to tell Philip Davis that the real figures — contrary to the comment in his press release that we are not performing as well as we did under the Kennett government — indicate that the combined goods and services exports today are 24 per cent higher than they were when we came to government. Get the figures right. If you want to use the export figures, use the right figures.

Mr P. Davis — What about the volume of goods?

Hon. T. C. THEOPHANOUS — I will tell you about the volume of goods. We have increased our goods exports over the previous year by 7 per cent. They have gone up, not down, as the honourable member attempted to say. If he wants to talk about services exports, they have gone up by 41 per cent since 2001. I suggest to the member that he forget about anything that David Davis has ever said. He should not listen to anything that he has ever said in the past. He

should take a positive view and get on board. We are happy to get on board with the member, if he wants. He did the right thing by coming to the export awards. I am happy to have seen him there. He made a good start. He should not mess it up by listening to David Davis.

JUSTICE LEGISLATION AMENDMENT BILL

Second reading

Debate resumed.

Ms PENNICUIK (Southern Metropolitan) — The Greens will be supporting this bill; however I would like to make some comments about certain aspects of the bill. Firstly, part 2 of the bill makes some amendments to the Control of Weapons Act by increasing the penalties for people found carrying prohibited, dangerous or controlled weapons within 20 metres of a licensed premises. I understand that this is intended to deter people from carrying weapons in the vicinity of licensed premises because there has been an increase in the number of assaults. We have all heard of some particularly nasty assaults with weapons that have happened outside nightclubs, particularly in the King Street precinct in Melbourne, but also, as Mr Hall mentioned, in areas of regional Victoria.

I am prepared to accept that increasing penalties could be a deterrent, and I understand that it brings these penalties into line with other penalties. Also, under this part of the bill the excuse of self-defence for carrying such a weapon will no longer apply. I support that provision as well because we do not need to carry weapons around and then use self-defence as an excuse. The carrying of firearms has been brought to its worst conclusion in the United States of America where people use the excuse of self-defence as a reason to carry firearms. We know there has been an epidemic of homicide and accidental killings with firearms in the United States, so the removal of the excuse of self-defence is a very good move that will help to take away the culture of carrying weapons that people in some sections of the community seem to have.

That is not all that is needed. We need to continue to have education programs and the like to remove the culture of weapons-carrying that is occurring in some sections of the community. In yesterday's committee discussion the minister said that ignorance of the law is no excuse for breaking the law. We all know that is technically correct, but if changes to the law are made it would be helpful if those changes were publicised, particularly to target groups. It would be a good idea if the department were to produce some sort of leaflet or use some other means to make people who frequent those licensed venues aware of this law. That would provide an extra preventive measure.

Part 3 of the bill makes amendments to the Corrections Act. We are particularly supportive of clause 15, which is to amend the definition of 'criminal act of violence' in section 30A(1) of the Corrections Act to include the following offences: culpable driving causing death; dangerous driving causing death or serious injury; and failing to stop and render assistance after a motor vehicle accident causing death or serious injury. This amendment clarifies that victims of those offences can be included on the victims register established under the Corrections Act 1986 to address an existing uncertainty in this regard. This amendment will extend the victims provisions to apply to a victim of someone failing to stop and render assistance. These are very good amendments, which we support strongly.

Clauses 16 and 18 amend the Corrections Act with respect to letters to and from prisoners. It regards the ability of the governor of a jail to stop or censor letters and the creation of an offence for a prisoner to send a distressing letter. I would like to say at the outset that the Greens are supportive of measures to prevent persons convicted of violent crimes from causing further harm, distress or trauma to the victims of that crime. I understand this measure is designed to do that and is targeted at a particular prisoner and the activities of that particular prisoner, but I wish to make some comments about it and to raise in the chamber some issues that have been raised with us. One of the issues that has occurred to me is that it is arguable whether we actually need a new provision that talks about distress when under the current act we already have a provision which refers to the governor being able stop a letter, under section 47D(1)(b), that is believed to be threatening or harassing, or under 47D(1)(d), that contains offensive material. I think a letter was stopped under that provision.

What has been raised in a letter from the Federation of Community Legal Centres is the provisions of proposed new section 47AA set out in clause 16, which are quite long and include all manner of people — in fact there are paragraphs (a) to (i) — to whom the prisoner is not meant to write. The governor can intercept or censor letters. The point that has been raised is that this may capture more than is intended. The Federation of Community Legal Centres gave the example of correspondence to a family member that may cause distress to the recipient but might nevertheless be legitimate. It gave the example of a prisoner writing to their spouse seeking a divorce or dealing with some

other personal matter like that which may cause distress.

Another example it gave is the example of restorative justice processes that may be caught up by these provisions, as the provisions do not actually allow for exemptions or exceptions. Under a restorative justice process, where the prisoner is in fact writing to the victim, the victim may have agreed to the process, but there is nothing in the bill that says there are exceptions, such as for correspondence under a restorative justice process for a legitimate reason, whether or not it may cause distress. I simply make the point, because everything is so broad, that there may be circumstances under which it is legitimate for a prisoner to write such letters or it is legitimate for a victim to receive them. Certainly we do not want to see victims receiving letters they do not want but there could be exceptions. I just ask the government to think about whether it needs to look at this again and to provide some exceptions.

One other thing that also occurred to me was that it puts a fair bit of onus on the governor to make the judgement as to what a victim might find distressing or traumatic. It is quite a task to give to the governor of the jail to make that assessment on behalf of a third party. Some other points that were raised are that there is no provision in the bill for a prisoner to be notified should their letter be censored or not sent. I feel that, as a matter of procedural fairness and perhaps to rectify a mistake if a mistake has been made, a prisoner should at least be notified that their letter has either not been sent or has been censored.

I was talking to the departmental staff during the briefing they gave us — and I thank them for that. They told me that in terms of good behaviour, for example, prisoners can be allowed a certain number of phone calls. We had a discussion about that, and I was just thinking of some other ideas to protect victims. Under that scheme, if a prisoner wants to make a vexatious phone call, a victim can refuse to receive it. I am wondering if there is some mechanism whereby victims can refuse to receive letters. We had a conversation about letters from prisoners being identifiable. I was told that a letter from a prisoner can come in any form, so that the victim may not know it is from a prisoner.

I thought it might be a good idea if letters sent from prisoners were easily identifiable so that if in some way the governor was unable to intercept such a letter, when it arrived at the recipient's address they would be able to see that it was a letter they did not want to open and could therefore send it back without opening it and being subject to distress. I just say again that we certainly strongly support the intention here of protecting victims from any further trauma being caused by people who have perpetrated a violent crime against them or their family, but we believe there may be circumstances in which the sending or receiving of such letters is legitimate. We would be interested to know whether in those sorts of circumstances, as has been pointed out by some people who made submissions to the government, such letters may be inadvertently caught up in this provision.

Turning to clauses 18 to 20, which refer to further amendments to the Corrections Act regarding the carrying of firearms by corrections officers, some concerns have been raised with regard to the regulation-making provisions. From the advice we have been given by the department that provision will simply mirror the existing regulations. We have asked whether the regulations are being reviewed and have been told that apparently they are being reviewed and that review is intended to be finished when this act comes into operation in the middle of 2008. In fact in the second-reading speech the minister said that the review would examine current practice. That is of concern because there are problems with current practice.

In his speech the minister referred to the fatal shooting of prisoner Garry Whyte by prison officer Mr Federico. The prisoner was shot while he was in hospital. He was unarmed and handcuffed and was trying to escape. The point is that he was not regarded as a dangerous person, so correctly Corrections Victoria engaged a panel chaired by former Chief Commissioner of Police, Neil Comrie, to investigate and report on the use of force by prison officers. Among other things the Comrie review states that there is:

> … an onerous obligation on correctional authorities to ensure, through policy, operational guidelines, training and organisational culture, that force is used sparingly, responsibly and only when absolutely necessary.

The report also states:

> … the Victorian legislation pertaining to the discharge of firearms by correctional officers may be too open-ended.

It concludes:

> … when taken together with the absence of a clear and unambiguous statement of organisational philosophy on use of force … this substantially increased the level of risk in the management of situations where the use, or potential use of force, is an issue in the Victorian prison system.

The Comrie review also found that the legislative framework failed to incorporate the legal tests of self-defence. There was no precise, coordinated and systemic use-of-force policy in the Victorian prison system. There was no guidance in the use-of-force

policy on what degree of force might be appropriate to speedily and effectively intercept escaping prisoners. There was no qualitative operational audit process for the use of force, and there was inconsistency between the policy of hierarchy of force and the inadequate training in use-of-force options, which creates an unacceptable level of risk associated with the operational discharge of a firearm.

Further, at the inquest into Mr Whyte's death, Coroner Byrne made recommendations which endorsed the findings of the Comrie review. He also criticised Corrections Victoria for its view that in shooting Mr Whyte, Mr Federico had acted within the authority granted to him in relation to the use of a firearm. He recommended that the regulations be reviewed and amended so that the circumstances in which prison officers can use lethal or deadly force are in line with the broad thrust of the law in that regard. Despite these recommendations and the need to emphasise elements of proportionality and reasonableness in the regulations, the regulation-making powers in the bill essentially mirror the current scheme. In the second-reading speech the minister referred to the threat posed by escaping high and maximum-security prisoners. However, these laws will apply to all prisoners, including minimum security and remand prisoners, many of whom would not present a risk sufficiently serious to justify the use of lethal force to prevent their escape.

We have made further inquiries of the minister's office regarding the progress of these matters. In an email received on Monday we were told that the government would be looking at the tactical options model that was recommended by the Comrie report. If that is the case, that is good, because the tactical options model looks at a range of ways of restraining an escaping prisoner rather than just the use of a firearm, bearing in mind that the use of a firearm is a hazard to anybody in the area including innocent members of the public. If the government is looking at that model, that is good. However, the operational procedures are not publicly available, although in the past they have been. How can we be sure they meet the recommendations as we are advised they may?

I raise these points about the bill, and I urge the government to think about them. I will continue to make inquiries of the minister's office as to where the government is with these issues because they are important issues. The operation of the corrections system, especially where we have private prisons and the use of private escorts and private security firms, needs public scrutiny. Where we have had the unnecessary death of a prisoner, I would say it is a serious matter.

One more thing raised in the reports that we have not heard any answer to is whether there is the appropriate training that was recommended in the Comrie report. It seems to have been years in coming, but it is not here Whether that is going to be followed up is an important aspect of the whole issue of making as sure as possible that the operational procedures and the system are safe and without risk to prisoners, prison officers, escorts and the general public. With those comments, I say that we will support the bill, but there are some issues which need to be attended to.

Ms PULFORD (Western Victoria) — I rise to support the Justice Legislation Amendment Bill, which amends the Control of Weapons Act, the Corrections Act and the Legal Aid Act. During the state election the government made further commitments in the area of community safety, and this bill delivers on those commitments. A great deal of work has already been done in the last eight years by the Bracks government and that is being continued by the Brumby government. During the period when the opposition was in government the crime rate in Victoria was 9519 per 100 000 members of the public. Since we have been in government the crime rate for the same population number is now 7283. That represents a 23.5 per cent drop in the crime rate.

You might wonder, Acting President, how that has occurred. The opposition's record indicates that 800 police officers were cut. By contrast this government has provided 1600 new police officers to protect Victorians and keep our streets safe. We stand by our record in this area of community safety, and this bill is but part of that broader picture. Of course in the area of community safety there is always more to do. This is an area in which government can never rest as long as there are victims of crime, including victims of horrific violent crimes, and there will be more work to do. The impact of crime on victims is very often lifelong. It endures for a period of time that is perhaps unimaginable in its severity for those of us who have never been affected by horrific crime being perpetrated against us.

I return to the commitments we made in the 2006 state election campaign. The government made it very clear that we have a zero tolerance approach to weapons offences. We absolutely reject the notion that it is acceptable in our society for people to be wandering around armed. We committed to removing self-defence as a lawful excuse for carrying dangerous items, and we committed to further protecting the rights of victims by

giving officials in our corrections system appropriate powers to stop offenders from contacting their victims in inappropriate circumstances. This was in part a response to some of the actions taken by Julian Knight, which other speakers have referred to.

I turn to the bill and firstly to the amendments to the Control of Weapons Act. The bill seeks to increase penalties for possessing, carrying or using weapons or dangerous articles in or near licensed venues. Of course when you combine weapons or dangerous objects and alcohol there is a far greater risk, and I am sure all members here would agree that having dangerous and volatile pockets in the streets of our towns and suburbs is a most undesirable thing. There is a greater risk to public safety, and such pockets of unruly behaviour are something we will always strive to avoid. These increased penalties, we believe, will deter people from this kind of behaviour and, where appropriate, provide punishment for that kind of behaviour.

The types of weapons referred to in the bill fall into three categories: prohibited weapons currently prescribed by regulation, which include things like flick-knives and knuckledusters, amongst other things; controlled weapons, which include things like kitchen knives, batons and spear guns; and dangerous articles, which are ordinary items that have been adapted for use as weapons, or items that would not ordinarily be thought of as weapons in the first instance but which are being carried for that purpose. The point there is the intended use of the item. The amendments to the law that we are proposing will make a clear distinction between, for example, somebody with a baseball bat which is clearly intended to be used for participation in sport, and somebody carrying one for intended use as a weapon.

The bill removes self-defence as a lawful excuse and in no way limits individuals' right to appropriately defend themselves. It does leave to the courts the question of determining appropriate self-defence. An example would be if somebody were feeling very threatened by an imminent attack and picked up a brick from the side of the road. In those circumstances that is the type of action that a court would perhaps consider to be an appropriate form of self-defence, which is quite different to taking a flick-knife in one's handbag on the way out to the nightclubs on a Saturday night, and the bill certainly draws that very important distinction.

The amendments to the Control of Weapons Act also increase penalties for eight other offences, including circumstances in which weapons are sold or carried, and the use of body armour. These penalties have not been increased in seven years, and we believe the penalties that exist at the moment are no longer an appropriate level of deterrent punishment, so the bill aims to rectify that. The bill places obligations on organisations and their employees in circumstances where weapons are required as part of what those organisations do and therefore provides clarity to those organisations, which are perhaps companies or public service organisations that require their staff to carry weapons or use weapons, as well as those bodies that manufacture or sell weapons or body armour.

Moving now to the amendments to the Corrections Act, as I said, prior to the last state election the government undertook to protect victims, and that extended to empowering governors of prisons to intercept and censor letters. This set of amendments will empower a governor to so if they reasonably believe a letter in either incoming or outgoing mail contains material that may be distressing to a victim. The bill also introduces a new offence of a prisoner sending a letter in the knowledge that such material would be distressing to its recipient.

I would briefly like to comment on the remarks made by Ms Pennicuik about the victim's right to refuse to receive the mail and the suggestion that perhaps the victim could choose to not open the letter. I wonder how you can choose to not open a letter if you do not know its contents. I am not sure quite how practical that is. Whilst having never been in that situation myself, I imagine that what is most distressing is the contact and perhaps not so much the very specific nature of the words used by the letter writer to express whatever the sentiments are. I can only imagine that it would be a terribly distressing thing to receive that correspondence, and I think that placing in the hands of a prison governor the capacity to make a judgement about where and when material is appropriate is the best thing to do, rather than getting the letter to the kitchen bench of the victim and then perhaps making a decision about the impact it will have on the victim.

Moving on, the victims register is another part of the amendments to the Corrections Act. It enables victims to be provided with information about the sentence handed down to the perpetrator and a likely release date from prison, and enables victims to make a victim's submission to the parole board for its consideration of the appropriateness of release of the prisoner. The amendments seek to include in the types of offences that would enable somebody to be on the victims register culpable driving causing death, dangerous driving causing death or serious injury, and failing to stop or render assistance. I hope the possible inclusion of these terrible crimes involving motor vehicles provides those people with a level of comfort and a

level of information about something that has affected them.

The successful passage of this bill will result in amendments to the Corrections Act in the area of firearms use by corrections officers. This is a response to comments by Justice Cummins in the Supreme Court in the case of *DPP v. Federico* in 2006. Justice Cummins suggested that the regulations that govern this area could be clarified. This bill confirms the existing powers currently set out in regulations in relation to the use of firearms by corrections officers. We believe it appropriately balances the necessity in some circumstances for prison officers to have an appropriate legal basis for the use of firearms and the safeguards that must exist with that sort of authority.

Finally, the bill makes amendments to the Legal Aid Act. These are simply administrative amendments. They extend the period that specialist legal practitioners may be on panels from three years to five years. This will reduce the administrative burden on legal aid.

In all, we are very committed to continuing to support victims of crime. We are proud of our record in community safety. This is certainly part of that. Ideally we would have very safe streets and very safe homes, but it is important to provide good support to people who are unfortunately victims of crime. I commend the bill.

Mr THORNLEY (Southern Metropolitan) — I rise in support of the bill. Other members have gone through the provisions of the bill in considerable detail, and I am very pleased to hear they are all supporting it, so I will confine my remarks to a number of sections of it.

Firstly, I refer to the control of weapons provisions. It is one of the great things about this country that we have very serious gun and weapon laws. Having lived in the United States of America for a long time I know what it is like when that is not the case. One of the great mythologies of American politics is that the American people do not want tougher gun laws. Actually a considerable majority of them do. The problem is that the power of the gun lobby, given that it has become such a powerful industry, means that any politician who will vote in favour of tougher gun laws will have so much money spent against them in their electorate that they will be in danger of losing. What you actually have in the USA is a very significant minority of the population dictating policy to the majority because of the impact of money on politics. I might say the same thing is true for what they call socialised medicine. The vast majority of Americans want that as well. They would love to have a Medicare-type system. It is just the power of the industry lobbies that make money out of the current system which prevents it.

It is a great privilege to live in a country that has tough gun laws. I have very few good words to say about the Prime Minister, John Howard, but I will say this: one of his acts of courage early in his prime ministership was to enact tougher gun laws at a federal level. That is commendable, and will perhaps go down as one of the few positive elements of his soon to be written legacy.

It is a pleasure to support this bill and to be a part of a government that is bringing it forward. Every part of this bill is something that makes practical, valuable and important further changes to our system of community safety. That is the sort of thing you want to be in government to do. It is also the sort of thing that I am very happy to see has bipartisan or tripartisan, or whatever number of parties we have in this chamber, support.

It was a great privilege to be part of an election campaign last year. It got pretty robust on a number of occasions, but what we did not resort to on any side was some sort of ridiculous law and order auction. We seem to have people on all sides who care about these issues, who want to be tough on crime and who want to be tough in the ways we can minimise the potential for crime. These control of weapons provisions do precisely that.

I think the removal of the self-defence excuse is a very good example of that. As we all know, part of the problem in these situations is you are always in a cycle of violence. It is either cycling up or, in those rare and rewarding circumstances, it is gradually cycling down. Removing self-defence as an excuse for carrying improper weapons is part of our gradual dampening down and cycling down of violence, rather than letting it gradually cycle up. You only need one side of a dispute to be carrying a weapon for the other side to think they need to be carrying a weapon. While everyone thinks they are acting in self-defence, what you have is an increase in the cycle of violence. This is a very important measure. It will have a real impact but also a symbolic impact on the way we as a community, and we on all sides of this house, work together to reduce the cycle of violence.

There are very practical and common-sense provisions relating to the carriage of weapons around places where people are on the grog. This is self-evident, practical, common-sense stuff, but it is pretty obvious. If there is a problem and one party to a dispute has a weapon, the other party thinks they need one. There is certainly a

problem when any party in any dispute has had a few too many as they are more likely to exercise impaired judgement in how they operate. We are making a clear statement that there is no place for weapons in a situation where your judgement is going to be impaired. As we have said with motor vehicles for a long time, so we should say even more powerfully with weapons.

These are excellent provisions. They are part of the continuing effort on the part of this government, which my colleague Ms Pulford and others have referred to, which has successfully seen a significant reduction in crime. In the last four years there has been about a 23 per cent reduction in crime involving weapons. I hope these and other measures will see a further reduction.

Of course this is only part of the picture. The great couplet that was first, I think, crafted by Tony Blair in the UK but which remains strong here is that it is important to be tough on crime and it is important to be tough on the causes of crime. While we have bipartisan support for being tough on crime here, and it is a great pleasure that we do, I would love to see more bipartisan or all-party support for being tough on the causes of crime. It has huge economic benefits when we talk about investing in young children, when we talk about literacy and numeracy, when we talk about all of the things that you do to bring people from the margins of society into the mainstream. It has huge benefits in their lives and the lives of their families. It also has huge practical benefits in terms of the resulting reductions in a range of difficult things, one of which is crime.

The Perry study into early childhood intervention in the USA followed a group of disadvantaged children over a 40-year period and looked at those who received high-quality intervention at an early age versus those who did not. There were massive increases in their employability, in their wages, in their taxes and in their contributions to society. There were massive reductions in their welfare recipient status and in their involvement in crime. For every dollar you put into those early childhood interventions you get $9 back, and a good number of those dollars are in the reduced costs of crime. It is not only sensible economic policy to put a dollar in and get a whole lot of dollars out in terms of a reduction in crime, it is obviously sensible social policy, because if crimes are not committed there is no impact on any potential victims.

I am proud to be part of a government that is not only tough on crime and has, I am pleased to say, support from all parties, but is tough on the causes of crime in ways that are not immediately obvious. When you talk about integrated children's centres you do not realise it but that is also a crime reduction strategy. It is actually one of the most potent and powerful strategies, which is why we have been pursuing that as a priority of this government and is why we have been pursuing it as a priority nationally through the national agenda.

That is what makes it such a crime that the Howard government got to the altar in terms of accepting that deal and then had Crosby Textor tell it that it was meant to be fighting with the states instead of working with them, and it walked away. It walked away from a program that would have seen massive increases in investment in early childhood development in this country and would therefore — I can absolutely guarantee it — have resulted in massive reductions in crime over the next 15 to 20 years. It walked away from that, and it is a disgrace. Whilst I commend it for what it did on guns 10 years ago, if it had worked on early childhood 10 years ago, we would have less need for those measures now.

Secondly, I want to support the provisions in relation to the interception of correspondence et cetera, which are known as the Julian Knight amendments. However, I do not want to focus on Mr Knight; he has had more than enough notoriety. These are obviously practical and important provisions. We sometimes get into a debate about the rights of criminals, victims and a whole range of people. There are a whole lot of rights debates about these things, and I accept that everybody in this society has rights. That is why we have a criminal justice system, why people have a right to representation and why we have an adversarial system. All those things are good, and it seems to me there is a hierarchy of rights involved here.

In a situation where there has been a criminal act the first priority is the rights of the victim and their family. The second priority is the rights of the rest of the community to prevent any further occurrence. The third set of rights are those that are necessary to ensure that law enforcement officials and others can prevent further occurrences. Fourth in the queue are the rights of the person who has committed those crimes to pursue their rehabilitation and hope to become a more productive member of society in future.

I think those rights are valuable, but they never usurp the rights of those further up the chain. This provision does precisely what is needed: it recognises that the first set of rights in that chain are the rights of the victim to not have the trauma re-perpetrated, brought on again, by unnecessary contact with people who have often demonstrated a complete lack of empathy and lack of moral context in their actions. They may be trying to satisfy their own development or self-improvement

needs in some way and may have real remorse. That is commendable, and I want us to do everything we can to support rehabilitation, but I do not believe they have a right to do that at the expense of people at the top of the chain — that is, the victims and their families. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — By leave, I move:

That the bill be now read a third time.

In so doing I thank honourable members for their contributions to what was a very important debate. In particular I thank members for their comments in relation to the rights of victims, which I think all members share. They were very important comments to be made in passing the legislation.

Motion agreed to.

Read third time.

FISHERIES AMENDMENT BILL

Second reading

Debate resumed from 20 September; motion of Hon. T. C. THEOPHANOUS (Minister for Industry and Trade).

Mr VOGELS (Western Victoria) — I rise to speak on the Fisheries Amendment Bill. While the Liberal Party is not opposing the bill, we have some concerns about it. The purpose of the bill is to prohibit commercial net fishing in Western Port, to provide up to $5 million worth compensation for those affected, to define certain recreational fishing equipment and to make a number of technical amendments to the Fisheries Act. The main purpose of the legislation is contained in clause 13, which inserts new section 153C into the Fisheries Act. New section 153C states:

(1) Despite anything to the contrary in this Act a holder of a Westernport/Port Phillip Bay Fishery Access Licence is not authorised to use any fishing net in Western Port on and from 1 December 2007.

(2) The holder of a Westernport/Port Phillip Bay Fishery Access Licence that is in force immediately before section 13 of the Fisheries Amendment Act 2007 comes into operation may be entitled to be paid an amount determined by the Treasurer and the Minister.

New section 153C(3) deals with the Charter of Human Rights and Responsibilities. It says:

(3) Despite any Act (other than the Charter of Human Rights and Responsibilities) or law to the contrary, the State of Victoria is not liable in any other way for any loss, damage or injury whatsoever resulting from or arising out of the restriction on the use of any fishing net in Western Port under subsection (1).

I have had a look at some of the Assembly debate on this very clause and I must say I share some of the concerns expressed there. I find it hard to accept that if you remove or cancel a fishing access licence by the stroke of a pen, you can then say, 'Even though we have a charter of human rights in place in Victoria, the state is not liable in any way for any loss, damage or injury whatsoever resulting or arising out of the restriction on any fishing net in Western Port'.

I understand that the Bracks government made a commitment prior to the November 2006 election that if it won, it would commit $5 million for a voluntary buyback of commercial net fisheries in Western Port and create a no-netting zone to improve saltwater recreational fishing. This was hard to argue against at the time because it was said so clearly that it was to be a voluntary buyback. There is no voluntary buyback in this bill we are debating today. Net fishermen in Western Port will have no rights from 1 December 2007. I believe that is the issue that The Nationals amendments will address. The Liberal opposition was contacted by the Port Phillip and Western Port Bay Professional Fishing Association, which was assisted by David Fitzpatrick of Fitzpatrick Teale, a law firm that specialises in fishing licence issues. It shares the belief that rights have been lost.

I would like to quote from the legal advice:

In relation to the Fisheries Amendment Bill 2007 ('the bill') and in particular division 4 dealing with cancellation of licences and restrictions on fishing, the association makes the following comments:

1. The bill needs to be looked at in light of the current entitlements of Port Phillip and Western Port bay licence-holders and in the background of the government's policy.

2. There are currently 48 licence-holders. Each of these licence-holders has the same licence. The entitlement of the licence … set out in regulation 225 of the Fisheries Regulations 1998, which states as follows:

   A Westernport/Port Phillip Bay Fishery Access Licence authorises the licence-holder —

to fish in Port Phillip and Western Port. Clearly the licence covers both bays. The advice goes on to say:

> The effect of clause 13 of the bill is to prohibit the use of any fishing net in Western Port bay on and from 1 December 2007. This means that the right authorised under the licence under regulation 225(a)(ii) is taken away.

The legal advice given to the fishermen is that they are losing a right, yet the Charter of Human Rights and Responsibilities says they are not. The advice goes on to say:

> The association objects in that its members are being deprived of property other than in accordance with proper principles of law when property or a proprietary right is taken away from a citizen.

In a letter of 28 March 2007, Dr Peter Appleford, the executive director of Fisheries Victoria, stated that the government will commit $5 million for a voluntary buyback as an alternative for affected licence-holders in line with previous buyback offers. However, as I have said before, there is nothing voluntary about this piece of legislation.

I had a look at the Rural Finance Corporation information booklet. I must thank the department and the adviser to the minister, Chris Devers over there, for making the document available before this bill was debated in the lower house, because it actually spells out how those fishermen were to be compensated. It is important that we look at what this draft recommendation says. Section 4, headed 'Eligibility to participate in the licence surrender package', covers two categories. Category 1 relates to those fishermen who have caught more than 30 per cent of their catch in Western Port over the last seven years. The compensation package will be granted to these commercial fishers. The fishers eligible for the 30 per cent seven-year package will receive a base payment of $230 000 and then five times their annual income based on tax returned or catch and effort submitted every month, whichever is the greatest. The second category of people who can apply for compensation are those fishers who have caught less than that, and they can apply to relocate to Port Phillip Bay and receive in compensation a lump sum of two times their annual income. That is the compensation package that has been made available.

The issue is: are the recreational fishers happy? The ones I have spoken to are not all happy, but they realise there was a government commitment before the last election that there would be a cessation of commercial netting in Western Port. As one of them put to me, 'Once the final siren has blown in a game of whatever you are playing, you might as well see what the score is and then come out with the best outcome, because otherwise you could fall in between the cracks and receive nothing'.

The Liberal Party will not be supporting The Nationals' amendments, because one of the concerns we have had expressed to us is that we all know that 1 December 2007, when this legislation kicks in, is about six weeks away. If the amendments get up in this house, they will obviously have to go back to the lower house and they could sit there and not be debated again before 1 December 2007. It means the fishermen could keep fishing, but their licences will run out on 31 March 2008. All the licences are then either renewed or not renewed. It is by the stroke of a pen — I suppose one would say 'without the stroke of a pen', because the pen does not have to strike — that those fishermen, the commercial netters, could find themselves with no access to Western Port and no compensation, which would be the worst of all outcomes.

I raised this issue with the minister during the adjournment debate on 21 June 2007, and it concerned the adjustment package associated with the closure of commercial netting in Western Port. The minister wrote back to me and said:

> I am aware that when consulted on this issue the seafood industry peak body, Seafood Industry Victoria, indicated their view that all licence-holders should be entitled to some compensation because they believe the government's policy will diminish the market value of all licences. I also note that Port Phillip and Western Port Bay Professional Fishermen's Association made an argument along similar lines in response to the issue.
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> The state government policy is that only licence-holders historically dependent on Western Port bay and directly impacted by the closure of commercial netting should be compensated. An appropriate adjustment package has been prepared which establishes the eligibility of those licence-holders and gives them priority access to compensation.

Because it was clearly enunciated before the state election that this would happen, we will not oppose the bill.

According to the Department of Primary Industries the catch in Western Port is about $270 000 of fish per annum. Even though that is not a large amount, it is an important quota of fish being caught. I am also led to believe that most of the fish is sold to locals and tourists.

The gross value of Victorian fisheries production in 2005-06 was $97.6 million according to the Australian Bureau of Agricultural and Resource Economics. With the shortest coastline of any Australian state, obviously Victoria has the smallest fishing industry. However, Victorian fisheries are renowned for their high-value species rather than tonnage, which is approximately 8000 tonnes annually. Of the approximately

$100 million gross value catch about half comes from abalone, which we all know is under serious threat due to the virus known as ganglioneuritis, which is of huge concern.

Earlier this year I gave notice of a motion expressing my concerns about this virus, and I do not think the government has done much about it. Now that the virus is out in the wild I know it is difficult to stop because of the flow of currents, but when I talk to the industry, and I do so regularly because it is in my area, its members tell me they believe the virus started around Port Fairy on an aquaculture farm. I suspect that is right, although it has never been proved. The virus is slowly spreading. When I put that information on the notice paper in February 2007, nine months ago, I raised the concern that it was then in the western zone and indicated that if it got into the central zone it would move right across the coastline of Victoria and could even spread to South Australia and Tasmania. The abalone virus has now hit the Bay of Islands and next in line is the Twelve Apostles marine park, which is a couple of kilometres further down the coastline.

Only last week the industry came up with a suggestion that a buffer zone be put in front of the area affected by the virus by harvesting a stretch of abalone. I do not know if the buffer zone would be 1 kilometre wide, 2 kilometres wide or even 5 kilometres wide, but it would stop the virus from spreading. I note that the executive director of Fisheries Victoria, Peter Appleford, said the plan needed more consideration but that it had some merit. It is interesting that Fisheries Victoria is saying that because up to now it has done very little. In fact the abalone divers and people from that area tell me the virus is not even being monitored but is going along its merry way. Hopefully some sense will come out of this and we can try to beat this virus. As I said before, it is half Victoria's value of the industry — about a $50 million catch. A lot of people work in the industry and the virus could wipe it out.

I am very concerned about the Melbourne Wholesale Fish Market. Victoria has a great fishing industry and not long ago I visited the fish market. I was invited to go down and see how fish are prepared and sold for market, and to look at everything that occurs there. I did not realise that about 500 people work at the wholesale fish market. It is a hive of activity. Before dawn every working day the fish turn up and are laid out according to their species and size. Buyers buy the fish for the people of Melbourne — the restaurants and the supermarkets. Anyone who wants to buy fish goes there.

We all eat fish, and I think it is a wonderful food. However, I am really concerned that the fish market will close within the next 12 to 18 months. The market has been told by Melbourne City Council that the state government is compulsorily acquiring the site; it says it is needed for the extension of the Melbourne Port Authority. The market has basically been told by the council that it has to be out of the site and where it goes is not the council's problem. I know the Minister for Agriculture in the other place has suggested the market could move to Epping. I have a letter dated 18 July from the minister which states in part:

> The state government had previously indicated to the fish traders a willingness to accommodate a fish market at the new fruit and vegetable market site at Epping if this option was desired.

I think that is very sad. The fish market should be in the central business district where the fish are bought by retailers, supermarkets, restaurants and the like. It can be a great tourist icon. That happens in Sydney and in many other cities around the world. To highlight this I refer to a statement by Rex Hunt:

> The fish market here really needs to be relocated and it needs to be made accessible to the public. The Sydney fish market is an absolute treat. If we could find the proper venue for our market, it would be as popular an attraction as the Shrine or the aquarium.

I agree with that. I think an excellent site for the fish market is at the South Wharf. The Liberal Party has said that if it were in government it would make sure land was made available in that area. I went for a drive down to the old South Wharf and found it is a wasteland. It is full of thistles and rubbish and is not being used. There are lots of areas along the Yarra under the Bolte Bridge where the fish market could be established — on the Yarra right in the city where it would be something very worthwhile. It is not good enough for the government to say it is not its responsibility or problem. I think it is. It is prepared to put tens of millions of dollars into a fruit and vegetable market at Epping; it should also be prepared to make sure there is a wholesale fish market in Melbourne that is in a spot where buyers and visitors can easily access it.

I would like to close by referring to recreational fishing. As we know, recreational fishing is one of Victoria's most popular pastimes. Approximately 500 000 people regularly fish our inland waterways, bays and marine waters. Victoria's anglers buy about 225 000 fishing licences a year and pay $22 per annum a licence for the privilege of throwing their line into the water. This raises about $5 million a year.

According to the Department of Primary Industries, recreational fishing is worth an estimated $400 million to Victoria's economy. The boating industry claims that recreational boating is worth $1.4 billion. I do not dispute any of these figures, being a part owner of a half-cabin cruiser. Not that I do much fishing now, but I know that if you want to go fishing you need a four-wheel drive, a big boat — it has to be bigger than the rest in the bay — a fishing rod and line and tackle when you do get there. By the time you have filled up your boat with petrol and your four-wheel drive with fuel and have bought bait and rods — your kids always want a newer and bigger Jarvis Walker fishing rod — it costs a lot of money. You usually catch very few fish, and the ones you do catch you throw back because they are not really edible. The last few times I was in Western Port, the elephant fish were on the bite, but no-one wanted to eat them so they were all thrown back.

Fishing is also a pastime that can be enjoyed very cheaply by many families. When I was growing up we used to melt down batteries to make our own sinkers, and before we left we would go into the garden and dig up some worms. We did not have a boat; we used to tie a 44-gallon drum onto a bit of wood and float out into the middle of the dam. We had a lot of fun and caught quite a few fish. It was a very good and cheap pastime. I think that many Victorian families still do it that way, so we need to look after our recreational fishermen. It is a very important industry. I have been in contact with VRFish, Futurefish and other organisations. They are very supportive of recreational fishing, and they support taking netting out of some of our bays and estuaries. I also understand that we cannot continue to kick commercial fishermen out of fishing areas. As I said before, I love eating fish but do not catch many, so I need someone out there catching them so that I can buy them at a shop, at a fish market or wherever. We need both forms of fishing.

As I said, members of the opposition are not opposing the bill. We did have some concerns about it, but we will not oppose it after talking and listening carefully to recreational fishers, the fishing bodies or organisations and the commercial netters who will be affected. I know one or two are very unhappy, but the majority have accepted that it was a government commitment before the election. They will be paid out, and they seem happy enough with the payout, so we do not oppose the bill.

Mr BARBER (Northern Metropolitan) — I am also a keen fisherman, but to wax too lyrical about those sorts of issues would be to get away from what is really a very simple point here — that is, that the government has made a decision. From what we can find out the only choices are to be paid out or not be paid out, and either way the government will go ahead. We have carried out some consultations with affected persons, we have got deep into the issues and we have obviously looked at the current act. The government does not appear to be offering any alternatives.

I am aware that Mr Hall has some amendments, which he has been kind enough to circulate in advance. I appreciate what he is trying to do by proposing those amendments. However I do not believe they will get us out of the basic conundrum, which is that you will either be bought out with compensation or simply be pushed out. I do not think that we will support those amendments, but I will listen to his contribution and in the final event the Greens will be supporting the bill in any case.

Mr SCHEFFER (Eastern Victoria) — I rise to speak in support of the Fisheries Amendment Bill. The bill has three broad purposes. The first is to prohibit commercial net fishing in Western Port. Secondly, the bill offers a range of definitions relating to recreational fishing equipment. The bill also contains a range of other miscellaneous changes to the principal act. They involve the clarification of offences that relate to commercial aquaculture, the power to prescribe levies on the basis of areas that are specified in the bill for licences and some changes to the powers to make regulations that cover the sale of certain species of fish. The bill puts into effect an election commitment that Labor made in the November 2006 election campaign under the title 'Recreational fishing and boating policy'. Basically that ALP policy committed a re-elected government to removing commercial netting in Western Port and to giving Victorians and visitors to Victoria more opportunities for recreational fishing in Western Port.

Commercial fishing operators have licences that permit them to use nets and most who have those licences operate in Port Phillip Bay, where commercial net fishing will continue to be permitted. The policy change is not based on issues relating to the sustainability of fish stocks in Western Port; it is a policy direction based on resource allocation. Basically what this means is that the government's aim is to give recreational fishers a better go in Western Port. The way to do that is to withdraw commercial net fishing licences in that area. As I said, commercial net fishing will continue in Port Phillip Bay. It will also continue in the Gippsland Lakes and at Corner Inlet. Besides that of course people who run commercial fishing operations will be able to fish in the oceans and those other areas where the state has control over licences.

The competing claims of recreational and commercial fishing are a resource issue, not a sustainability issue. I understand that the commercial fresh fish supply from Western Port amounts to about 4 per cent of the total state-managed commercial fish production and about 5 per cent of the dollar value, so at a statewide level the impact of the restrictions introduced by the bill will not be great. But the downside of this is that towns such as Hastings and Tooradin will lose their fresh fish supply businesses. I understand that removing net fishing licences in Western Port will potentially affect a maximum of 48 licence-holders, who, as I said earlier, have licences that permit them to fish in both areas. About 40 of those 48 licence-holders take less than 30 per cent of their catch from Western Port.

For those operators who use their licences to fish in Western Port, the government has allocated what I consider to be a very generous payment. The total adjustment package is worth about $5 million and that will compensate those operators who currently hold licences. There are a few options. The government can buy back the licences, if that suits the licence-holders, or it can provide assistance packages where the licence-holders want to move out of Western Port and relocate the substantial part of their business in Port Phillip Bay. Commercial operators who wish to leave the industry altogether are also eligible for a $5000 retraining allowance.

The purpose of winding down commercial net fishing in Western Port is to enhance the opportunities for recreational fishing. Clause 13, which inserts proposed section 153C, sets this out in some detail, and I will summarise it. Firstly, the licences will be restricted to Port Phillip Bay. Secondly, the licence-holders will be entitled to compensation. They are the two main points in proposed section 153C.

The prohibition on commercial net fishing in Western Port will take effect from 1 December this year and the Rural Finance Corporation is taking management responsibility for the implementation of the adjustment package processes. Overall the prohibition of commercial net fishing is supported by recreational fishers and their peak organisations such as the Victorian recreational fishing peak body, VRFish, but as we have heard it has been criticised by some of the commercial operators. That would be expected.

The government believes that the adjustment package is fair. As I said earlier, the amendments give effect to the government policy to do this. This is good legislation, it is a good policy decision, and I think it will be of benefit to recreational fishers throughout Victoria. I commend the bill to the house.

Mr HALL (Eastern Victoria) — I am extremely disappointed that it seems that most people in the chamber this afternoon will meekly acquiesce to a government decision to ban netting in Western Port. Right from the outset I will say that that is not the case with us in The Nationals. We will go down fighting on this issue, if we go down, because it is a serious issue which the government has absolutely no credibility on. As I said, we will not go down without a fight. I will come to that in a couple of minutes when I go to the relevant sections. I want to move some amendments and make extensive comment on this bill.

I should start by outlining some of the things the bill does before moving to the substantial points. The Fisheries Amendment Bill amends the Fisheries Act of 1995 in a number of ways, including amending the definitions of 'commercial fishing equipment' and 'recreational fishing equipment'. It also inserts a new definition of 'stock'. The bill makes amendments throughout the act consequential to those changes in the definitions. It also increases the range of activities that can be undertaken by permit and licence-holders by way of authorisation by the secretary of the department. It makes amendments relating to aquaculture licences; they are contained in clauses 6 and 10.

Finally, the bill bans commercial net fishing in Western Port. This is a substantial issue of debate in this bill. It is an issue that the minister in the second-reading speech concentrated the majority of his comments on, and it seemed to be the main focus of the contributions of earlier speakers in this debate. It will be the main focus of my contribution, but I also want to make some comments about the abalone industry here in Victoria, because there are some matters relating to abalone in this Fisheries Amendment Bill and the state of the industry warrants some comment, as outlined by Mr Vogels in his contribution.

I want to go to the substantial issue in this amendment bill — that is, the ban on netting in Western Port. The first question I want to ask — and I challenge government members to respond to this — is: why ban netting in Western Port? What are the reasons for doing so? What is the science that supports a ban on netting in Western Port? Is it being done for reasons of resource management? The answer to that last question was helpfully provided for me by my colleague Mr Scheffer who, in his contribution just prior to mine, said that this is not a resource management decision and has nothing to do with fish resources in Western Port.

Mr Scheffer — I said it was not a sustainability. issue.

Mr HALL — It was not a sustainability issue. Let us make sure the issue — —

Mr Scheffer — It is a resource allocation issue.

Mr HALL — A resource allocation issue. I will go to the resources and give the house some figures on that. Fundamental to The Nationals' philosophy on all these issues is that resource management should be supported by sound scientific evidence. That is the fundamental philosophy that we have adopted.

Yesterday in question time I listened to the Minister for Environment and Climate Change tell the house how important the scientific basis for decisions regarding the river red gum forest investigation area was going to be. He said it was important that there be a scientific base for that decision. I say that that principle should apply to all resource management issues. Whether they be on fish resources, as in this bill, or whether they be on timber, mining or land-use resources, those decisions should be supported by sound, scientific evidence. If we just resort to making political and ideological decisions, we will be in real trouble in this state and our resources will be very poorly managed and depleted in the long term.

I am searching for some scientific evidence for why commercial netting in Western Port is being removed. The first area I look to is the minister's second-reading speech to see what reasons are given by the government for removing commercial fishing in Western Port. The only reference in a fairly short second-reading speech is:

> The proposed bill will give effect to a key initiative in the government's 2006 recreational fishing and boating policy statement.

That is the reason — because it was in the ALP's 2006 election policy statement. Let us go a bit further and look at that statement. Perhaps there is some science supporting this decision there. The document called *Policy for the 2006 Victorian Election*, under the heading 'Recreational fishing and boating', says:

> All commercial netting in Western Port will be banned, improving opportunities for saltwater recreational fishing. The no netting zone will create even greater opportunities for anglers to enjoy fishing for whiting, snapper and other species.

I ask the house, again by way of question and challenge: is commercial fishing draining the fish resources in Western Port in particular?

Mr Guy — No, it is not.

Mr HALL — Let me go to some further figures to see whether there has been an impact from commercial fishing on Western Port. I refer to a document, again produced by the government — by the Department of Primary Industries — entitled *Fisheries Victoria Commercial Fish Production Information Bulletin*, published in November 2006. The annual document published by the Department of Primary Industries is very useful in looking at fish resources across the state. On page 8 you can see — I particularly refer to the species mentioned in the policy document of the ALP for the 2006 election — the figures for snapper and whiting. King George whiting is a very popular species in Western Port.

The figures show the actual take of whiting from Western Port over the last six years since the current government was elected — from 1999–2000 through to the last year of this report, 2005–06. In 1999–2000 the take was 12 tonnes of King George whiting and currently it is 11 tonnes. If you look at the figures throughout you can see that they have been very consistent over that period of time. In 1999–2000 the total catch out of Western Port was 62 tonnes; it is now 56 tonnes. There has been very little variation. Yes, the figures vary from year to year, but over that period there has been very little variation. You can compare that to, for example, Port Phillip Bay for the same period. The commercial catch out of Port Phillip Bay has halved over that period, whereas for Western Port it has remained relatively stable.

All right, the government admits this is not a resource management decision. So let us make sure that that is very clearly on the record. It is purely a political decision; it is — —

Mr Scheffer — It is not a sustainability issue.

Mr HALL — It is not a sustainability issue when you look at the figures for over the last six years. They are consistent; they are sustainable figures. The commercial catch out of Western Port over the last six years has remained stable. It has not had any impact on the sustainability of that fishery in Western Port. If the government was really serious about fishing sustainability in Victorian waters it would look at Port Phillip Bay and would ban commercial netting there, because it can be seen that the drop in the Port Phillip Bay commercial take has dropped far more significantly; it has halved over the last six years.

Why are these figures so important? They are important because, as Peter Appleford, the executive director of Fisheries Victoria, in a letter dated 23 August 2007 to all access fishery licence-holders, says:

> Catch and effort data submitted by the licence/permit holder is a critical source of information on the health of the fishery and provides a basic indicator on the relative abundance of key target species in the fishery. This information is essential for the sustainable management of the fishery in line with the objectives of the Fisheries Act 1995.

I make the claim to the house that the catch and effort figures I have just quoted from the publication by the department show that the fish take from Western Port is indeed sustainable; it has not varied significantly in the last six years.

I also want to go to some comments made by the Fisheries Co-Management Council, again a body established by the government. I might add that it is a very good body, and we supported its establishment. It looks at a whole range of issues including species analysis, how well our snapper and our whiting are doing and how well our various fisheries are doing across the state of Victoria. The minister in his second-reading speech commented that:

> The Port Phillip Bay snapper fishery is currently booming and is recognised as Australia's best snapper fishery. King George whiting are also abundant, as are calamari, garfish and gummy sharks.

The industry, particularly the snapper fishery and the others mentioned in the minister's speech, are booming in Port Phillip Bay. I looked at page 29 of the Fisheries Co-Management Council 2005–06 annual report to see whether it concurs with the view expressed by the minister, and indeed it does. I will read from page 29:

> In the past few years anecdotal information suggests that anglers in Port Phillip Bay and Western Port bay have experienced the best snapper fishing for decades.

It goes on to say:

> … the estimated total recreational snapper catch taken from Victorian waters was about 475 000 fish that weighed 330 tonnes. In 2000–01 the total reported Victorian catch was 74 tonnes.

I repeat, the total commercial catch was 74 tonnes, as opposed to 330 tonnes in an estimated recreational take. If the fisheries are booming in Western Port, as stated by the co-management council, and if the commercial catch is only about a quarter of that taken by recreational fishers, I again make the claim that the removal of commercial netting from Western Port would have no significant impact on fish resources or resource management in Western Port, supporting my claim that this is ideological, philosophical and political opportunism at its best. It is certainly not based on any scientific evidence.

Hon. T. C. Theophanous — Neither are yours.

Mr HALL — My claims are from documents published by the Department of Primary Industries, the department that the Minister for Industry and Trade, who is the minister at the table, is representing, and from the director of fisheries and the Fisheries Co-Management Council established by his government. They are the sources I am quoting from.

As I mentioned earlier, in his speech the minister also said:

> King George whiting are also abundant, as are calamari, garfish and gummy sharks.

I therefore look at King George whiting, the second most common species caught in the Port Phillip Bay and Western Port catchments. The annual report of the co-management council says about King George whiting that:

> This catch was predominantly taken in Port Phillip Bay … (56 per cent) and Corner Inlet … (34 per cent).

Western Port and the Gippsland Lakes provided a small amount of King George whiting, but 90 per cent of it was not taken from Western Port; it was taken from Port Phillip Bay and also Corner Inlet.

The report also says:

> Most of the recreational catch of King George whiting is taken in Port Phillip Bay (45 per cent), Western Port bay (30 per cent) …

There is very little, if any, King George whiting taken from Western Port commercially, but a significant amount of the total recreational catch of King George whiting — 30 per cent — is taken from Western Port. Again, the ban on netting in Western Port for the King George whiting species will have no significant impact because there is very little netting of King George whiting in Port Phillip Bay.

The co-management council report goes on to say that:

> Recreational fishery monitoring based on creel surveys of boat anglers in Western Port bay over the past eight years shows that the retained catch rates of King George whiting have more than doubled since 2001–02 …

I think recreational fishers are getting a fair share of their allocation of the resources, and that is what Mr Scheffer says we are talking about. They have doubled since 2001–02.

I look to all those documents in the absence of any published specific information from the department or the government to support its decision to ban netting. I have come to the conclusion, which has been confirmed by Mr Scheffer today, that there is no scientific reason

to ban commercial netting in Port Phillip Bay. The only reason I can think of is that it was seen to be politically popular at the time of the 2006 election. If we are going to manage resources in this state based on what is popular and what is not popular, it is a pretty sad reflection on an irresponsible government.

The other consideration in all of this is the impact on all of those Victorians who do not fish recreationally. I accept what the minister has clearly said about there being 500 000 people who at some time throughout the year purchase a recreational fishing licence. I suspect that not all of them fish constantly throughout the year. I suspect that many of them fish for a day or two during the Christmas holiday period or for week or two when they go down to Lakes Entrance or Warrnambool or somewhere else for their annual holidays, and that very few Victorians have the chance to catch fish for their table. The vast majority of us go to a local restaurant and enjoy a feed of fish. We go to a local fish and chip shop to enjoy a feed of fish. We go to a local fish retail outlet to purchase our fish. Fish is also important for our diets. All the experts maintain that we need to have balance in our diet and fish is good for us.

One of the great attractions of going to a coastal area of Victoria is to sample local product. Who would not go to Lakes Entrance and buy fish and chips? Who would not go to Welshpool on Corner Inlet and buy fish and chips? The attraction of travelling to Mr Kavanagh's electorate and down to Lorne or Apollo Bay or Warrnambool is that you can purchase local product. That is the attraction. It is the same with restaurants along the Mornington Peninsula, the Bellarine Peninsula and all along the coastal areas. You go there and look for local product on the menu.

In places like Mallacoota, for example, where the government compulsorily closed down commercial netting, there is no local product available for purchase. I make the claim that once we close commercial netting in Western Port you will not be able to go to places like San Remo, Cowes, Hastings, Flinders or any of the other communities around the coastal areas of Western Port and purchase locally caught product. It simply will not be available. There will be an impact on businesses such as those in the restaurant and hospitality industry. The tourism industry will also suffer because of the lack of opportunity to supply fresh food and attract people.

Moreover, the alarming thing is what will happen if this trend continues. It was only a little over 12 months ago that we saw a compulsory closure of commercial fishing in Lake Tyers in Gippsland and also at Mallacoota Inlet. Now we are seeing it being closed in Western Port bay. What will be next? There are only three major bay and inlet fisheries left in Victoria — that is, the Gippsland Lakes, where there are 20 licence-holders, in Corner Inlet, where there are about 21 licence-holders, if my memory is correct, and Port Phillip Bay, where there are currently 48, at least 6 or 7 of which are accepting a buyback because of the imposed closure of the Western Port bay fishery. What is the future going to be for commercial — —

Hon. T. C. Theophanous — Do you ever go fishing yourself?

Mr HALL — No, I do not. I have not been fishing since I was a kid. I rely on the commercial fishers — —

Hon. T. C. Theophanous — Then why do you want to stop everybody else going?

Mr HALL — I am not stopping everybody else going, not at all. I have been a strong supporter of recreational fishers around this state. My record is very clear that I am happy to support them. All I am saying is that there needs to be some sort of balance in the whole thing. Clearly this is not a war between recreational and commercial fishers. The two can happily coexist, and so they should. Commercial fishers throughout this state have taken a responsible attitude to ensuring that there is a good relationship between recreational and commercial fishers. I will give you two examples. The fishermen down at Corner Inlet — the 21 of them who hold licences there — have a self-imposed quota system to ensure that their fishery is sustainable. You can look back over 20 years in the catch-effort document I spoke about before and you will see that the catch out of Corner Inlet has not varied over that whole 20-year period, and nor do the holders of the licences allow it to vary. They manage it on a voluntary basis to make sure it is sustainable.

Another example of recreational and commercial fishers working together is in the Gippsland Lakes system. The licence-holders in the Gippsland Lakes have a moratorium on commercial fishing on weekends and also during school holiday periods. Why? It is because that is when people go out and fish recreationally. That is a discipline that the fishers down on the Gippsland Lakes have imposed upon themselves to ensure there is harmony between recreational and commercial fishers. Things can work together. There does not have to be the exclusion of one or the other. The whole basis of the argument I am putting forward today is that fishers of Western Port can coexist as well — that is, there is room for recreational fishers and there is room for commercial fishers in Western Port bay.

I therefore come to the amendments that I have indicated I will move for consideration during the committee stage later this afternoon. I am happy for my amendments to be circulated at this point.

The Nationals amendments circulated by Mr HALL (Eastern Victoria) pursuant to standing orders.

Mr HALL — My amendments seek to address the issue of commercial netting in Western Port bay and for bans to be on a voluntary rather than a compulsory basis. We are saying that current licence-holders who have a catch effort in Western Port bay should be allowed to either accept the terms of the government adjustment and compensation package or choose to continue to fish in Western Port bay. We have added a few restrictions to that. We suggest that the purpose of commercial fishing in Western Port bay should be directed to local markets— that is, the local retail outlets for fish — to ensure that the towns and retail outlets around the coastal area of Western Port bay are not disadvantaged.

I sat down with parliamentary counsel on Monday this week and argued about the best way of doing this by way of legislation. It is a difficult issue. How do you define local consumption? If you look at a *Melway* map, you can pretty well put a ring round Western Port bay and those areas that are likely to be supplied by resources from it. Perhaps by way of further clarification we could actually define what is local consumption and what we mean by the local area.

People will probably argue about the terminology used in the amendments I am proposing, but at least they go to addressing the principle of the issue, and it is the best way that parliamentary counsel and I could come up with to implement the intent of the legislation — that is, to allow those who choose to net in Western Port bay to do so purely for the purpose of the provision of local retail outlets. Further, the amendments are designed so that the netting rights for Western Port bay would not be transferable — that is, they could not be on-sold to anybody else. When the current holders retire from the industry, the right to net in Western Port bay could not be transferred to anybody else.

I want to particularly draw the house's attention to amendment 3, which inserts a new subsection (4) in section 153C. It says:

> (4) Subsection (2) does not affect the amount that a licence holder referred to in that subsection may be entitled to be paid under subsection (3).

Clearly that imposes the voluntary nature of my proposal on all of this. If somebody wants to accept one of the compensation packages that the government has on the table through its documentation, then they will have the right to accept it. But if they wish to turn their back on that and continue to pursue a livelihood by netting in Western Port bay, then they will have that option by way of the first amendment I will propose. It is a compromise position. In the lower house debate on this legislation The Nationals opposed the bill. If the government and the house are prepared to accept the amendments, then we will not oppose the bill. If not, then we will continue to oppose it, because we fear for the future of the fishing industry here in Victoria. I think we need to make a stand on poor resource management decisions being based on political popularity rather than the science on which they should rightfully be based.

Having dealt with those amendments, I want to leave my contribution on Western Port at that point, and I want to make some comments on abalone before I sit down. In respect to abalone most people will be well aware that the abalone industry in Victoria is currently under attack from abalone viral ganglioneuritis, commonly called AVG, and I will use that acronym. This virus was first detected in December 2005, and following its detection there was a bit of a blame game. I think that blame game as to the source of the virus and as to the response by government and others to its first detection continues. Putting aside the blame game issue, the fact is that nearly two years on the virus is still spreading, and as you indicated in your contribution, Acting President, the virus has spread significantly. I am told that it is now 15 kilometres away from the Twelve Apostles Marine National Park and 5 kilometres away from the Discovery Bay Marine National Park.

The big question to be asked and answered is: what efforts are being made by the department to arrest the spread of the virus? What monitoring of the spread of the virus is being undertaken by the department? I am told that the government is not actively involved in any monitoring of the spread of the virus, instead purely relying on anecdotal evidence from commercial divers to tell it where the virus is and is not evident. I am also told that there is no scientific research into recovery following the virus or any research being undertaken into the spread of the virus at the moment.

This is a serious problem because the abalone industry in Victoria is worth anywhere between $50 million and $60 million a year. Again, those are figures from the catch output efforts quoted by the department. It is too significant an industry for us to just turn our backs on it and hope the virus will go away by itself. It will not, and as you said in your own contribution, Acting

President, potentially this could spread throughout Victorian coastal waters into the central zone and perhaps into the eastern zone of Victoria and beyond to South Australia and perhaps across Bass Strait to Tasmania. That would be an absolute disaster, because the abalone industry in Victoria is the most efficient and well-managed fishing industry that we have. It is strictly run by quotas and well monitored throughout. We cannot afford to lose such an industry. We need to make the effort to ensure that the virus is arrested and research is undertaken to assist with the recovery following the advent of that virus. I call on the government to pick up its game with respect to that particular matter. I have said enough on that issue.

As I said, we are not going down without a decent fight on this bill, and we will push the fact of the ban on commercial netting in Western Port to the end. I think any resource management decision must be based on science. This is too important an industry to rely on pure political opportunism. That is what the Australian Labor Party engaged in prior to the 2006 election. It is continuing to do it now, and I think that is very irresponsible government. We will put our amendments, and if the government is prepared to support them, we will support the bill. If it does not, we will have no choice but to oppose it.

Mr KAVANAGH (Western Victoria) — I was recently visited in my electorate office by a small delegation of fishermen from Western Port, and I guess some other members were similarly visited. The fishermen are obviously hardworking, salt-of-the-earth, honest people who are very concerned about losing their livelihoods. They are going to lose their livelihoods because of the ban on net fishing in Western Port. What is the reason for this? As Mr Hall asked: why put people out of business? As Mr Scheffer admitted, this is not a sustainability issue. There is no problem of the fish stocks running low or running out. The government says it is to enhance recreational opportunities. However, as Mr Hall has very persuasively shown, there is no conflict between commercial fishing and recreational fishing in Western Port.

There are, however, good reasons against wiping out this part of an industry. Mr Hall referred to the damage to tourism in many of the towns and coastal communities around Victoria. Indeed in terms of environmental damage per fish, there will be a lot more environmental damage done through recreational fishing than through commercial fishing. Just considering, for example, the amount of oil spillage into Western Port, it is likely to be a lot higher with far more boats catching far fewer fish each than in the case of a few commercial boats catching much larger numbers of fish.

It seems to me, and I am not an economist, that a government should be about encouraging production and encouraging development and the creation of wealth. In this case what the government is doing is not only not encouraging the creation of wealth, it has decided, just through one act of Parliament, to destroy 5 per cent of our fishing industry. What are the consequences? We should consider that, because although Australia is a prosperous and wealthy country and the economy is going well, one of the biggest challenges to us economically is our balance of trade. What will this do to our balance of trade? It will make it worse. Why? Because instead of those fish coming from Western Port in the future they will come from Vietnam or similar places. Some of the places that the fish will come from may not have the same health standards that we enjoy in Australia.

It seems to me that the reasons in favour of this bill are not about fish at all but about the number of fishers — that is, there are far more people who fish recreationally than who fish professionally. It seems that the voting implications of that are the real rationale for this bill. I doubt very much whether the bill is in the interests of Victoria, and I will support The Nationals' amendments to ensure that any loss of licence is voluntary and compensated for.

Mr GUY (Northern Metropolitan) — It is a pleasure for me to rise to speak on the Fisheries Amendment Bill and to remind the house that the Liberal Party will not be opposing it. I thank all the speakers, particularly on my side of the house, who have participated by providing quite a bit of information to me and to my colleagues on this bill, particularly Mr Vogels, as well as the members for South-West Coast and Bass in the other place. I listened with interest to Mr Hall's contribution, which was very factual and made some exceptionally good points. He made some points which I thought were exceptionally valid.

The purpose of the bill is threefold. It is to prohibit commercial net fishing in Western Port and provide around $5 million of compensation for those who will be affected; to define certain recreational fishing equipment; and to make other technical amendments. But in doing so, and in speaking to this bill, I could not help but look at the second-reading speech made by Mr Theophanous, who has very graciously decided to enter the chamber and who will no doubt provide plenty of feedback to members on this bill via many interjections, which he is very good at. I could not help reading his speech and taking a couple of points out of

it. In particular I noted that Mr Theophanous was keen to talk up the government's vision for developing Victoria's recreational fishing resources and, of course, both he and his government are keen to promote what is deemed family-friendly fishing and encourage increased participation in fishing, which I do not think anyone would disagree with. In fact, I think a lot of the speakers, myself included, have declared themselves to be people who have an interest in fishing or who have certainly been fishing before — —

Mrs Coote interjected.

Mr GUY — Mrs Coote, I do not have the patience that many other fishers have, but I have been out in a tinnie plenty of times.

It is worthwhile to note that when the term 'tinnie' was used in the other house the Labor member for Preston thought it referred to cans of beer, but as most people know, a tinnie is a small aluminium boat.

Putting that aside, I was talking about the minister's second-reading speech, and it is worthwhile to note that this bill is designed to enhance recreational fishing opportunities and encourage participation in Western Port fishing following the removal of commercial netting. That is one of the Labor Party's principal points for introducing this bill. What is the Labor Party doing to help with the encouragement of fishing in Western Port? What is the government doing to help? On Saturday I went with Mr O'Donohue; the member for Hastings in the other place, Mr Burgess; and Mr Scheffer, who was in the chamber before, to a rally at Crib Point, which is on Western Port. Western Port has 260 kilometres of coastline, and we went down there to see what was concerning the people of Crib Point. They are very concerned about a Boral bitumen storage and transport facility that is being built right on the foreshore of Western Port.

The government is saying it has to remove the rights of people who have access to commercial netting there because it wants to encourage recreational fishing and open up Western Port as an ecologically sustainable park for fishers because the 60 tonnes, I think Mr Hall said, that were being taken out of the bay annually were somehow unsustainable, but instead it is going to put on the edge of Western Port a bitumen facility. That is right — the government is considering building a bitumen facility at the port of Hastings. Credit goes to Mr Scheffer, who had the courage to turn up.

Mr Thornley interjected.

Mr GUY — Did Mr Thornley go? Did he have the courage to turn up? He is happy to interject, but did he turn up? No, he was not there. They invited all the members of Parliament, but was he there? He did not turn up. Was the Minister for Planning there? He was invited. Did he turn up? Minister Madden, as we know, does not turn up to debates on housing affordability in this chamber. He did not even turn up to his own party's housing affordability summit in Canberra. He was probably at home reading the supplementary environment effects statement that he could not find an answer for today, struggling over whether it was going to get a tick or a cross; he had so much reading to do on the weekend. He was not there either.

The government is now considering building this facility on its land at the edge of Western Port, which land it says is going to be an ecologically sustainable park after the passage of this bill, or solely because of it. It is very interesting to consider another election promise that this government made to people in Western Port, and I would like to read from a letter that is very relevant to this bill, and it is very relevant to the people who are affected by it, and particularly those at Crib Point. It is dated 22 November 2006 and signed by Ms Rosy Buchanan, who was the state member for Hastings at that stage. I am going to read a line from this letter which Ms Buchanan sent out to all constituents in her then electorate of Hastings:

> … the Bracks government has already said NO to a bitumen plant in Crib Point.

That is in bold and the 'no' is in capitals.

Mr Finn interjected.

Mr GUY — Mr Finn raises a very good point about tolls. What is very interesting is that on my way from the northern suburbs down to the rally at Crib Point to hear the concerns — —

Mr Thornley — On a point of order, Acting President, I confess I am struggling a little bit to understand the relevance of a discussion about a bitumen plant to the bill, and I am wondering if you will direct the member to return his remarks to the bill at hand.

The ACTING PRESIDENT (Mr Vogels) — Order! I ask the member to return to the bill.

Mr GUY — Certainly, Acting President. I know this is very difficult for the member for Southern Metropolitan Region to comprehend. He certainly does not understand the importance of the issues around Western Port. Maybe he should stop spending time checking quotes and spend more time checking the issues of local people around Western Port, such as this

bill and what this bill will do in terms of impacting upon people in Crib Point. As I was saying in relation to Western Port bay and this bill, I drove down the Monash Freeway past a great big park. It was not a park as mentioned in this bill but Waverley Park, which was going to be saved for AFL football — a promise broken. I then went along what was going to be the Scoresby freeway, but that will have a toll — another broken promise. On my way down to Western Port bay — —

Mr Finn — That was in writing, too.

Mr GUY — It was in writing, indeed, just like the promises here. On my way down to Western Port to look at fishing I passed through Cranbourne and went over the railway line there. As members would be aware, there was a promise — broken by this government — that it would extend the metropolitan railway line, and contained in this bill are a number of promises that were made by the government at the last election. To get down to Western Port to examine issues that affect the people of Western Port you go through a number of areas which represent broken promises for the government. It is worthwhile remembering, as I said at the very start, that while we talk about the Fisheries Amendment Bill today we have to remember the context in which the promises were made to the people in that area and the promises made to the people whose livelihoods will be revoked as a result of this bill.

The human rights charter is attached to the front of every second-reading speech, and I actually decided to read the one attached to the Fisheries Amendment Bill. I noted that Labor's Charter of Human Rights and Responsibilities was brought in by this government. Section 20 says that a person must not be deprived of his or her property other than in accordance with law. Labor has this charter to guarantee property rights, but I am guessing that does not apply to the rights of these people to commercial fishing. What are property rights? What are people's rights under the law if it involves votes for the Labor Party? Do not stand between the Labor Party and a camera or the Labor Party doing over somebody's livelihood, if it means obtaining one or two votes. The truth is that the charter of human rights — a compatibility statement is attached to the front of this bill — means absolutely nothing. It is a joke. It can be overridden at the whim of the government of the day. The second-reading speech refers to it at a number of points, but I would simply say it means nothing and that it should be treated with the disdain it deserves.

The government also made a commitment at the 2006 election to set up a compensation fund of $5 million for respective stakeholders. I think other members have talked about that at some length, so I will not go over it. As we know, 48 licences are affected, and there are eight licence-holders who have caught more than 30 per cent of their total value out of Western Port over the last seven years. Those people will be compensated, but there is no mention of the word 'compensation' in the bill, though it is mentioned in the second-reading speech. We have been given another 'trust us' statement by this government. It said, 'Trust us. We will save Waverley Park for footy. Trust us. We will not build a bitumen facility on the edge of Western Port at Crib Point'. In this bill we have another 'trust us' statement from the government that there will be compensation, but we are yet to see whether or not this promise will be kept. I guess it comes down to what happens at South Morang, Scoresby, Cranbourne East and in respect of a range of other issues as to whether or not this government can be kept to its word, but the Liberal Party is happy to recognise that.

The point about a voluntary buyback also raises some concerns. People must ask themselves what kind of voluntary buyback there will be once this legislation passes, because once the legislation passes there will be no commercial fishermen left in Western Port. If the bill passes and the law changes to say no commercial fisherman will be able to be in Western Port, of course there will not be a voluntary buyback, there will be a compulsory buyout.

I think it is all about spin. The government needs to recognise that if we are going to do things, we need them to be done properly. I simply say that while we have a number of concerns with this bill, we are certainly happy to listen to the views of commercial fishermen, of anglers and of other bodies. We accept that the bill does have some outcomes which are accepted by some in the community, such as those who are engaged in commercial fishing, and which they are willing to accommodate. In fairness the government went to the election announcing this policy, although it certainly did not announce the others I mentioned before, and it is the Liberal Party's view that we will not oppose the legislation, despite the unanswered concerns I have raised.

Finally, that the Liberal Party remains concerned about the one point that the government has not addressed — that is, a proposed bitumen facility at Crib Point.

Honourable members interjecting.

Mr GUY — I want it in the *Hansard* record, which is why I raised it, that there is laughter from the Australian Labor Party members who think that issue

does not matter to the people around Western Port. Obviously their points of view do not matter. Mr Scheffer was there, and I note that he did not laugh. Mr Thornley has probably never been down to Western Port unless it was in a plane flying somewhere else. The fact that he laughed should be recorded.

Mr Thornley interjected.

Mr GUY — He may not have been at Crib Point on Saturday to record the anger of many local people who expressed that anger to Mr Scheffer. Before laughing at the concerns of local people, maybe members of the Australian Labor Party could actually take those concerns on board.

Mr THORNLEY (Southern Metropolitan) — Unlike the previous speaker I rise to support the bill, so I thought I might speak in favour of it. Mr Kavanagh raised an important point in supporting the amendments Mr Hall has circulated. He essentially said that this is not so much about the fish but about the people doing the fishing. I think he is right. Last time I checked, I reckoned it was not a bad thing for this Parliament to make laws that are the sort of things a lot of people would like to see happen. That is what this bill is. It is not a complicated question. There are, as they say, only so many fish in the sea. The point of this bill is to make sure that we have a really outstanding quality recreational fishing facility in Western Port bay. Apparently it is a really bad thing that a lot of people want that. I think it is a good thing, and I think it is a good thing that this government is providing it for them. I think it is a good thing that the Liberal Party will vote in favour of it, even if its members are speaking against it. I would have preferred they had been honest, but such is life.

Mr Hall paraded a lot of figures, and I commend him on doing a fair bit of homework on this. However, the flaw in his argument is that essentially he was arguing that the commercial fishing in the bay has collected about the same amount of fish every year and therefore there has been no diminution of the resource. The problem with that is that it is true from a commercial fishing point of view. The commercial fishers should be commended for fishing in a sustainable way, for fishing in a way that has enabled them to take a similar amount of fish out of the bay each year and not diminish or ruin the resource and their livelihoods.

However, that does not alter the fact that those of us who do go out fishing a fair bit, particularly with our kids — I have actually been out fishing with my kids quite a few times recently when I have not been doing the things Mr Koch and Mr Finn were claiming I was doing — know that when someone trawls by with a net and takes all of the viable fish out of an area it takes a fair while for the fish to come back. That does not make it a great recreational fishing opportunity. A lot of recreational fishers are not to know who has been through and when they went through and how that works. So while Western Port bay is currently a good recreational fishing facility, we want it to be an absolutely fantastic one. Why do we want that? It is because recreational fishing is a really good thing to do. It is a terrific family opportunity.

I have had the pleasure of taking my kids out fishing quite a number of times quite recently. It is a real bonding opportunity for parents and their kids. It is a real outdoor life experience and a fun activity. It gets the kids away from the computers and the Game Boys for a while. It gets them active and involved with their local environment. It gets them spending a lot of time with their parents. You let them gradually take more responsibility over the way you plan the trip — the way you do what you do, how you decide where you are going to fish and what you are going to do. It is just a whole lot of really great experiences. I do not think this government is making any apology for the fact that it would like to see more of that sort of family fishing going on.

As Mr Guy pointed out in one of the few moments in his speech when he was inadvertently speaking in favour of the bill that he is going to vote for, kids today, as they say, have fairly short attention spans, a lot shorter than kids used to have. Therefore it is kind of important when you get them out fishing that they have the best chance of catching something. At the end of the day that is what this bill is about. It is about giving those kids and their parents the best chance, when they jump in the tinny or go off the wharf or wherever they go, of catching something and catching something relatively quickly. I would have thought that was a worthy public policy goal.

It is a worthy public policy goal, but we stand accused of pursuing that goal because the people want it. Normally we stand accused of doing things that apparently the people do not want, and we are told that is why we should not do them, but now we stand accused of doing something that a large number of people want. Unfortunately there is a price for that large number of people being satisfied with a much more successful and enjoyable recreational fishing activity, and that is that we will not be able to have a pile of that resource taken away by commercial netting. That is an unfortunate price to pay for increasing the utility for a much larger number of people, but it seems to me it is one of those utilitarian situations which has a happy

ending. We can have thousands of recreational fishers from thousands of families out there enjoying the best possible recreational fishing opportunity, we can still have commercial fishing occurring in other, adjacent locations in Port Phillip Bay and elsewhere, and we have good compensation for people who were making a quid out of netting in Western Port bay. If they do not wish to go over and do it in Port Phillip or elsewhere or go outside, they will be looked after.

There is a cost. That cost is being borne by the community through the taxpayer with the compensation package. The community has asked for a benefit and, by admission of all sides of this debate, that is supported by large numbers of people in the community. Apparently one of the problems with this is that a large number of people support it. The community has voted for and supported a plan which will let a lot more families have an even better recreational fishing experience, and we will all chip in a small amount to make sure that no-one in the commercial fishing industry is disadvantaged. I reckon this is a pretty good bill. I do not know why people need to speak against it when they are voting in favour of it. I am speaking in favour of it, I am voting in favour of it, and I commend it to the house.

Mr O'DONOHUE (Eastern Victoria) — This debate has been quite instructive. It has been a much more fulsome debate than I had anticipated. If I could just paraphrase a couple of the speakers and their arguments thus far, Mr Thornley said, in effect, that children have shorter attention spans because of Game Boys, and therefore when they go fishing it should take less time for them to catch fish, otherwise they lose interest. It was a very interesting argument he was putting forward for closing down an industry that has a long and proud history.

Mr Thornley — Are you speaking against it too?

Mr O'DONOHUE — If I can take up the interjection from Mr Thornley, the sad reality for members on this side is that if we do oppose this bill and it is returned to the Assembly, it could sit on the notice paper in the Assembly like the Water Amendment (Critical Water Infrastructure Projects) Bill has. We were called back before Christmas last year because that bill had to be passed because of the water crisis. That bill was returned to the Assembly and has sat on its notice paper ever since. The reality is that if this bill is defeated and returned to the Assembly, the government has a choice of waiting until these licences expire next year and then not renewing the licences.

Mr Vogels — 31 March.

Mr O'DONOHUE — I thank Mr Vogels — on 31 March. Therefore these fishermen potentially run the risk of not receiving any compensation at all. It is not a happy choice the opposition makes. It is a point well worth making to Mr Thornley and members on the other side. The reality is that this government has made up its mind to sell down the drain the commercial fishermen of Western Port bay. The absolute best we can hope for is to make sure they get the best possible compensation package.

I might add that this pattern of behaviour is similar to the way this government approaches resource-based industries. If you look at the timber industry and what has happened in the fishing industry elsewhere, bit by bit these industries are whittled away and are slowly but surely reduced and subjected to death by a thousand cuts.

As Mr Kavanagh correctly pointed out, members opposite congratulate themselves and pat themselves on the back for being sustainable and saving the environment when all the while we are importing more timber products from Indonesia, Vanuatu and other places that follow environmental practices which are nowhere near as good as ours. All the while we import more fish from Thailand and Vietnam at the expense of local jobs and local industry. I think it is an absolute disgrace the way this government has sold down the river fishermen, the timber industry and others.

I pick up another comment Mr Thornley made. He said this bill is about having an outstanding recreational facility in Western Port bay, but having that facility involves more than just fishing. If the government actually met the rhetoric that is contained in the second-reading speech and what we have heard from it today with action, in addition to this bill it would have a package to develop new infrastructure for the recreational fishing industry. Does it have that? No. In fact the infrastructure associated with recreational fishing in Western Port bay is in a state of crisis. I have been to the Yaringa boat harbour on several occasions. The owners cannot expand their facility despite repeated attempts because the government will not allow it to. Yaringa boat harbour is in Somerville on Western Port bay. It is an outstanding facility which has been built up by its owners over the last 20 years to be a fantastic place for the launching of recreational fishing boats, but the government will not allow it to expand.

I have been contacted by a group associated with the restoration of the Corinella jetty, which needs to be rebuilt. Because Parks Victoria has allowed it to deteriorate, a large part of the jetty is going to be pulled down. The group needs funding to rebuild it. Has the

state government provided any funding to rebuild it? No. Group members are raising funds themselves, and I congratulate them on it. I congratulate John Taylor, Barbara Oates and others associated with the restoration. It is a great community down in Corinella. In fact Corinella has a great history of fishing. It was one of the first settlements of Western Port bay. It was first settled in 1826, if my recollection serves me correctly. It was a British colony established with convict labour. It did not last a long time, but fishing took place during that time. Later there was a prison on French Island and Corinella was the base for providing services, including supplying fish. When the prison closed in 1975, Corinella took off as a commercial fishing port. Sadly, that will now go.

I pick up on a point that Mr Hall made. He said that when the industries go, often so does the tourist dollar. I cannot imagine Lakes Entrance without the fishing industry. In fact the town would be much less of an attraction without the fishing industry. That brings me to the way this government has failed to keep the entrance at Lakes Entrance open. It has significantly compromised the industry that is based at Lakes Entrance, but that is a story for another day. By closing down this industry the government is also compromising the tourist industry. Indeed many of these towns — Hastings, Tooradin, San Remo, Flinders and Shoreham — have a history of fishing. They still have active commercial fishermen, and it is a great tragedy that this industry is being closed. There is room for commercial and recreational fishermen in Western Port, and the government has made a mistake.

To return to the point I made originally, it is a stark choice for those commercial fishermen — they either accept the compensation package that is on offer or face the reality of getting absolutely nothing. That is the choice this bill presents to those commercial fishermen. Faced with that invidious choice, we are choosing not to oppose this bill.

Ms TIERNEY (Western Victoria) — I wish to speak in support of the Fisheries Amendment Bill. The allocation of natural resources is always a point for debate and indeed controversy. The allocation of natural resources, who gets to use them and how are key factors in this debate. As previous speakers have outlined, this matter comes before us as a result of a policy paper that was circulated prior to the last state election in 2006 in relation to recreational fishing and boating in Victoria. As a result of that election the Bracks government, as it was then, was re-elected and this was a part of a significant element of the Labor Party's platform going into that election.

Obviously the government has a mandate. That has been clearly identified and acknowledged by the Liberal Party given that it is supporting this bill, albeit it has raised a number of specific individual grievances. The premise of this policy is about supporting recreational fishing. Indeed recreational fishing will be enhanced as a result of the removal of commercial net fishing in Western Port. It is not about whether we have sufficient fish stocks, which is what is being promulgated by The Nationals; it is about support for recreational fishing and boating in Western Port.

The Liberal Party has raised a number of specific issues, but it has decided to be pragmatic on this occasion. I recall a number of instances over the last few months where members on the other side of the chamber asked questions of the government about the $5 million, and indeed indicated their glee that the government has come through and provided that sum for the Western Port exercise. They were quite forthright in making sure that it is the historic licence-holders who will be the beneficiaries of the $5 million. On a previous occasion Mr O'Donohue called on the government to expedite the situation so that those who are involved can get paid and move on with their lives. The bill before the house today will bring that about, hopefully with a speedy passage.

At the very heart of this bill is the issue of the change in commercial net fishing in Western Port. It is about change in industry. Most of us know that change has been happening for a long time in a variety of industries. Mr O'Donohue himself raised the example of the timber industry and a number of other industries. What often happens, whether it is in the public or private sector, is that a decision is made — you could have a debate about the basis of the decision — and the reality is that there is a situation that needs to be managed. In this case it is being managed with an adjustment package. This is the norm in respect of other industries that are restructuring or going through significant change.

I raise for Mr Guy's attention an information booklet of August 2007 relating to the Western Port commercial netting licence surrender and relocation program. It is not a matter of saying, 'There will be $5 million, trust me', the $5 million is there in black and white. This goes to the very heart of this package. It goes to objectives and principles. It goes to the eligibility for the licence surrender package and the relocation package. It has an appeals process, like most adjustment packages. It has sections regarding the lodgement of applications, the assessment of applications, taxation implications, confidentiality and where to go for further information.

It is important to have on the record the key components of the eligibility to participate in the licence surrender package. Leaving aside the two rules above it, if you go to clause 4.2 on page 4 of the document, you will see that the licence surrender package includes six components. The first is a surrender amount applicable to the fishery access licence as determined by the Valuer-General of Victoria. The second is an income support component that will be determined by using the average gross value of total fish caught by the licence-holder over the highest four years for the period 1999–2000 to 2005–06 and multiplying that by a factor of five.

The third component is an allowance of $50 000 for the redundancy of the fishing vessel and equipment. The booklet goes on to say:

> Please note, these assets continue to be the property of the licence-holder.

The fourth component is an allowance of up to $3000 per eligible licence for costs associated with financial advice sought in association with the change. The fifth component is a grant of $5000 for retraining expenses for the licence-holder. The sixth and last component of this is an amount that can be determined by the program administrator, which is the Rural Finance Corporation on behalf of the minister. You can make an application for compensation for a financial loss which you believe is a natural and direct consequence of the actions taken in this decision and which is not covered by the first five components that I have described. I think members would agree that the licence surrender package is reasonably comprehensive to say the least.

Turning to the topic of the relocation package covered in clause 5, I ask those who have been particularly involved in this debate to read clause 5.1, because if you were an observer of this afternoon's debate, you would have thought that the Victorian government was shutting down commercial net fishing across the whole state. That is simply not the case. The relocation package actually gives life to the fact that commercial net fishing will continue in Victoria.

These sorts of processes are not new. They are part and parcel of dealing with change in a variety of industries. I will rely on an example that I had to deal with in the automotive industry. Yes, it is a fair way away from fishing, but we had a situation where Toyota decided to shut down its Melbourne plant. As a result of that a number of choices needed to be made. Obviously we wanted as many people employed as possible, so that they maintained income security. We worked out a package where people could go over to the Altona plant. We also compensated those people for the dislocation that that change had brought them. We gave people a choice in that they could also take a package, and we ensured that we had an improved and enhanced package for those people.

The issue is about changes, it is about decisions, and it is also about making sure that people have fair and proper options so that they can go ahead with their lives. This issue is not new. Whilst it might have been contained in an ALP policy leading up to the last state election, it actually has been an issue that is well acquainted with in industry circles. It is not a situation where a decision was made and people went into shock. People knew full well that changes were ahead. I believe even The Nationals would agree with me that the main thing we would seek as a result of this bill going through is a smooth transition for all the stakeholders involved in this exercise.

I also wish to take this opportunity to raise a number of issues in support of recreational fishing. In the 12 months that I have been in this role, I have been surprised by the support and interest that recreational fishing enjoys in the wider community. There are a significant number of positive aspects to recreational fishing, and Mr Thornley went to some of those issues in his presentation. In short, some of those positives for the community, particularly for people on low incomes, are that recreational fishing is a relatively inexpensive activity and it does not require too much experience. Indeed there is a lot of scope to improve one's fishing skills, and it is an activity that has an ongoing challenge for people.

It is an inclusive activity and can be undertaken by all age groups. What I have seen in the last 12 months in particular is those old traditional views that one might have had about boys weekends and going off and fishing are slowly changing. Many families go out and fish as a family activity. Friends go out and do it as an activity, and it is a great way to get to know other people in the community — going out there and having a chat as you are throwing in a line. It gets people out and about. It gets the kids away from the computers and the Wii, Xbox and Game Boys.

Mr Leane interjected.

Ms TIERNEY — The member obviously does not have a 15-year-old. Recreational fishing does get them out, and it is a very healthy activity. As a government we want to encourage this type of activity. We also particularly want to encourage women and children to be more involved in what traditionally has been a fairly male-orientated recreational activity.

As an aside I also would like to inform the house that in my electorate office we get a number of inquiries about recreational fishing, which was a bit of a surprise for me as a new member, but that level of inquiry continues. We get lots of queries about fishing licences, to the point where I have had to test it online to get my own fishing licence so that I have a sense of what members of the community go through to get a licence. The house can rest assured that the process is fairly cheap, quick and easy.

The *Victorian Recreational Fishing Guide 2006–2007* is one of the most popular publications I know of. At the Hamilton Sheepvention and indeed at the Hamilton show last week I was inundated by many requests for that publication. I am not quite sure where Mr Hall has been, but I can assure him that in the last 12 months around Western Victoria Region recreational fishing has probably been the no. 1 sporting activity, and I would say it is a significant family activity as well.

The 1 December 2007 end date for commercial netting is supported by the industry to enable a timely implementation of compensation packages. This needs to be done prior to the upcoming 2007–08 recreational fishing season. I commend this bill, and I wish it a speedy passage.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 12 agreed to.

Clause 13

The DEPUTY PRESIDENT — Order! I call on Mr Hall to formally move his amendments and to speak to amendment 1, which is a test for amendments 2 to 6 which relate to holders of the Westernport/Port Phillip Bay fishery access licence. In speaking to amendment 1, I suggest Mr Hall foreshadow his further related amendments.

Mr HALL (Eastern Victoria) — I am happy to do that. I move:

1. Clause 13, after line 31 insert —

"(2) Subsection (1) does not apply to the holder of a Westernport/Port Phillip Bay Fishery Access Licence who —

(a) holds that licence immediately before 1 December 2007; and

(b) on and from 1 December 2007 uses a fishing net in Western Port to take fish for sale exclusively for local consumption during the period that he or she continues to hold that licence.".

The first responsibility for anyone moving an amendment is to explain what the amendment will actually do. I will endeavour to do that to the best of my ability, because as I said in my speech in the second-reading debate, the intent of what I want to achieve by way of amendment becomes more complicated when you try to put in legislation intent that you think it has to begin with. Parliamentary counsel and I have come up with the following six amendments.

What I want to do in moving amendment 1, which I agree will test the further five amendments, is to explain exactly what it does. It is important that the committee understand that clause 13 inserts a new section 153C into the Fisheries Act. New section 153C(1) states:

> Despite anything to the contrary in this Act, a holder of a Westernport/Port Phillip Bay Fishery Access Licence is not authorised to use any fishing net in Western Port on and from 1 December 2007.

My first amendment inserts a new subsection (2), which states:

> Subsection (1) does not apply to the holder of a Westernport/Port Phillip Bay Fishery Access Licence who —
>
> (a) holds that licence immediately before 1 December 2007; and
>
> (b) on and from 1 December 2007 uses a fishing net in Western Port to take fish for sale exclusively for local consumption during the period that he or she continues to hold that licence.

Amendment 3 inserts a new subsection (4), which states:

> Subsection (2) does not affect the amount that a licence holder referred to in that subsection may be entitled to be paid under subsection (3).

New subsection (4) provides the optional element in this particular provision. What it does now is give those who hold professional fishing licences with a catch-effort history in Western Port the option of either taking the buyout offer available to them under the provisions of this bill or continuing to fish in Western Port if the purpose of their continuing to fish in Western Port is to supply local markets. That is an explanation of the two substantial amendments. The other four amendments are consequential numbering amendments.

I do not intend to speak for long because I explained these amendments and the reasons for putting them during the second-reading debate, but I need to respond in the context of these amendments to comments made during the course of that debate. Mr Thornley made the comment that the government was being criticised for making a popular policy decision. He claimed that we have 500 000 recreational fishers in Victoria who would probably be pleased with this decision. I do not argue with that, and I suspect most of them would be pleased.

We have less than 100 bay and inlet licence-holders in Victoria. From memory I think there are 20 in the Gippsland Lakes, 21 at Corner Inlet and 48 who hold a Western Port bay licence. There are less than 100 commercial bay and inlet fishers in Victoria, so of course the numbers are on the side of the recreational fishers. That does not take into account the other 90 per cent of the 4 500 000 Victorians who do not fish recreationally but who still enjoy the pleasure, as most of us do, when visiting the coastal towns around Victoria and around Western Port bay of having access to local product. In a debate we all choose the points we think we can put a strong argument for, and I think Mr Thornley was selective in doing that in his contribution.

The other point I make in response to some of the contributions that followed mine is that I make it very clear that this is not an issue of recreational versus professional or commercial fishing. During the years I have spent in this chamber my advocacy for recreational fishing has been just as strong as has my advocacy for commercial fishing, and the record will show that. I am also not opposed to voluntary buyouts of commercial fishing licences. Indeed under a previous government a voluntary buyout program started right across Victoria and many commercial fishermen took the opportunity to participate in it. This amendment proves again that I am not opposed to a voluntary buyback of some of the fishing rights in Western Port bay, but I emphasise that I believe it should be voluntary and not compulsory, as the government is proposing.

The last point I respond to in terms of the debate is that it was said the current government had a mandate to implement this policy following its election win because it was part of policy going to the 2006 election. Yes, it was part of policy, and it was clearly enunciated at that time. If that policy was so popular, how come the government lost the lower house seat of Hastings, the seat centred most on Western Port bay? The former member, Rosalyn Buchanan, lost her seat. I say this particular policy had a lot to do with that. I do not think it was as popular a policy as the government would like us to believe.

I can understand the Liberal Party's reluctance to support this amendment. John Vogels, Edward O'Donohue and Matthew Guy clearly demonstrated that they were caught between a rock and a hard place on this issue, because the record of the government is that it is always ready to spit the dummy if it does not get its own way. This happened with the Water Amendment (Critical Water Infrastructure Projects) Bill. It was amended by this chamber, and because the government did not like the amendment it was parked in the Legislative Assembly with no further action taken on it. Conceivably if the amendment were passed today, the same sort of thing could happen. That has been said by members of the Liberal Party and indeed by members of the Greens, who said that it could go to the lower house and those people who are reliant on receiving a compensation package because they see no future for themselves under this government would potentially lose out on that.

I do understand the Liberal Party's reluctance to support the amendment, and I am sure that in a perfect world its members would agree with me that decision making based on political popularity rather than sound science provides poor government. That was reflected in their contributions. The indications are that the house will not support the amendment. I am disappointed with that. I am more disappointed about the policy trend that seems to be happening with commercial fishing in this state. Compulsory licence acquisitions have taken place at Mallacoota Inlet, Lake Tyers and now Western Port bay.

Despite what the government says, that it now promises a better future for those left in the industry, I do not share that same level of optimism; I wonder which group of commercial fishermen will next be under fire from this government. The history and the trend are such that this will not be the end. I am disappointed with the government's response to this amendment. However, I ask members to think hard about it. It is the last opportunity to support what I consider to be a fair and reasonable position that we are now taking — that is, to offer a voluntary exclusion from commercial net fishing in Western Port bay, rather than a compulsory exclusion.

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I will try to respond. Obviously the government does not support this amendment. During the second-reading debate we heard considerable argument about it. The truth of this is that a difficult set of decisions always has to be made; it is

not an easy call. I enjoy fishing, and I have fished in Western Port. When I was younger I went to Western Port many times, both out in a boat and dropping a line here and there.

Mrs Coote interjected.

Hon. T. C. THEOPHANOUS — I did catch some fish, but only sometimes. It is always about finding a balance. Mr Hall asked what was the science. The fact of the matter is that you do not have to be a genius, an Einstein, to work out that, in terms of the number of fish that will be available in a given area, the cake is a certain size. If you allow commercial fishing, that will mean the cake will be spread between commercial fishers and recreational fishers. It will mean two lots of interests will be doing the same thing and seeking some of the same pie and that the pie will have to be broken up. I suppose the idea is that recreational fishers do not have the same impact on the environment and the number of fish that might be available within that environment, so the argument being put by Mr Hall is not accepted by the government.

The proposed amendments are not only totally at odds with the policy objective of removing commercial net fishing from Western Port but also with offering compensation to Western Port fishers. Firstly, Mr Hall is proposing that existing licence-holders should be able to continue to net in Western Port as long as they hold the licence prior to 1 December. He is also proposing that new entrants into the fishery — that is, fishers who, via licence transfer, after 1 December purchase an existing licence — should also be able to net fish for commercial purposes for local consumption.

Mr Hall — No, that is not so. That is not the intent of parliamentary counsel.

Hon. T. C. THEOPHANOUS — That is the advice that I have, Mr Hall, but we can take that up further. Moreover, if Mr Hall's amendment were accepted, it would mean that commercial fishers would also be eligible for some form of compensation from the government and still be able to go on with their activities.

Mr Hall interjected.

The DEPUTY PRESIDENT — Order! If Mr Hall wants to pursue these matters, it will probably be better if he formally asks another question in a moment, because then Hansard will have the opportunity to record both the question and the response. If the minister will continue, I am sure Mr Hall will make some other remarks.

Hon. T. C. THEOPHANOUS — I might say that, having used the word 'may', Mr Hall is exactly right — they may be eligible for compensation, even though they keep their commercial licence. It is a very poorly thought-out amendment. It is completely inconsistent with the government's commitment and policy approach.

In conclusion, obviously there is no government regulation which seeks to regulate the marketplace and that applies where people sell or consume fish, provided the premises are fit for producing safe food for the public et cetera. The idea that the bill would mean that you could not buy fish and chips at any of the venues that were suggested by Mr Hall is a nonsense argument. Therefore the government does not accept the amendments.

The DEPUTY PRESIDENT — Order! Does Mr Hall want to clarify some points?

Mr HALL (Eastern Victoria) — I just want to respond to a couple of points made by the minister. I suggest that his interpretation of the amendments is not as they are intended or, indeed, as parliamentary counsel has interpreted them.

First, I comment on Mr Theophanous's response to my suggestion that there was a lack of science. He said that you do not have to be an Einstein to realise that there is only a one-sized cake and some of it goes to recreational and some to commercial fishers. That is so, but the fact of the matter, according to the Fisheries Co-management Council Victoria and as I mentioned in my contribution to the second-reading debate, is that recreational fishing takes three-quarters of the catch, as opposed to commercial fishing taking a quarter. So the larger part of that cake is already shared among the recreational fishers. The minister said in the second-reading speech that for recreational fishers the opportunities for catching snapper and whiting were booming — 'booming' was the word used. In terms of improving opportunities for recreational fishers, one would have to say that on balance they were doing pretty well at the moment, if the minister is arguing that recreational fishing is booming.

That is by the way. Let me go to the minister's interpretation, because I think by that the minister has posed a question to me. He suggested that some commercial fishers could enter the industry after 1 December and then reap the benefits of the adjustment package. I do not want that to occur and the intent of the amendments is that that would not occur. If the minister refers to proposed section 153C (2)(b), which is inserted by clause 13, he will see that it states:

… during the period that he or she continues to hold that licence.

So it is not available to new entrants but only for those who at the moment have a licence and continue to hold that licence. That was the intent of the amendment.

I have forgotten the other point that Mr Theophanous made. We could go on arguing about the provisions of the bill. I think the cases on both sides have been made clearly. I do not intend to argue the issue any further. I again ask members to reflect on my most recent comments.

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I think that the member has pointed out that there is disagreement on policy and views on this. As to the interpretation of the applicability of the amendment, that is a matter of opinion as well. I simply say that the government does not support this amendment and will be voting against it.

The DEPUTY PRESIDENT — Order! As there are no further contributions on clause 13, I propose to put the question. Members should be mindful that Mr Hall's amendment 1 will be a test of his amendments 2 to 6.

Committee divided on amendment:

Ayes, 3

Drum, Mr (*Teller*)	Kavanagh, Mr (*Teller*)
Hall, Mr	

Noes, 37

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

Amendment negatived.

Clause agreed to; clause 14 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

Motion agreed to.

Read third time.

ADJOURNMENT

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I move:

That the house do now adjourn.

Australia's Open Garden Scheme: weed alert control officers

Mrs COOTE (Southern Metropolitan) — My adjournment matter tonight for the Minister for Environment and Climate Change concerns Australia's Open Garden Scheme. For those in this chamber who do not understand the open garden scheme, it is a voluntary scheme run throughout Australia, but very successfully here in Victoria, where people who have gardens of significance open them to the public to raise funds for charity. The funds raised have been significant. For example, since the scheme was established in 1987 over $4 million has been raised for charities across the country. This is a remarkable amount of money, and everybody who works in these gardens is to be commended for the work they do.

In Victoria some quite prominent gardens are open for inspection as part of the open garden scheme. They include Dame Elisabeth Murdoch's renowned Cruden Farm in Langwarrin. They also include Vaughan's garden in Leopold; Dalvui in Noorat; Mooleric in Birregurra; the Akenfield Farm at Main Ridge; Clematis Cottage in Beaconsfield Upper; Shadowlea in Seville; and Meyricks Run and Orchard Cottage on the Mornington Peninsula.

The owners who open their gardens are very generous with their time. They go to an enormous amount of trouble to get their gardens looking pristine. People go through and get all sorts of ideas and suggestions for replicating in their own gardens. Not only are there people who open their gardens, but there is also a huge volunteer force that is prepared to back the open garden scheme and put their time and energy into making it the success that it is.

You would think that with all these gardens and volunteers and the success of the program that the government would be out there supporting it. But no,

this government has sent out a group of spies. It is training up the spies — the spies are the weed alert control officers, called the WACOs — and they are going out to spy on these gardens to see whether there are any pests and noxious weeds. That these people are being trained up to go out and spy on these gardens is, I suggest, absolutely scandalous and outrageous. The government should do something about this.

I urge the minister to rein in his vigilante weed controllers and send them back to the national and state parks to look at real weeds and see what real problems with noxious weeds are. Our national parks are absolutely full of noxious weeds. There is no need to go spying on the people who generously open their gardens for the open garden scheme.

Princes Highway: upgrade

Mr KAVANAGH (Western Victoria) — My adjournment matter is for the Minister for Roads and Ports in the other place and relates to the western section of the Princes Highway. The Princes Highway West Alliance of Local Government represents 17 municipalities extending from Geelong, throughout western Victoria and into Mount Gambier. The alliance is calling for urgent action on the Princes Highway west. It points out, first, that fatalities on the Princes Highway west continue to rise while the number of fatalities in the rest of Victoria fall; second, that very little progress has been made on the Victorian government's Princes Highway corridor strategy of 2002; third, that the Princes Highway is the only capital-city-to-capital-city interstate highway in Victoria without AusLink status; fourth, that traffic is growing on the Princes Highway west by approximately 3 per cent per year; and, fifth, that western Victoria is supporting major industries such as energy, which require safe and efficient road transport. I ask the minister to contribute to funding this vital project of upgrading Princes Highway west and to lobby the commonwealth government to have the highway added to those projects with AusLink status.

Skills training: Workforce Participation Partnerships program

Ms HARTLAND (Western Metropolitan) — My adjournment matter tonight is for the Minister for Skills and Workforce Participation in the other place, Jacinta Allan. The Workforce Participation Partnerships (WPP) program was launched in November 2005, and I understand it has been very successful. The program is designed to target those in our community who experience higher than average unemployment and to help them find work in areas where there are labour shortages. Over the last two years people from culturally and linguistically diverse communities (CALD) have been assisted by this important program that provides assistance to organisations such as Foundation House, which is based in Footscray and which is helping African young men to find work.

Over 2040 job seekers across Victoria have been employed through the WPP program. Many agencies have delivered successful programs to assist people from CALD and refugee backgrounds in their transition into the workplace. Migrants, employers and the wider community have all benefited greatly from this innovative and low-cost program. The program has previously received funding of $12 million a year, but unfortunately the program is to receive just $2.5 million from the 2007–08 budget. Many clients of the WPP program and those employed to administer it face uncertainty. Recent arrivals to Victoria face an unemployment rate as high as 43 per cent. These individuals and their families will suffer significantly if this program is defunded. Twelve million dollars is not a lot of money, and we need to know whether the state government is going to commit to this program.

My request to the minister is that she urgently review this reduction in funding and publicly commit to the WPP program to make the future of those employed in delivering the program and the future of its participants clear.

Aboriginals: Bangerang people

Mr DRUM (Northern Victoria) — My adjournment matter is for the Minister for Aboriginal Affairs in the other place, Richard Wynne. It concerns the recent decision on which Aboriginal party is going to represent the region better known as the Goulburn Valley. The region extends up into southern New South Wales along the Murray River. It was always understood that this area would be a prime area in which to have two registered Aboriginal parties.

When we passed legislation in this house many months ago it was understood that both the Yorta Yorta people and Bangerang people cultural heritage groups were going to lay claim to cultural heritage in that region. That was understood and accepted by the people working in that region. Now that both groups have had an opportunity to apply for registered Aboriginal party status it seems that only the Yorta Yorta have been granted that registration. This comes as quite a shock to those from the region who have been able to call on the Bangerang over a number of years to deliver a succinct and very clear linkage between the current elders of the

Goulburn Valley region and their forefathers going back many hundreds of years.

The dioramas at the Parkside reserve show a very clear history, and they are some of the best dioramas I have ever seen depicting the Aboriginal way of life. They link the different groups within the Aboriginal people — those who had coastal heritage and those who had inland and river heritage. The distinctly different forms of hunting and development are clearly shown at the Bangerang Cultural Centre.

Having in mind the decision that has gone against the Bangerang and gives the cultural heritage of that region to the Yorta Yorta, I am calling on the minister to, firstly, personally investigate and explain to the house the main reasons for the decision being made in favour of the Yorta Yorta people rather than the Bangerang people, and secondly, I ask the minister to explain why there was no opportunity to duly rank both of these Aboriginal parties.

Electricity: Heywood infrastructure upgrade

Ms TIERNEY (Western Victoria) — My adjournment matter is for the Minister for Regional and Rural Development in the other place, Jacinta Allan. Last week the minister announced a grant of $300 000 from the Brumby government to upgrade the electricity supply in the Heywood industrial corridor. The project will create the capacity for the upgrade of major infrastructure in the region, subject to the provision of a secure and reliable electricity supply.

The grant awarded to the Glenelg Shire Council is a part of the Regional Infrastructure Development Fund, which has been very successful in delivering much-needed infrastructure projects across Victoria. This grant is a portion of the $363.8 million provided by the Brumby government through the Regional Infrastructure Development Fund to support 148 projects worth just under $1 billion. This has been particularly important in developing rural and regional Victoria after the painful and protracted tenure of the Kennett government — the forgotten years for regional and rural development.

During the Bracks-Brumby era 128 500 new regional jobs have been created, while during the Kennett era only 41 100 new regional jobs were created. Under the Kennett government regional Victorian unemployment rates peaked at 12.8 per cent, while under the Bracks and Brumby governments that figure has been more than halved to 6.3 per cent. It is programs such as the Regional Infrastructure Development Fund and projects such as the upgrade of electricity supply in the Heywood industrial corridor that will result in those figures going down yet again.

The minister stated that this power upgrade could result in the creation of up to 30 jobs as well as facilitating up to 400 new jobs in the harvesting and haulage sector. Therefore I ask the minister whether she is anticipating an influx in the local population in Heywood due to the power industry upgrade and the subsequent increase in employment opportunities in the region. I would also ask the minister to provide me with information on the time line for the completion of that upgrade.

VicRoads: signage

Mr O'DONOHUE (Eastern Victoria) — I raise an adjournment matter this evening for the attention of the Minister for Roads and Ports in the other place. It concerns the signage policy of VicRoads and how it is applied, in particular in the tourism area of the Yarra Valley. I have been contacted by several businesses in the Upper Yarra and the Yarra Valley regarding tourism signage. It appears that VicRoads has a policy against allowing new businesses to erect signage on VicRoads-managed roads. I further understand that the Shire of Yarra Ranges has a policy of following the VicRoads policy on local roads. Obviously there are concerns about safety. You cannot have a proliferation of signage whenever and wherever a business wants it. However, it appears we have a stalemate where existing businesses are allowed to retain signage that has previously been erected and previously been improved but new businesses are not afforded the same luxury.

As the minister would appreciate, many businesses, particularly smaller wineries and other businesses, rely on drive-by traffic for door sales and incoming revenue. Businesses that do not have access to main roads like the Maroondah Highway, the Warburton Highway or the Melba Highway do not have the exposure to generate patronage for their businesses. I am asking the minister to review the VicRoads signage policy with a view to making it more equitable and fair for tourism operators. As a model he may wish to consider the way the Mornington Peninsula wineries have banded together to create uniform signage which has, by and large, been very effective in identifying the wineries and where they are located at key strategic locations such as the Nepean Highway and the Western Port Highway without allowing a proliferation of signage, which is detrimental to safety.

Again, I ask the minister to review the signage policy as it applies on the VicRoads-managed roads in the Yarra Valley, with a view to making it fairer and more equitable for all tourist-related businesses, so that all of

them — new, old, large and small — can have access to signage that will allow their businesses to gain exposure and therefore to grow.

Equine influenza: leisure horse industry

Mrs PETROVICH (Northern Victoria) — My matter on the adjournment is for the Minister for Agriculture in the other place. I wish to raise the serious issue of equine influenza (EI), its effect on the leisure horse industry and its potential risk to standardbred operations. The leisure horse industry, through the Pony Club Association of Victoria (PCAV) and the Horse Riding Club Association of Victoria (HRCAV), has gone into voluntary lockdown. This also included the Equestrian Federation of Australia (EFA) until last weekend. It will commence competitions at Treehaven on the Mornington Peninsula next weekend. Further competitions are planned for Werribee Park in the near future. These competitions will be conducted under the prescribed biosecurity conditions, and I am in no way critical of the EFA. It is acting within its rights and in accordance with its code.

My concern is that equine influenza has reached Temora — just over 200 kilometres from the Victorian border. We have a state government and a Minister for Agriculture who have still not taken the time to meet with the peak equestrian bodies and have not given consideration to the implications and perhaps consequences of not having a full understanding of the current nature of the leisure horse and standardbred industries. Equine influenza has not hit Victoria yet, and God help us all when it does. I have been the recipient of many emails and letters from the desperate businesses and associated trades and, worse still, from those in New South Wales and Queensland who are living with the disease and trying to treat it.

I will read an excerpt from an impassioned plea:

> We still have a pregnant broodmare dying of EI, we still have an EI-infected 29-day old premmie foal that can't stand up on its own legs after 36 hours, and we just brought in another 7-day old Romance filly with lung congestion.
>
> …
>
> … when the DPI-appointed vet came to do the autopsy he said lots of thoroughbred foals had died. So don't wait for the statistics. We are being fed propaganda.

With the Spring Racing Carnival about to commence this weekend, I fear that we have taken a devil-may-care approach to this. Once again the government has no empathy for rural activities. On Monday, 3 September, the Leader of the Opposition in the Legislative Assembly, Mr Baillieu, and I met with a representative of the leisure horse industry. It is my understanding that the government has not seen fit to do this.

The action I seek is that the Minister for Agriculture give consideration to the seriousness of the issues confronting the leisure horse and harness industries and all associated businesses and trades which rely on these sports for their livelihood and that the minister meet with the peak bodies — the EFA, the HRCAV and the PCAV — to ensure he has a better understanding of the issues the people there are confronting.

Aboriginals: Bangerang people

Ms LOVELL (Northern Victoria) — I wish to raise a matter for the Minister for Aboriginal Affairs in the other place. Like Mr Drum's adjournment matter, it concerns registered Aboriginal parties under the Aboriginal Heritage Act, in particular the Bangerang people.

The Bangerang Cultural Centre Cooperative representing the Bangerang people, the traditional inhabitants of much of the land along the Goulburn and Murray rivers, applied to the Victorian Aboriginal Heritage Council to become a registered Aboriginal party (RAP). Unfortunately the council has written to the Bangerang advising them that the Yorta Yorta have been appointed to represent the area the Bangerang was seeking to represent. In its letter the council says:

> The council decided to defer a decision about the Bangerang application in order to give your organisation an opportunity to provide information whether the appointment of more than one RAP would be consistent with the act.

The Bangerang will take up this offer and provide the information. I also wish to take it up with the minister, because not to appoint the Bangerang as an additional RAP for the region would be a travesty of justice. There is no doubt that this area is the traditional land of the Bangerang. In his book *Recollections of Squatting in Victoria* from 1841 to 1851 Edward Curr, the original white settler in the region, says:

> … there were nine tribes … that … occupied the country between the Goulburn and the Murray rivers from their confluence, and a little below that point, as far east as may be defined by a line drawn from Yarrawonga, on the Murray, to Toolamba, on the Goulburn, as well as country on the north bank of that portion of the Murray, and on the south bank of that portion of the Goulburn. Of these tribes … I shall speak collectively in what follows as the Bangerang race.

Pastor Sir Doug Nicholls, a leader amongst Aboriginals, also acknowledged that this area is Bangerang land, telling his biographer:

> In that neck of land where the Goulburn forms a spreading angle with the Murray, the Bangerang tribe alone, with its different divisions … numbered 1200 people.

In the government's information sheets on the Aboriginal Heritage Act, information sheet 1 outlines the criteria for becoming a registered Aboriginal party. One of those criteria is whether an applicant represents Aboriginal people with traditional links to the area. There is no doubt that the Bangerang have traditional links; Curr has documented that. Another criterion is whether an applicant has historical Aboriginal cultural heritage relating to the area and has demonstrated expertise in that. The Bangerang have represented this area under the Commonwealth Act for some time, and certainly Uncle Sandy, an elder of the Bangerang nation, is the chairman of the north-east cultural heritage program and has also been, amongst other things, an integral member of the Koori Heritage Trust.

My request is that the minister instruct the council to appoint the Bangerang as a second RAP for the area that has been assigned to the Yorta Yorta, because not to do so will disenfranchise the Bangerang from their traditional land and exclude them from decision making about cultural heritage sites that belong to their ancestors.

Mental health: services

Ms DARVENIZA (Northern Victoria) — The matter I wish to raise is for the Minister for Mental Health in the other place. A recent study has been done on families where a parent suffers from a mental illness. This week is Mental Health Week, and so I thought it was timely to raise this matter.

The Australian Bureau of Statistics estimates that some 34 666 children live in 18 502 Victorian families where a parent has a severe mental illness and is being assisted by specialist mental health services. We know that when a parent becomes unwell it affects everybody in that family, and even everybody in the extended family. We also know that families in which a parent has a serious mental illness are more likely to experience poverty, housing problems, family disruption, marital conflict and disruption to the schooling of the children, as well as social isolation.

It has been recognised by mental health workers and acknowledged by the minister that what we need to do, as a part of dealing with families where a parent has a mental illness, is to have some forward planning to prepare for times of crisis and also to make sure that we provide age-appropriate information and advice that explains the situation to children and young people in families about the impact that they are experiencing while living with a parent with a mental illness.

I am particularly concerned about this issue given that in my electorate of Northern Victoria Region we are experiencing an extended drought and we all know that the drought is impacting on families and on the mental health of families as they deal with their farms and their businesses during the drought and during this crisis.

Specifically, I call on the minister and her department to ensure that important mental health services for families where a parent is suffering a mental illness are made available in those regions of Victoria — particularly in the Northern Victoria Region, which I represent — which are experiencing extended drought, and that those services be attached to and extend existing mental health services so they are located in areas that are easily accessible and where information can get out to the families where a parent is suffering from a mental illness.

Schools: selective entry

Mrs KRONBERG (Eastern Metropolitan) — My adjournment matter is directed to the Minister for Education in the other place. The government's current review of the way students may apply for the proposed elite select-entry schools is an important precursor to the actual commissioning of these schools. The government has foreshadowed two proposed select-entry years 9–12 schools which will be in Melbourne's inner north and outer east. Both will be co-educational.

Melbourne's inner north school is to be located in Queensberry Street, North Melbourne. However, the location of the proposed school for the outer-east growth corridor is yet to be revealed. There is much discussion and conjecture about the actual location of this second school. The rumour mill abounds with rumours of Ringwood being the location and Ringwood Secondary College being likely to become the select-entry school. But mystery still clouds this issue. This matter is causing much community concern.

The government's so-called holistic solution to improving academic standards, which may involve merging schools, only adds to the confusion and concern. Valid and reasonable points of tension and concern expressed to me by the parents of future students centre on the fact that a number of families have moved into Ringwood in order to live within the Ringwood Secondary College's zone. Professor Lamb's statement quoted in the *Age* of 30 June that the Ringwood Secondary College could be a neighbour of

the new select-entry school only serves to heighten public disquiet. The parents of Ringwood want a guarantee that their children will be able to commence their secondary school life in year 7 in 2009 at the Ringwood Secondary College.

I therefore ask the minister to report back to this house with details as to precisely which school, or which configuration of schools, in the area is to become the outer east's new select-entry school by 2010.

Bushfires: Lake Bolac

Mr KOCH (Western Victoria) — My matter is for the Minister for Environment and Climate Change and concerns a serious bushfire risk on the Lake Bolac foreshore.

During the night of 19 January 2006 a severe thunderstorm with torrential rain and wind gusts of up to 250 kilometres per hour struck the small community of Lake Bolac. Moving from the west along a 2-kilometre path, this minitornado caused in excess of $2 million damage to property and uprooted hundreds of trees in and around the township and along the lake foreshore. This same storm also ignited the devastating Grampians bushfires. Massive sugar gum and cypress trees that surrounded the Lake Bolac foreshore were uprooted in the storm, with around 10 kilometres of the foreshore impacted upon and hundreds of trees flattened. Ararat Rural City Council, emergency volunteers and the local community set about the immediate clean-up, focusing on repairing damage in the township.

The lake's foreshore is the responsibility of Parks Victoria and the Department of Sustainability and Environment along with the Lake Bolac Foreshore Committee. During winter 2006, DSE commenced clearing the fallen trees and damaged branches along the foreshore, but as the equipment being used was needed elsewhere DSE simply ran out of time to complete the clean-up before last summer. DSE then made a commitment to complete clean-up operations during winter 2007, but despite constant calls by locals to DSE the work remains incomplete.

Local residents are now concerned that the tree stumps, dead tree branches and dry grass along the foreshore of the eastern side of the lake pose a significant and dangerous fire risk. Concern has been expressed that if this very dry and flammable debris is not removed before the onset of what looks like another long, hot, dry summer, the district will be faced with another diaster just waiting to happen. Although the fallen trees and dry wood surrounding the lake could have been utilised as firewood, local residents were warned not to help themselves as the area was declared a forest, restricting wood collection.

Parks Victoria and DSE started working with the Lake Bolac Foreshore Committee to rehabilitate the foreshore area, but the community is fed up with DSE's tardiness and lack of ongoing effort. Residents are increasingly worried for their future despite extensive volunteer efforts immediately following the storm. The Lake Bolac community now lives in fear of another devastating disaster. My request is: will the minister ensure that DSE acts now and removes the remaining debris on the Lake Bolac foreshore before this summer fire period arrives?

Lobbyists: government policy

Mr D. DAVIS (Southern Metropolitan) — My adjournment matter is for the Premier and concerns Labor's policy for the 2006 Victorian election document entitled *Strengthening Our Democratic Institutions*. Its point 4 says:

> Labor will work with other states to implement a nationally consistent scheme for registration of political lobbyists.

At that time Labor said:

> The issues underpinning the proposed register will be considered by the all-party parliamentary committee on accountability.

I am not familiar with that committee. Perhaps it was simply never established, but if it has been established and is hard at work, I am happy to be educated on that by the Premier in due course. I note that it would require professional lobbyists to be registered in order to pursue their vocation, and the document makes a series of other points. But the situation of the implementation of this promise is a little murky. I note in the *Australian* of 2 March under the heading 'Bracks flags laws to control lobbyists' that Rick Wallace reports:

> New laws to crack down on lobbyists are being prepared by the Bracks government in the wake of the scandal raging in Western Australia over ministers' dealings with disgraced former Premier turned lobbyist Brian Burke.

On 2 April an article in the *Herald Sun* under the heading 'Labor shelves inquiry into political lobbying' states:

> State government spokeswoman, Claire Miller, yesterday said election promises would be delivered.
>
> 'We are doing the work to set up the register —

but the inquiry itself had been shelved. So that is a promise that appears to have been broken. An article in the *Herald Sun* of 1 October under the heading 'Promised lobbyist register shelved' states:

> A state election promise to introduce a register of political lobbyists has been shelved until after this year's federal poll.
>
> It is now 319 days —

and much longer now.

> The state government refused to comment on the status of the proposed lobbyist register.

I note there is considerable confusion as to what is going to happen with that. We have heard evidence about David White's involvement through the gaming inquiry and the issues that occurred there. Just this week we heard about the involvement of the former Senator Richardson in lobbying for land deals and arrangements in Victoria, including sensitive ones at Kew Cottages, and that is very concerning. The delay in setting this up and the glacial pace at which the government is moving forward is something that the community is observing with interest. I wonder whether the delay is because Premier Bracks has sought a job with KPMG. That may be the main reason he failed to act. Is he really a lobbyist or some sort of door-opener down there? But there is a new Premier, and he has an opportunity. I am asking Premier Brumby whether he will act to inform the community on progress in introducing Labor's scheme for lobbyists?

Responses

Hon. J. M. MADDEN (Minister for Planning) — Andrea Coote raised a matter regarding Australia's Open Garden Scheme, which I will refer to the Minister for Environment and Climate Change.

Peter Kavanagh raised the matter of the Princes Highway west and road issues, and I will refer that to the Minister for Roads and Ports in the other place.

Colleen Hartland raised the matter of the Workforce Participation Partnerships program, and I will refer that to the Minister for Skills and Workforce Participation in the other place.

Damian Drum raised the matter of Goulburn Valley cultural heritage groups, and I will refer that to the Minister for Aboriginal Affairs in the other place.

Gayle Tierney raised the matter of the Heywood power station upgrade and skills and workforce issues, which I will refer to the Minister for Skills and Workforce Participation in the other place.

Edward O'Donohue raised the matter of Yarra Valley tourism signage, and I will refer that to the Minister for Roads and Ports in the other place.

Donna Petrovich raised the matter of equine influenza and the leisure horse industry, and I will refer that to the Minister for Agriculture in the other place.

Wendy Lovell raised the matter of Goulburn Valley cultural heritage groups, and I will refer that to the Minister for Aboriginal Affairs in the other place.

Kaye Darveniza raised the matter of family members with mental illness and associated issues, and I will refer that to the Minister for Mental Health in the other place.

Jan Kronberg raised the matter of select entry schools, particularly in the Ringwood area. I will refer that to the Minister for Education in the other place.

David Koch raised the matter of potential bushfire threats around the Lake Bolac foreshore area, and I will refer that to the Minister for Environment and Climate Change.

David Davis raised a matter concerning political lobbyists. I will refer that to the Premier.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 6.43 p.m.