PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-SIXTH PARLIAMENT

FIRST SESSION

Wednesday, 21 November 2007

(Extract from book 16)

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By authority of the Victorian Government Printer

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Legislative Council committees

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

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

Select Committee on 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

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FIFTY-SIXTH PARLIAMENT — FIRST SESSION

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Mr DAMIAN DRUM

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Lenders, Mr John	Southern Metropolitan	ALP
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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
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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
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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

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WEDNESDAY, 21 NOVEMBER 2007

Wednesday, 21 November 2007

The PRESIDENT (Hon. R. F. Smith) took the chair at 9:33 a.m. and read the prayer.

PAPERS

Laid on table by Clerk:

Auditor-General —

Report on Audits of 2 Major Partnerships Victoria Projects, November 2007.

Report on the Annual Financial Report of the State of Victoria, 2006–07, November 2007.

Report on the Discovering Bendigo Project, November 2007.

Report on Parliamentary Appropriations: Output Measures, November 2007.

MEMBERS STATEMENTS

Police: leadership

Mr FINN (Western Metropolitan) — This week it is with much excitement that in certain quarters we are witnessing the possibility of new leadership. I share that excitement. I, too, want new leadership.

I am not referring to the Rudd-Gillard political marriage made in hell, but the dire need for new leadership in the Victorian police force: the new leadership that will have the support, the confidence, the loyalty of the men and women of Victoria Police; the new leadership that will put the protection of Victorians and the maintenance of law and order in this state above social engineering experimentation and political correctness; the new leadership of Victoria Police that will not see a political animal but a real police officer with a real understanding of real policing; the new leadership of the Victoria Police with a real understanding of the stresses and pressures faced by police men and women who put themselves on the line day after day to protect each and every one of us.

I do not come easily to despair; I am an optimist by nature. For that reason I believe the new leadership now in the Victoria Police may reverse the decline and return our police force to the best in Australia.

Braybrook College: Premier's reading challenge

Ms HARTLAND (Western Metropolitan) — Last week I had the pleasure of being asked to give out awards at Braybrook College for the Premier's reading challenge. Braybrook College may not have a glamorous building and its library is quite small, but what I found quite fantastic about this visit was the absolute excitement of the students about their achievement. They had read over 1200 books between them, and it has to be remembered that many of these students use English as a second language or have come from a refugee background, from very traumatised situations.

The other thing that struck me about this school was the absolute dedication of the teachers to these students in often somewhat difficult circumstances. During the week I met someone who is directly involved with the Premier's reading challenge. She talked about how some people were concerned that the challenge would not go on when Mr Bracks resigned, and about how important it was to schools. I congratulate the government on this initiative and hope that year after year it excites young people to keep reading.

Federal member for Wannon: newsletter

Ms TIERNEY (Western Victoria) — Last week a number of examples were raised in the media over the alleged misuse of the federal government's rural partnerships program. The colloquial term is 'pork-barrelling', but this morning I want to raise a blatant and serious misrepresentation.

The current federal member for Wannon and Speaker of the House of Representatives, David Hawker, has produced a newsletter funded by taxpayers and distributed with newspapers throughout Western Victoria. In an article on the opening of the redeveloped Balmoral Bush Nursing Centre he portrays the rural partnership program as the sole contributor to the redevelopment of the bush nursing centre. He also claims that he opened the centre. The facts are: fact one, over $450 000 was raised by the Balmoral and district community; fact two, over $412 000 was contributed by the Brumby government; act three, $82 500 was contributed by the rural partnerships program; fact four, I attended the opening along with the ALP candidate for Wannon, Antony Moore; and fact five, on the day — 6 September 2007 — I represented the state Minister for Health in another place, Daniel Andrews. I spoke to the well-attended gathering at Balmoral, I formally uncovered the plaque and I opened the new centre.

The people of Balmoral, the electors of Wannon, deserve better — an elected representative who does not blatantly distort facts, and is prepared to give due

credit to those in the community who work hard at making a difference.

Member for Bundoora: comments

Mr GUY (Northern Metropolitan) — I noted in yesterday's *Heidelberg and Diamond Valley Weekly* a letter to the editor from the member for Bundoora in the other place, Colin Brooks. Mr Brooks launched a bizarre attack on the Banyule council over a high-density development in Banyule. Two points in particular from his letter came to my attention.

Firstly, when Mr Brooks was a Banyule councillor he was part of an unworkable rabble of a council that spent its time infighting and brawling over Labor preselections and internal, petty Labor Party squabbles, but since the departure of Mr Brooks and the election of a new council and several new councillors, the squabbles have miraculously stopped and the council is getting on with the job of running Banyule properly. It should also be noted that most of the councillors who formerly ran Banyule treated the council as a personal fiefdom. Most of the councillors did or had worked for the Labor member for Ivanhoe in the other place, Craig Langdon, or former Labor member for Bundoora in the other place, Sherryl Garbutt. Mr Brooks worked for Ms Garbutt before being handed her seat after a preselection squabble with the now Minister for Planning, Justin Madden.

Secondly, in his letter Mr Brooks attacked Banyule council for its efforts in trying to implement the disastrous Melbourne 2030 policy. These comments are peculiar as just two months ago the Minister for Planning went out to Banyule and commended the council for its goal of setting the standard of urban renewal across Melbourne when he launched the green edge project, which is a high-density component. Colin Brooks has shot his minister in the foot. Justin Madden favours high-density development in Banyule and Mr Brooks does not. Justin Madden wants the council to implement 2030, Mr Brooks clearly does not. Mr Brooks has let it show that he either does not understand his party's planning policy or he understands 2030's goals but is at odds with them.

White Ribbon Day

Ms DARVENIZA (Northern Victoria) — I want to take this opportunity to remind members and the Parliament, as well as the community, that Sunday, 25 November, is White Ribbon Day. White Ribbon Day is a campaign designed to encourage men to take a stand against violence against women. It is very important that men get on board and tackle family violence so that we have greater safety for women and children here in Victoria. Family violence is the leading cause of death, disease and illness among women aged between 15 and 44 years, as well as having a very detrimental effect on children who witness violence in the family.

White Ribbon Day started in Canada in 1991. It is the largest campaign by men right across the world, working in partnership with women, to end violence against women and children. I encourage everyone to wear their white ribbons and to support White Ribbon Day.

Lake Charlegrark: recreation reserve management

Mr KOCH (Western Victoria) — Earlier this year a longstanding member of the Lake Charlegrark Recreation Reserve committee was prosecuted by the Department of Primary Industries on instruction from Parks Victoria for cultivating the dry lake bed to stop the spread of fairy grass. This unnecessary prosecution led to the resignation of all committee members. Several months ago the Department of Sustainability and Environment and Parks Victoria, along with the West Wimmera Shire Council, reached an agreement with members of the former committee for their reappointment. A memorandum of understanding was proposed to set out a cooperative management and communication arrangement between the committee as the recreation and camping reserve manager and Parks Victoria as the adjoining lake reserve manager.

However, settlement of this long-running dispute stalled after Parks Victoria told the committee it could not plant a crop on the lake bed to again stop the spread of fairy grass. Parks Victoria would permit grazing only of the lake bed, which is unlikely to stop the fairy grass but assist in spreading it. Although the committee could control fairy grass in an environmentally friendly manner with no till seeding, fertiliser, chemicals or seed dressing, Parks Victoria insists sheep should be used to control the infestation. Sheep are far more likely to damage the lake bed than if a crop were sown. Surely a conciliatory approach from the government would find the best resolution instead of ignoring the practical knowledge and experience of this long-term, dedicated volunteer committee.

Mental health: Werribee services

Mr EIDEH (Western Metropolitan) — On 7 November the Minister for Health in the other place, Daniel Andrews, announced a $900 000 boost to mental health services in Werribee by opening a new

short-stay unit at the Werribee Mercy Hospital. The new mental health short-stay unit will provide emergency services, assessment and short-term care to patients with mental illness. Treatment for up to three days at a time will be available to patients as well as referral to available inpatient programs. This is yet another example of the Brumby Labor government's commitment to providing quality and needed health services to all Victorians irrespective of where they live.

It is pleasing to see that hospitals will be receiving $21.2 million over four years to develop and implement new models of care at emergency departments as well as short-term units, medi-hotels and day treatment services. Minister Andrews said that 11 hospitals so far have gained from the latest funding round, which will include new models of care such as short-stay observation units; primary physiotherapy in emergency departments; elective surgery 23-hour units; and new developments in mental health short-stay observation units. These new services will help hospitals to provide improved, speedy and suitable care to meet various needs of patients by using the best available resources. These additional services are welcomed in Western Metropolitan Region.

Morack–Boronia roads, Vermont: signage

Mr ATKINSON (Eastern Metropolitan) — I rise to express some concern about the traffic situation in Boronia Road, Vermont, particularly with regard to the opening of the EastLink project in the near future. I am aware of a number of accidents having happened on Boronia Road, particularly in the vicinity of Morack Road. Concerned residents in the area have contacted me, and no doubt of some of my colleagues here, about the need for traffic lights and better signage to indicate which vehicles have right of way and generally to control traffic in that area, which is frequently used by students attending Vermont high school and neighbouring primary schools. Traffic management in this area is very important.

I am hoping the government, in conjunction with the local councils, will complete a review of the suite of signage and other traffic signalisation in and around the freeway as the opening of the EastLink project approaches, because I am certainly concerned about changing driver patterns that might result in an increased incidence of traffic accidents. Certainly the Boronia Road stretch is a horror stretch. There is considerable concern about the Morack–Boronia roads intersection. I would hope that the government might also look at addressing that.

Australian Netball Team: world champions

Mr LEANE (Eastern Metropolitan) — I am sure everyone in the house will join me in congratulating the Australian netball team in recently becoming world champions again. It was a great win against New Zealand, 42 goals to 38, in the championship game. I especially congratulate the Victorian representatives in the squad — Bianca Chatfield; Sharelle McMahon, who was the team's goal-scoring machine; and Julie Prendergast.

We also should be congratulating Liz Ellis, who, after the championships, stood down as the Australian captain. Liz has played in four and won three world championships. She has also won two commonwealth gold medals. I think she is probably one of the most underrated sportspersons in our sports-mad country.

Prime Minister: industrial relations history

Mr LEANE — On another issue, we all know our outgoing Prime Minister is keen on students learning Australian history, but he must not be much of a student of history himself. Otherwise he would know that one of the big passions of Stanley Bruce before he managed to become the only Prime Minister to lose his seat at an election was to attack unions, attack workers and try to dismantle the then Australian Court of Conciliation and Arbitration. You would think there might have been a clue from history there for John Howard, but obviously not.

Channel 31: future

Mr TEE (Eastern Metropolitan) — Today I want to lament the slow passing of or at least the threat to Channel 31. Channel 31 is an important part of the eastern suburbs community. Eight shows, including the Hungarian show, are either made or originate in the eastern suburbs. For $2000 Channel 31 will make and play advertisements for the local business community, and Channel 31 has been an important training ground for aspiring talents, including people such as Rove McManus. Unfortunately all this is about to change.

Despite numerous reports recommending that Channel 31 be granted a digital broadcast licence, the commonwealth government has steadfastly and stubbornly refused to budge, so every time a consumer buys a digital set-top box or a digital TV, Channel 31 loses a viewer. Between 2010 and 2012 when analogue transmissions are shut off, Channel 31 will be silenced, community television will lose its voice and lose the 99 shows made in Melbourne every week.

This is an outrage. It is the product of neglect by a tired and out-of-touch federal government that simply does not care. To echo the words of those opposite, it certainly is time for new leadership.

BUSINESS OF THE HOUSE

Sessional orders

Debate resumed from 31 October; motion of Mr P. DAVIS (Eastern Victoria) that sessional orders be amended and amendments moved by Ms PENNICUIK (Southern Metropolitan), Mr RICH-PHILLIPS (South Eastern Metropolitan) and Mr TEE (Eastern Metropolitan).

Mr GUY (Northern Metropolitan) — We are resuming debate from a week ago on the issue of sessional orders. When I was interrupted while making my contribution to the debate I was talking about some comments made by Mr Tee from the other side of the chamber. He had mentioned that the motion put forward by the Leader of the Opposition was a subversion of democracy. To people like me on this side of the chamber that was quite instructive. An upper house motion for the establishment of a committee to examine the probity of any government being labelled a subversion of democracy was to people on this side of the chamber most peculiar — very peculiar in fact. I would have to say — —

Mr Pakula interjected.

Mr GUY — Peculiar, Mr Pakula. As I said, we found it quite strange because it is within the realms of any chamber of any house of Parliament to establish mechanisms to scrutinise the executive. To then run around and say that it is a subversion of democracy for a Parliament to establish mechanisms to examine the executive in a more robust, a more open and a more transparent manner is a reflection of the attitude of members on the other side of the house. But nowadays members on this side of the chamber are used to that kind of debate and that kind of language being used by members of the Australian Labor Party, because what we see — we see it again in the newspapers today — in relation to freedom of information laws is that members opposite hate transparency. They were elected on transparency, they preach transparency, but when it comes to practice they are anything but transparent.

As I said, Mr Tee's comments are simply reflective of a recalcitrant attitude from a government that clearly has all the hallmarks of the language of transparency, but when it comes to the actualities of probity and establishing proper practices to look into the operation of the executive, they say that the Parliament should somehow be submissive to the executive.

It is quite interesting to note that in past debates and past contributions we have had people like the Minister for Environment and Climate Change, Mr Jennings, appearing before this Parliament to say that he has sworn an oath to become a minister and an oath to become a member of Parliament, and one takes precedence over the other. I would have thought, as I think other members on my side of the chamber would, that when you are elected and take an oath in this chamber, be it to God or to the people of Victoria, which I understand Mr Jennings took, you would indeed uphold at all costs the beliefs and promises you have made in that oath to answer to the people in your electorate and broadly to the people of Victoria. It is not an oath to answer only to the executive; it is an oath to answer to all Victorians.

This a fundamental practice that members of the Labor Party just do not understand — that government is about spending the money of the taxpayers. It is about operating within the realms of statutes or laws which are set out for the best government, for good government for the people of Victoria, not for a certain period of time, but for all time, doing a proper job for all Victorians — not for just the people Mr Jennings, Mr Tee and others on the other side of the chamber think they represent, but for all Victorians. So I thought it was exceptionally instructive that we had the comments made by Mr Tee that it was somehow a travesty of democracy, somehow wrong of this Parliament, to expect that we should be looking at making the executive more accountable and answerable to the people of Victoria.

I notice from a number of motions put on the notice paper by other members in recent times that this comes back to an attitude of members of the Australian Labor Party, who just do not seem to get it when it comes to probity and accountability. Members of the Labor Party have come into this chamber on a number of occasions and again preached the language of transparency, but they have just tried to fix debate — for them, debate has to be controlled and sanitised; it cannot be free flowing.

This is the way that members of the Labor Party have operated and continue to operate. What we have are members of a government who have moved into this chamber and believe that committees should be fixed, suiting their own purposes, and that committees should be stacked in favour of the government. There have been bizarre arguments. Members of the government have said that standing committees could do the job of

select committees, when I think the government controls all but one of the standing committees in the upper house, which is quite astounding. It is astounding that members of the government would walk into the chamber and say that they support transparency, openness and an expanded standing committee system when the government controls the vast majority of those committees.

I find bizarre the comments of Mr Tee and his colleagues on the other side of the house, who have walked into the Parliament and said that the opposition is subverting democracy by moving a motion which simply asks for transparency. In her contribution Ms Tierney actually said that she was enormously concerned about this motion that was moved by the Leader of the Opposition. It is a good, sound motion that seeks to aid transparency and increase probity in the state of Victoria, but she was enormously concerned by that.

In Labor's belief it comes back to the use of proportional representation in appointing committees, and indeed the use of the proportional representation system that is used in electing members to the upper house, because Labor fundamentally believes that members of the non-government parties other than the Liberal Party should be grateful to the Labor Party for their election to this Parliament. It thinks they should be grateful!

Mr O'Donohue — They owe them.

Mr GUY — They owe them — Mr O'Donohue is dead right. The Labor Party believes that particularly the Greens — many members of the Australian Labor Party view them as another faction of the their party — should be grateful for their presence in this chamber, for their election to Parliament and, as I said, for their presence in the Victorian democracy post the 2006 election.

The reality is that if you believe in democracy and you believe in the changes you have implemented — if you actually believe in those — then what follows the election after the implementation of that system should be immaterial. You should be able to work in healthy and robust relationships with all members and parties in this chamber without having to foster a belief in your own side and putting up speakers who hound minor parties and say that those minor parties owe the Australian Labor Party for their election.

No-one in this chamber owes their election to anyone but the people of Victoria. It is the people of Victoria who have voted us in to our individual electorates — in my case the northern suburbs electorate, for which I am very grateful. It is the people of Victoria who have voted for us in our individual electorates and put us into Parliament with many responsibilities, including the responsibility of running a good government and a good Parliament — holding democracy not as a joke, not as just a stack, not as just another contrived union or internal Labor Party election but as the healthy, strong functioning of the will of the people of Victoria. I think that is a reflection on those members on the other side of the chamber who have come into this debate and claimed that minor party members opposite should owe the government for their election to this chamber.

One of the more interesting things I have found as evidence for that point of view is a website — I think it is a Labor-Greens alliance website — which is maintained by a number of people in the Australian Labor Party. I believe it to be authorised by Stephen Newnham, who is the Labor Party state secretary. That website reflects the attitude of those on the other side of the chamber towards, in this case, the Australian Greens. What it is saying is, 'How dare you vote against us when we, the Labor Party, believe we have put those Greens into this chamber!'. That is not true. In conclusion I would urge all members of this chamber to support this motion, which is a very strong and important motion moved by the Leader of the Opposition.

Mr VINEY (Eastern Victoria) — The elements of the proposed sessional orders that I particularly want to discuss in today's debate are the sessional orders in relation to committees. They are in fact the key point of difference between the position of the government and the position, it would appear, of 20 members of the chamber. There are 20 members of this chamber, I understand from my discussions, who actually believe that the structure of these committees should be fair, and there are 20 members of this chamber who believe that the structure of these committees should be unfair.

I gave notice of a motion yesterday in this house that proposed a fair structure for committees. That was done in a very genuine attempt to reach a sensible compromise and solution to this process and the debate, discussion and disagreement that has occurred in this chamber. Mr Guy is smiling, but he may not like to acknowledge the fact that there is a deadlock in this chamber of 20 to 20 in relation to how we structure these committees.

I put forward a proposition yesterday that I think was absolutely fair and reasonable. Let us just think about what that motion said. It said that we should have three committees: one dealing with economic matters, one

dealing with social matters and one dealing with environment matters, including planning. It said that there should be seven members on those committees; that those committees should be able to inquire into any matter relevant to those committees, as defined in the motion; that the government should have 50 per cent less 1 on those committees — that is, 3 of 7; that the Liberal Party, with 15 members in this chamber, should get 2; that The Nationals, the Greens and Mr Kavanagh should share the remaining positions; and that the Liberal Party would chair one committee, the government would chair another and the crossbenches would chair a third. By any reasonable analysis, that is fair. Not only is it fair, it is a pretty sensible compromise to try to move this house forward from the continuous argument we have been having about the process and structures of committees.

The government is proud of the fact that it has reformed this house in a way to ensure that community views are better represented in this chamber — the views across the community that have enabled parties such as the Democratic Labor Party and the Greens to be represented in the Victorian Parliament for the first time. We are proud of that, and we think the house has a great opportunity to be a sensible, thorough, forensic house of review.

I think members on the other side who were here in the last Parliament would acknowledge that both the Leader of the Government and I have been absolutely committed to setting up committees, structures and processes in this house that enhance it as a house of review. We recognise that as a result of the election and as a result of the reforms, the government does not have 21 members in this chamber; it has 19. Like any political party, I am sure we would love to have had a majority in this house, as the Liberal Party enjoyed for most of its 150 years, but we believe in the principle of democracy, and as always the Labor Party is building democracy and building on the constitutional conventions and foundations that make our democratic system work in Australia and in Victoria.

I have to say I find it very disappointing that the Liberal Party, The Nationals and the Greens have been unable to support what is a fair and reasonable proposition. In the discussions I have had with representatives of those parties since I gave notice of that motion yesterday, I have indicated to other members that we were happy to compromise on the motion that I put. We were happy to look at things like staging the introduction of those committees, we were happy to look at things like substitution of members and we were happy to look at which party took the chair of which committee. We put forward a concept but were happy, as you have to be when moving a motion, to look at amendments and look at adjustments. But all of those offers were rejected, and that has been a great disappointment.

As a result of the inability to reach an agreement on that notice of motion, I decided in consultation with the Leader of the Government that we should withdraw the notice of motion given yesterday, and I indicated and gave notice to the Clerk early this morning that we were withdrawing that notice of motion.

However, an absolutely fundamental principle that we stand by is that the committees should be fair; that there should be a reasonable structure where the government is properly represented and not disadvantaged. We believe there should be a recognition in the committee structures that there are a range of parties in this house, that no one party has a majority and that therefore the chair of these committees should be shared around. I recognise there may be some workload demands on members, particularly in the crossbenches, as a result of this structure. In the structure that we have proposed there are six available committee places and there are six members on the crossbenches in this house. We were prepared to consider things such as substitutions to make that a little easier for members, but all those opportunities have been rejected.

As I have said, we have withdrawn the notice of motion and instead I want to move an amendment. I am happy to move the amendment. I move:

1. Omit the heading and all words and expressions in proposed new sessional order dealing with "STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION" and insert —

"After sessional order 21 insert the following new sessional order:

STANDING COMMITTEES

(1) Three standing committees will be appointed as follows:

(a) Standing Committee on Economic Matters;

(b) Standing Committee on Environment Matters; and

(c) Standing Committee on Social Matters.

(2) The Standing Committee on Economic Matters will inquire into and report on any proposal, matter or thing concerned with public administration or public sector finances.

(3) The Standing Committee on Environment Matters will inquire into and report on any proposal, matter or thing concerned with the environment, natural resources and planning the use, development or protection of land.

(4) The Standing Committee on Social Matters will inquire into and report on any proposal, matter or thing concerned with the provision of education and health services to the community and community safety.

(5) Each committee will consist of seven members, with three members from the government party nominated by the Leader of the Government, two members from the opposition nominated by the Leader of the Opposition and two members from among the remaining members in the Council nominated jointly by the Leader of The Nationals, the Australian Greens Whip and Mr Peter Kavanagh, MLC.

(6) Four members of each committee will constitute a quorum of the committee.

(7) Each committee may proceed to the despatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy.

(8) Each committee will elect a chair with the chair of the Economic Matters Committee being selected from the government members; the chair of the Environment Matters Committee being selected from the opposition members, and the chair of the Social Matters Committee being selected from the remaining members in the Council.

(9) A committee may appoint a deputy chair from a group that does not hold the chair.

(10) Each committee may inquire into any proposal, matter or thing that is relevant to its functions which is referred to it by resolution of the Council.

(11) Each committee will advertise the terms of reference for an inquiry and call for submissions and all such submissions received by the committee will be treated as public documents unless the committee otherwise orders.

(12) Each committee may commission persons to investigate and report to the committee on any aspects of its inquiry.

(13) The provisions of the standing orders relating to select committees apply to each committee as if it were a select committee.

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

The effect of the proposed amendment to sessional orders is to remove the proposition for a standing committee on finance and public administration and in its place, in a sense, insert the proposition we have for three standing committees, which I have just described and which is essentially outlined in the notice of motion I gave in the house yesterday.

We have withdrawn the notice of motion and are now proposing in effect the same proposition in the form of a proposed amendment to the sessional orders moved by Mr Davis. I am happy to put on the record that the government is committed to the notion that this is a house of review and that it has gone through the processes of understanding what members of this house are trying to achieve in the committee structures of this house. We have given careful consideration to that and accept that the house wishes to set up some committees. We wish to cooperate and be part of that process, but we believe it is reasonable for us to expect that, if we have those committees, we should be properly and fairly represented on them.

If this motion is successful the other proposed government amendments will lapse. I look forward to members on the other side giving some serious consideration to an agreement on a compromise; an agreement on fairness; an agreement that will allow us as a house to move forward and stop the argy-bargy process and the arguments about structures of committees and actually get on with the business of review instead of spending countless hours in this place debating the issues of process, fairness and the structure of committees.

Given that the house is deadlocked 20-all on this fundamental issue of fairness, I ask members of the house to seriously consider the adoption of this proposition. We are happy to look at further changes and amendments and discuss things such as who may share representation on the committees and the timing of their introduction, with one starting in April next year, one in October next year and one in April 2009. We are happy to consider a range of those prospects and possibilities, but I ask members of the house to think very carefully about wanting the house to be a house of review that can get on with its business. If that is what members want, they should act in an adult manner and in the interests of the people of Victoria and give some serious consideration to this proposition.

Mr KAVANAGH (Western Victoria) — I move:

1. In proposed new sessional order dealing with 'Standing Committee on Finance and Public Administration', after subparagraph 8(3) insert the following new subparagraphs —

'( ) A government member of the committee may be substituted by another government member and a non-government member of the committee may be substituted by another non-government member by notice from the member to the clerk of the committee.

( ) The substitute member is a member of the committee for all purposes.'.

I rise to speak very briefly in favour of the amendment in my name, which is an amendment to the motion moved by Mr Davis. The amendment would have the effect of allowing government members of committees to substitute other government members on that committee and of allowing a non-government member to substitute another non-government member on the committee.

The amendment proposes to allow for flexibility in recognition of the fact that one of the parties in this house — my party — is represented by only one member, being myself, which presents some difficulties in sitting on all committees that may be established by the house.

I would like to make the point that the motion as it stands would retain whatever balance is determined between the parties on committees. Although the government may not appreciate the balance that ultimately evolves on committees, this motion will not change the ratio between government and non-government members of committees.

Mr HALL (Eastern Victoria) — I want to make a few comments on the amendments that have been circulated. I made a contribution to this debate three weeks ago on the motion itself, but since that time we have had five sets of amendments — from Mr Tee, Mr Rich-Phillips, Ms Pennicuik, and also now from Mr Viney and Mr Kavanagh — so it is a significantly altered motion to that which I spoke on three weeks ago in this chamber.

I have to say it has become a bit of a dog's breakfast, and it is going to be an interesting procedure that we embark upon in a few minutes in deciding how we vote on each of these amendments and how they relate to the motion that was originally moved by Mr Davis.

I want to make some general comments and, I suppose, sound a caution to the house too about the willy-nilly setting up of committees. This should not be taken lightly, because I think the Parliament has a problem with the number of committees that exist — not just Legislative Council committees but committees across the whole Parliament itself. Many of us serve on multiple committees, and indeed the all-party parliamentary committees require membership and attendance of Legislative Council members to constitute a proper meeting of those committees. So it is we are finding that with the number of members in this chamber having been reduced from 44 to 40, the role of Legislative Councillors in fulfilling their statutory requirement to attend those committees is becoming increasingly burdensome on and taking up more of the time of members of Parliament. As I said, many members serve on multiple committees.

I think it is not only the opposition parties but also the government itself that have a problem in terms of having members attend those committees. I cite, for instance, the Education and Training Committee, of which I am a member. Very frequently it is non-government members who are being called upon to constitute a quorum. Mr Elasmar, who regularly attends meetings, and I, are the only two upper house members of that committee, and when Mr Elasmar was away on a parliamentary trip, I was called upon to constitute a quorum. Frequently there has been one Labor member there, being the Chair, two Liberal members and me making up the necessary quorum for that committee.

With due respect to all parties in this Parliament, I think we have a bit of a problem with the number of committees we now have in terms of resourcing them. I think we also have a problem in terms of the parliamentary budgetary allocation to service those committees. With an increased number of all-party parliamentary committees and an increased number of select committees in this chamber, I think committees are now finding there is a lack of resources available for them to function as they should. I think the work of those committees is being somewhat compromised by the lack of resources available to them to do the sorts of things they may want to do.

I come to the amendments that are now before the chamber, particularly Mr Viney's amendment. He is suggesting the formation of three new upper house committees. I have said to Mr Viney privately, and I will say it publicly here in this debate today, that I am always prepared to look at committee structures to see if there are not ways in which we can all agree. I think committees work best if there is agreement from both sides of the chamber and from all parties involved. I agree with that principle. I am happy to try to look at some compromises from my own point of view and The Nationals' point of view if it leads to a consensus opinion from all sides of the chamber on the committee structure that works best. I do not think we can do it on the run, which is what I think we are tending to do with the large number of amendments before us here and particularly the proposal that we come up with three new committees, as suggested by Mr Viney's amendment.

I know Mr Viney has said in previous comments that the government is prepared to look at the gradual introduction of matters associated with the other committees that will continue to exist — for example, the Legislation Committee and the two select

committees. It is prepared to look at a staged introduction of this new committee structure proposed by Mr Viney. I say that we cannot do it. It is an impossible task to try to get some agreement and compromise on the floor during the course of debate on these matters.

If all parties wish to agree to have a fair dinkum review of the committee structure and how it can best work, I would be happy to be part of that review over the course of the next 12 months. We are only 12 months into the operation of the chamber as it exists now, and it is going to need a settling-down period; we have seen that already in the 12 months since the last state election. I do not think it is good policy to make up committee structures and agree on the run to what is a quite radical new structure. We have had Mr Davis's motion before us for at least three weeks and that has given us time to think about it. You cannot think about a completely new structure over a period of three days, so I am not going to support Mr Viney's amendment to establish three new committees. But I say to him and the house that The Nationals are quite prepared to sit down in the cool of the day, look at the committee structure and try to come to some agreement across all parties as to how it would best serve the functions of the Legislative Council. That is a topic for review that cannot be undertaken today but perhaps in the next 12 months. If the government wishes to try to facilitate that for the forum, I will be part of it.

Mr LENDERS (Treasurer) — I will enter the debate briefly on a couple of the new issues that have arisen. I take first Mr Hall's proposition that we need to work on a consensual structure. I would say to Mr Hall respectfully that this side of the house has for 12 months repeatedly said that the whole issue of what we call rorted committees, where a party with 47.5 per cent of the seats in this house repeatedly by the consensus of those on the other side of the chamber is given 28 per cent of the seats on a committee needs to be examined. If we are talking about a consensus approach, we see it as a fundamental rorting of the system — —

Mr Hall — That is not a rort.

Mr LENDERS — It is very hard to get a consensus when we are told, 'Rort the system'. That is what it is — 47.5 does not equal 28. Every single proposition we have put forward to restore that balance and acknowledge that there are four other parties that wish to have five people on committees has been rejected. The government says, 'Fine, but put four government people on'. To Mr Hall I say that we will continue to be willing to talk and appreciate the prospect of doing so on a range of issues, but if we are talking of a consensus approach, for us that requires democracy. We do not believe that the proposition of a 5 to 2 committee membership is democratic.

That brings me to the next point. Mr Hall says that we need time to do this. I accept that the government's propositions have been moving rapidly, and it is a valid point on Mr Hall's part. But I say to Mr Hall and the house that in the same breath as we are saying, 'Let us get this right and have consensus', we will go through on a 21 to 19 basis and set up Philip Davis's committee within the half hour. This committee will be set up to take effect in the new year. If we are seeking consensus on this matter, I invite Mr Davis, when he gets up to make his speech in reply, to seek to have the matter adjourned for one week. We can deal with this in the next parliamentary sitting week if we are serious about finding a consensus on it. There is no magic in this being resolved within half an hour; it can be resolved in the next sitting week if we are serious about a consensus.

From the government's perspective, as Mr Viney said, the critical issue for us in all of this is that we deal with what we call the blatant rort, the 5 to 2 committee membership. I appreciate that we may get a tied vote on an amendment coming up shortly, but in the end we will have a 21 to 19 vote to yet again institute for the third time, despite every protestation of the government, the 5 to 2 committee membership.

In the context of that the government will not be supporting Mr Kavanagh's motion for the substitution of members in committees that are 5 to 2. If the committees are 4 to 3 we will support that because it enables proportionality. If a member of a party cannot turn up they can be replaced by another member whom that member proposes to replace them. We have no issue with that; that is what proportionality is about. If there are four non-government members and one cannot attend and another non-government member is sent along, that is fine — that is proportionality; we have no issue with that. But as to a 5 to 2 committee, the rationale for the 5 to 2 from the other side in this chamber has always been that because there are four parties and people all need to be represented, a party will send along someone from another party to represent them, which just reinforces the rort, reinforces the malapportionment.

If in the juncture and the sequencing of these amendments Mr Tee's amendment to have a committee of 5 to 4 is successful, then the government will support Mr Kavanagh's amendment to have substitution of members, or Ms Pennicuik's amendment, which I

believe is still circulating. But the government will not support the amendment to have the rorted 5 to 2 committee because it believes in proportionality. All it does is reinforce that the government that is in a minority by two in this chamber has become a minority on these committees, and that rorting, from our perspective, will continue.

We look forward to a continued debate on this. The challenge for Mr Hall and Mr Davis on this issue is that if they want to try to achieve that consensus they hold off the vote on this committee for a week. It will not take effect until the next sitting year, and we can do that. But if we proceed with this today and ram through yet another 5 to 2 committee, do not expect the government to see this as anything other than a rort and a ruthless use of numbers. That is how we see it: we have made that clear in all three debates. If our message is not coming through loud and clear, I am not sure what more we can say. We believe in proportionality, but 5 to 2 is not proportionality and we will oppose any motion that has the 5 to 2 formula in it.

Ms PENNICUIK (Southern Metropolitan) — I spoke at length about the committee structure in the debate last week, but I want to speak briefly now about the circulated amendments. In terms of Mr Viney's amendment to replace the establishment of the Standing Committee on Finance and Public Administration with three other committees, I spoke to Mr Viney about this when he first put it to me, and I expressed the view that certainly the committee structure in the upper house is an evolving process. I think it is a good thing that it is an evolving process, and I see this as an escalation of that evolution which we would not support. In particular, without rehashing the debate about the numbers on the committees, we would not support it because of the proposed numbers on those committees.

Government members have spoken ad nauseam about the issue of proportional representation on committees, which we all know is impossible to achieve on small committees. The Greens view is that a much more important principle is that everybody is represented on the committees that do their work and report back to the house, which makes the substantive decisions on any of the recommendations the committee makes.

I refer to the other amendments that have been circulated. We have looked at Mr Kavanagh's amendment regarding substitutions. Given the principle that we wish to have every party that is in the Council represented on the committees, we feel that we cannot support Mr Kavanagh's amendment, even though we understand the rationale behind it, and we will be favouring our own amendment, which is that committee members may be substituted by a member of the same party. That would keep the balance of representation from each party on the committee, which is what we feel is important, and I have spoken at length about that. It would not allow that balance to be upset, and that is the principle we want to maintain. It is based on the fact that the finance and public administration committee could look at a number of issues and, as I said in the first debate, certain members of different parties may have expertise or interests in certain issues. The idea behind my amendment is that whatever the subject is, a party can substitute the member of their party who they feel has the most expertise or interest in that issue. That is the reason for our amendment. That is why we will not be supporting Mr Kavanagh's amendment, even though we understand what he is trying to achieve with it.

Mr O'DONOHUE (Eastern Victoria) — I wish to make a brief contribution in this debate and say that I support wholeheartedly the motion moved by Philip Davis. I would like to make a couple of comments about the amendments moved by Mr Viney at approximately 10.15 this morning, about 15 minutes ago, that he has asked us to give serious consideration to. It appears to me that this is an eleventh hour attempt by the government to change the nature of and introduce complication to this debate.

I would like to pick up on a couple of comments made by the Leader of the Government. He said this is 'a blatant rort' and 'a ruthless use of numbers'. His comments really echo the comments made by the previous government speakers about a conspiracy theory of some sort of unholy alliance. It has been interesting sitting through debates in this chamber. I think we have seen every different combination of votes in divisions occur. We have had the Greens by themselves; the DLP (Democratic Labor Party); The Nationals and the Greens; the Liberals and The Nationals; the government and the Greens — every sort of division. So it is a ridiculous proposition that there is a 5 to 2 split. There are five parties in this chamber — five parties who, for better or worse, have been brought to this chamber — two larger parties and three smaller parties. It is eminently reasonable that any committee should have two members from the larger parties and a member from each of the smaller parties, giving the combination of seven. The motion moved by Mr Viney is another attempt to increase the power and control of the government.

Government members have tried to do that through Mr Tee's amendments. They tried to do it through amendments to the motions to establish the two select committees, one into gaming and one into public land

development. Now, at 2 minutes to midnight, they are trying another trick, but again the proposition from the Leader of the Government suggests some sort of unholy alliance, which shows disrespect for the other four parties in this chamber. The other four parties in this chamber all represent different constituencies and have different agendas. To think there can be some sort of unholy alliance is preposterous. I support very much the motion standing in the name of Philip Davis, and I commend it to the house.

Mr P. DAVIS (Eastern Victoria) — I will endeavour to summarise briefly where we are at and what the position is of the Liberal Party with respect to all of the amendments that have been moved. Firstly, the motion itself is in three parts. One part deals with the rescheduling of question time on Wednesdays, Thursdays and Fridays from 2.00 p.m. to 12 noon. The second part deals with a new procedure for the adjournment debate to give more transparency to the way ministers respond to adjournment issues and to ensure that community groups and individuals on whose behalf we raise matters in the adjournment debate have the opportunity to see that their matter has been properly attended to by ministers. I should at this point make it explicitly clear that this initiative came from the Greens and from Sue Pennicuik in particular, who has been discussing this over some time. This motion to amend the sessional orders was an opportune time to pick that idea up.

I would further like to note that these two aspects of the amendments to the sessional orders have missed much commentary. I have listened to the debate over a couple of days and I have found that the obsession of the government with numbers and its perception about factional arrangements on parliamentary committees has dominated its view of what this is all about, rather than it taking a holistic view to improving the operation of the Parliament, which I think each of the three separate measures achieves.

The third and most substantial part of the motion is the establishment, for the first time, of a standing committee of the upper house. I regard this as a necessary part of the evolution of the scrutiny process.

Mr Lenders — We established the Legislation Committee last year.

Mr P. DAVIS — I will take up Mr Lenders's interjection. I was delighted to be involved in the development of the concepts around the Legislation Committee. I think it is in itself deficient because, as is evidenced, the house has not found a suitable bill to refer to the Legislation Committee in a year, which, candidly, indicates to me that we have not got the Legislation Committee right. If it were functioning in the way it was originally envisaged, it would have had more work and the committee of the whole less work. In any event, I suspect we will have to revisit that in due course, and I am happy to do so.

As I have alluded to, the government has significant concern about the balance of the numbers. I think Mr O'Donohue summarised the position as fairly as I have heard it summarised in all of the debates we have pursued on this question broadly in this place. We spent virtually a day in the last sitting week debating Mr Viney's motion and arguing about the numbers and the balance of representation on committees. However, as Mr O'Donohue just said, there are five parties. Each of the parties is entitled to have representation on a committee. That by definition means you have got a starting point of five members. It is also reasonable for the two larger parties — the government party and the formal opposition party — to have some supplementary representation. All of that seems to me absolutely objectively reasonable, bearing in mind that the purpose of a parliamentary committee, whether it is a joint committee, a select committee or, as is proposed in this case, a standing committee of the upper house, is to investigate and report.

A committee has no executive authority; it has no power to do anything other than, by delegation from the house, get on and do the work that the house as a whole is unable to do simply because of its numbers. Committees are delegated instruments which derive their authority from that delegation. They must report back. Clearly that reporting back is about what the findings are and what the recommendations may be, and those matters will be further considered by the house as a whole and either acted upon or not acted upon or varied according to the view of the house. Therefore, frankly, I cannot understand why the government is so obsessed with the numbers on the committee, other than as a reflection of its view about control and controlling everything.

Mr Lenders — That is a fundamental belief in democracy.

Mr P. DAVIS — I will take Mr Lenders's interjection. It is not about a fundamental belief in democracy; if it were, the government would not have taken control of every joint committee but one. The government dominates the numbers and has the chair of every joint committee but one. It is unreasonable to take that approach. I say to Mr Lenders that that is not democratic. I put it to him that the fact of the matter is

that he must face up to the fact that this house has a task before it.

I need to deal with the amendments, and there is a series of them. Mr Tee moved a set of amendments, all of which, in our view, are flawed. Mr Tee's first amendment deals with inserting the words 'within the jurisdiction of the Victorian government' into the motion. Clearly Mr Tee needs to refer to the Parliamentary Committees Act, where there is no such provision. He needs to refer to the Victorian Constitution Act, which clearly defines the role of the Parliament as being restricted to legislating for matters within the purview of the state of Victoria. In our view that provision is redundant.

Mr Tee's second amendment again deals with numbers of members on the committee — the obsession of the government. May I make the point that it is important that we recognise that the debate on this question has been had several times. There is no doubt that we spent the best part of a day last sitting week, which upset the government's legislative program because we used so much time, on this particular issue as advanced by Mr Viney. In my view this matter has been dealt with. The house has expressed a view about the matter — that is, it does not agree with the government's view. With respect to Mr Tee's amendments 3 and 4, we believe that what they seek to do essentially is subvert the self-referencing power provided in this motion. Therefore we oppose the amendments. In other words, with respect to Mr Tee's amendments, we oppose them all.

With regard to the proposals put forward by Mr Kavanagh, Ms Pennicuik and Mr Rich-Phillips, I would say that in a general way they are somewhat linked. Ms Pennicuik has proposed, firstly, an amendment which would allow for the substitution of members, and secondly, an amendment which would provide for informing the house of references which the committee takes on its own motion. I think the substitution of members is a good principle. It has been available for the Legislation Committee and it should be available further. However, a problem has been highlighted by Mr Kavanagh, who has moved a subsequent amendment to deal with his challenge of being the only representative of the Democratic Labor Party in the Parliament. The Liberal Party is sympathetic to Mr Kavanagh's difficulty. For that reason we will support that amendment. However, in the event that that amendment fails, we will support Ms Pennicuik's amendment. It is a matter for the will of the house to prevail in that regard.

Mr Rich-Phillips's amendment is somewhat linked. It deals with establishing subcommittees on essentially the same basis as subcommittees are established in joint investigatory committees — that is, under the Parliamentary Committees Act. In other words, it is government endorsed, so I am sure that the government will support it. Subcommittees of between four and six members could be created, which could solve Mr Kavanagh's problem in some cases.

If there were an investigation that he wished not to participate in, Mr Kavanagh would be in a position of being able to rely on there being a subcommittee to undertake the detailed work while the standing committee oversaw the inquiry. Those are machinery provisions which are of great practical assistance. As I say, in the event that Mr Kavanagh's amendment fails, we would support Ms Pennicuik's amendment. We will certainly be supporting Mr Rich-Phillips, as we think there is a logical consistency with the Parliamentary Committees Act and joint committees in that case.

I refer to Mr Viney's proposal. We saw it for the first time when it was introduced in the house yesterday as a notice of motion on its own account. He is now withdrawing it and in effect substituting for it an amendment. I heard Mr O'Donohue call it an 11th-eleventh hour attempt to subvert this debate. I would say that it highlights the concern the government has about the capacity of a standing committee of the upper house to undertake proper scrutiny. In effect it re-argues the case about the numbers and membership of the committee. In effect it proposes to remove the self-referencing authority that is provided in this motion, and it has no transitional provisions. I make the argument that there has been a lot of consideration in the motion that is before the house as to implementation and transition. We have two select committees under way at the moment.

Mr Viney — I addressed that the other day.

Mr P. DAVIS — You may have addressed it in your contribution to the debate, Mr Viney, but you did not address it in the motion. What I am saying is that we think this is presumptive in the way it has been introduced. We have for weeks been open to a dialogue. Notice of this motion was given some time ago, and the debate was held three weeks ago. There has been plenty of time for the government to come back with an alternative and it came back with an alternative today. I do not think that is a reasonable approach.

I have said privately to the Leader of the Government and I will say this publicly: in the new year the

opposition is quite happy to sit down with the government and look at an overview approach to the committee structure of the upper house. I will give the government some credit and Mr Viney some credit; the government has moved from where it was, which was to oppose every proposal advanced to improve the scrutiny and accountability of government in this place. By advancing this proposal, at least the government is acknowledging the need for the upper house to have a proper committee structure.

Our view is this will evolve in a measured way, as it has this year by the appointment of select committees. In a sense it is baby steps. The upper house has had some experience over the year with the select committees and has concluded — I think it will be shown shortly — that we need to now move to a phase of established standing committees on a measured basis. We are only proposing one standing committee at this time and inevitably there will be others that will be recommended. I absolutely recommend that members of this place support the motion before the house for the purpose of that transitional process between a phase of select committees and moving to a standing committee structure, the purpose of which is to ensure that we have as a governance arrangement for the scrutiny of government an adequately resourced and staffed process that can drill into issues of public probity and accountability.

In conclusion, the opposition's view is that the house should support the motion before the chair. In so doing, it should support some of the amendments — Mr Rich-Phillips's amendments, Mr Kavanagh's amendments and, if they fail, Ms Pennicuik's amendments. Clearly our position is that we are opposed to Mr Tee's and Mr Viney's amendments. I urge all members to support the motion before the house.

House divided on Mr Viney's amendment:

Ayes, 19

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

Noes, 21

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

Amendment negatived.

House divided on Mr Tee's amendment 1:

Ayes, 20

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

Noes, 20

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

Amendment negatived.

House divided on Mr Tee's amendment 2:

Ayes, 20

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

Noes, 20

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

Amendment negatived.

House divided on Mr Kavanagh's amendment:

Ayes, 18

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

Noes, 22

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

Amendment negatived.

House divided on Ms Pennicuik's amendment 1:

Ayes, 21

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

Noes, 19

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

Amendment agreed to.

Mr Tee's amendment 3 negatived.

Ms Pennicuik's amendment 2 agreed to.

House divided on Mr Rich-Phillips's amendment:

Ayes, 21

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

Noes, 19

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

Amendment agreed to.

House divided on Mr Tee's amendment 4:

Ayes, 19

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

Noes, 21

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

Amendment negatived.

House divided on amended motion:

Ayes, 21

Atkinson, Mr
Barber, Mr
Coote, Mrs
Kavanagh, Mr
Koch, Mr
Kronberg, Mrs

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

Noes, 19

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

Amended motion agreed to.

PLANNING: YARRA AMENDMENT

Mr BARBER (Northern Metropolitan) — I move:

That amendment C95 to the Yarra planning scheme be revoked.

If you believe that local government is best placed to make decisions about planning reflective of the community's values, or if you do not agree with the government's development policy for the urban areas along the Yarra River, or if you simply think the minister has got it wrong with this development, then you have a reason to vote with the Australian Greens and disallow the amendment.

The Parliament has the power to do so. Planning scheme amendments are disallowable and are of the nature of subordinate legislation or regulations to another act. In this case the Planning and Environment Act is the overall umbrella under which many bits of regulations are made, such as Victoria's 79 planning schemes. In passing that act Parliament made the decision that it was not prepared to let go all of that power, as it is with many other bits of subordinate legislation. Frequently we get, and it occurs more often these days, acts that are broad umbrellas with all the detail to be filled in by regulation. Personally I think that is a worrying trend. It means the Parliament has to be vigilant with the many regulations that get dropped on the table every other day, but Parliament's clear decision is that it would not give complete power to the executive to go ahead and make these decisions.

I have to say there have not been a lot of attempts to disallow planning scheme amendments in the recent history of this Parliament. The Nationals attempted to do it in the case of the Basslink pylons and the planning scheme amendment required to put those pylons underground. The Greens would have supported that amendment if they had been in the Parliament at the time, but it was in the run-up to the 2002 state election and the issue was controversial. The only other instance that the parliamentary library could identify of a planning scheme amendment being attempted to be disallowed was in 1991 when the Liberal Party attempted to disallow the Kirner government's interim controls to protect native vegetation.

The Parliament has kept to itself the power to disallow planning scheme amendments and I will argue in this case that it should. The City of Yarra council — I disclose that at the time I was a member of it — went through a set of proper processes to develop planning scheme amendments to protect the Yarra River. In the run-up to the 2002 state election and a few weeks prior to the state government releasing the Melbourne 2030 document, the then Premier, Mr Bracks, issued a press release saying that Melbourne 2030 would offer protection to the Yarra River and, as it happened, the Maribyrnong River. The government thought it would be a particularly important measure and wanted to emphasise that in particular, so it released that in advance of the Melbourne 2030 document.

A year or so later no action had been taken by the state government to introduce state controls or controls spanning the length of the Yarra River that would have achieved that aim. Yarra City Council went ahead and attempted the work itself for its own stretch of the river. We created amendment C66, which we asked the government to implement as a set of interim controls due to the urgency in protecting the Yarra River because of the number of proposals popping up at that time along the river.

In order to produce that planning scheme amendment, the council went through extensive consultation. It did an extensive study of the landscape and the valued features of the Yarra corridor, and of course it ran through the full and formal process of gazetting a planning scheme amendment. Here is what we found in that process.

Obviously the Yarra River is the major geographic feature of Melbourne, and if you question that then just imagine Melbourne without the Yarra River — it would be a pretty unremarkable city, at least in terms of those features. Protecting the ecological integrity of the river and its lower reaches is a real challenge. It is highly urbanised. In the past the river, particularly through the city of Yarra, was treated as a dumping

ground. Industries based themselves on the river and turned their backs on the river, and in many cases they put their waste into the river.

Protecting the ecological integrity was the key aim of council's original planning amendment. Obviously there is the landscape value of the river itself. As I said, the river is incredibly significant, but it is not a very wide river; it is a thin green line running through those cities and therefore tall buildings and high-rise developments will overshadow and dominate, not just in shadow terms but in visual terms, what is the most valued feature, a naturalistic river corridor giving people the opportunity in the middle of a city to feel like they are in a wilderness area, as you almost can in Yarra Bend Park. Certainly you can get some relief and respite from the city around it.

Protecting and upgrading water quality is an important feature. Most members are aware of the challenges facing the Yarra River in that respect. There is also the fact that the Yarra River has hundreds of thousands of visitors. The pedestrian and cyclist count for various sections of the Yarra River is in the hundreds of thousands each year. These sorts of developments do not just affect the nearby neighbours and adjoining properties but everyone who uses the river, which is hundreds of thousands of interested parties, if you like.

The City of Yarra designed a set of controls aimed at protecting and enhancing those features as opposed to the past trends in the treatment of the Yarra, and, looking ahead to future development, at enhancing the river corridor rather than merely protecting it in its current condition. The sorts of aspects the City of Yarra's amendment C66 took into account included the distance from the top of the river embankment — not from the waterline but looking at the varying features and twists and turns of the river from the top of the embankment — to create minimum setbacks across both public and private spaces, to create height controls that went with those setbacks so that the minimum setback and the minimum height interacted, and to create a series of step-ups, if you like, of heights and setbacks moving back from the river to protect the interface, the water quality and, the native vegetation, and to allow for it to be enhanced. It was also designed to remove one of the difficulties that we have with the Yarra as it has been developed over time — that is, the lack of clarity between what is public and private space. Private developments on the Yarra River frequently want to take over what appears to be public space. Of course those behind the private developments value it; they would like to have their own private picnic areas and their own private boat ramps, but we argue that the Yarra River is for public use. Those were the key features we wanted to protect and enhance.

What has occurred in this case is that having originally approved the City of Yarra's controls the state government is now attempting to override them. I should add that following on from amendment C66, which set these broad parameters for the Yarra River through the City of Yarra area, we also came up with more specific precinct controls recognising differences in particular cases. In the area that we are talking about, the area where the Yarra River and Victoria Street come in close contact with each other, we created a specific set of urban design frameworks which we called amendment C75, and we requested that those become interim controls as well. What has happened here is that the state government has come in and is attempting to override the controls put in place by the City of Yarra after a great deal of thought, a great deal of consideration and a great deal of community consultation.

How does it do that? What this proposed amendment C95 does is to create what is called a priority development zone. In effect the zone itself does not have a lot of controls; it just has a few decision guidelines. The zone indicates that any developments which occur in the precinct which has been carved out occur in accordance with the developer's plan — the Yarra Gardens precinct plan. Effectively the developer's plan becomes attached to the planning scheme and any future development on the site will then occur in accordance with that development plan — and in fact, the council is no longer the decision-making authority, the state government is. There are no appeal rights in the case where the developer's proposal — what it is it is trying to build — fits in with the plan. The developer has appeal rights but the community does not.

The state government appointed a priority development panel (PDP), which in all other ways is similar to its other appointed panels, and it asked the panel to look at the plan. As an aside, in order to appoint that panel the state government argued, as it always does with an intervention, that this is a development of state significance. We have heard that many times. At every intervention or call-in the argument is put, 'This is a development of state significance'. The government having done that and created that fig leaf, the panel itself did not go on to address issues of statewide significance. It did not actually then look very much at all outside the boundaries of this site, and yet in approving this amendment we are as a Parliament approving the state government's vision for this site and for any others along that section of the Yarra River that

it chooses to implement. If this decision by the state government is any indication, its vision for the Yarra River is Southbank all the way to Dights Falls. The government used the fig leaf of state significance, but then it did not look at the state significance of the Yarra River, because if it had looked in that wider context it would have seen it for the asset that it is and it would have wanted to protect it.

What is the problem with the development? The City of Yarra has made its views very clear on this. I have to say that all the councillors on the Yarra council — Green, Labor and Independent — were of the same view. They summarised their views in a media release. They talked about the proposal put forward by the developer and compared it to what the council wanted under its planning guidelines, and they looked at what the minister's decision has been in creating this amendment.

Salta's proposal was for an eight to nine-storey building, higher even than that incredibly sore-thumb building that exists on the site now, which is the fire brigade's Abbotsford training facility. Members who have seen that will know that it has dirty great big concrete shards sticking up and is obviously a product of the 1960s or 1970s. It is totally inappropriate in terms of our modern values. Salta was asking to go higher than that, and in fact higher than the dirty great blue-and-white box next door, which is its Ikea development. The council wanted six to seven storeys overall, and what the panel has done, with very little justification, is just split the difference.

The height is not the only issue; it is height versus setback from the Yarra River. That tells you how dominant this development is going to be over the natural values of the river. Salta's proposal was for a 10-metre setback from the top of the embankment going up eight or nine storeys — and 10 metres is about the distance between me and the Acting President. If you imagine facing up to an eight or nine-storey building you realise that you are going to be in something that resembles Southbank much more than a naturalistic stream setting of a river.

The council's original proposal was for a 10-metre minimum setback but only going to three storeys at 10 metres, and then further setbacks with each further rise, which would create a feeling of openness for people walking along the river. The preferred minimum setback would have been 20 metres, because you simply cannot protect and enhance the natural value of the Yarra — the gum trees and the feeling of being in nature — in a 10-metre strip with development right along the back of it. Above five storeys, the council's preferred position was a minimum setback of 35 metres. It would be stepping up and away from the river rather than towering over it.

The panel has not accepted the view of the council and the community; in fact it has dismissed it in a very few lines, as is the wont of unelected panels, which certainly see themselves as — in many cases they are — experts in planning but which are not so much experts in community values. At the end of the day planning is about values. It is about what we value and what changes we would like to see, what we want to keep and what we want to see changed. In just a few lines the panel simply said:

> … the council's preference is for the heights specified in the built form controls to be mandatory, the PDP is not persuaded that this is an appropriate response. With the C66 panel's comments in mind, that flexible, performance-based development controls can be more effective, the PDP prefers the approach of specifying preferred heights so that designs can be prepared that can accommodate the specific opportunities and constraints of individual sites.

This is the problem we have with planning in Victoria today. Nothing says what it means or means what it says. You cannot set up a set of guidelines that say, 'These are the heights we want to create in these areas'. Everything has got to be a preferred height or a desirable neighbourhood outcome or a discouraging of certain types of application. That only encourages the developer to come in and put up an even bigger proposal, bearing in mind that it is the last couple of penthouses on the top of the development that give them the cream.

The panel simply just substitutes its view of the world for the council's view of the world. The council's view came from democratically elected councillors in response to a vast range of community consultations to bring out the community's values. The panel also makes some commentary, and this is where it really bells the cat, as follows:

> In fact, given the proximity to a rapidly changing major activity centre, where population densities and pedestrian activity can be expected to rise, the PDP suggests that it would be a poor planning outcome if maximum advantage was not taken of the opportunity for north facing riverside open space. Given the particular physical attributes and constraints of this particular stretch of the river corridor, the PDP accepts that the approach adopted by Salta, including the 'buildings on legs' principle has legitimacy and can be supported.

This is the real giveaway. The Melbourne 2030 policy, with its emphasis on activity centres and development around activity centres, trumps many of the other values that people living in and around those activity centres would like to protect. Often it is heritage, open

space and the amenity of an area; in this case it is our major natural feature of the Yarra River. It is saying this is an activity centre — an activity centre that was picked off a map by the minister who created Melbourne 2030. The developer in this case has been buying more land around the shopping centre seeking to consolidate and expand, and, in his own words, control the precinct. He goes to the minister and says, 'I would like it to be an activity centre because I know it will give me the green light through Melbourne 2030'. The minister says, 'Yes' and the panel comes in and says, 'Well, folks, you know we can't waste this land because it is near an activity centre'. If you have a look at the applicant's documentation you see the buildings-on-legs proposal gets around the idea of a decent setback by creating a kind of cave effect. Really it is a building that leans over, with a dark, spooky space underneath. It is meant to provide the setback that is needed for protecting the values I mentioned before — the naturalistic river corridor.

I have already mentioned that under this priority development zone there will be no appeal rights for the community if people object to any subsequent planning permits that are issued under this zone, but the developer has appeal rights. The panel argues that this application, this proposed development, responds to the river. I agree it does.

I have admiration for some of the things that Sam Tarascio, the developer, has achieved. I know he is a smart guy. I can tell you how this development will respond to the river. When he comes to sell these apartments and the various other uses, he will actually show you a picture of what you will see from the development — a naturalistic river corridor; you will see trees and a vineyard across the river in Kew — and he will not even tell you what your apartment is going to look like. He will put up a placard that shows what the views will look like.

That is the problem we have got here. The government is not intervening to stop the worst kind of development that free-rides on the natural values that make that development so attractive but simultaneously destroys them. It destroys the views not only of those hundreds of thousands of river users but also of residents opposite, who will not get to see what the occupants of these apartments will see — a beautiful green river — but something that looks like Southbank shining back at them. They will see a giant, enormous concrete, metal and glass structure.

As I was saying, local government is the best level of government, the level of government closest to the people, to bring the community's values into the planning scheme. This is really what planning is about in the end. It is not about technical knowledge; it is about what we want to protect and enhance and our preferred future for our cities. If you think that this development sets a particularly bad precedent for all the other former industrial sites along this strip of the river — and there are many between Southbank and Dights Falls — or if you think this development just does not stack up against the benchmark created by the council in its original planning scheme amendment, then you should join the Greens in disallowing this amendment and in so doing set up the council's existing planning scheme as the benchmark and protect inner Melbourne's most valuable natural and cultural feature.

Mr GUY (Northern Metropolitan) — I do not intend to speak for a long period of time on this motion. I thank Mr Barber for his contribution and for making some points in this debate on the disallowance of amendment C95, which will obviously result in the disallowance of the amendment which is before the house. While I understand some of the arguments that Mr Barber has put and his close association with the current proposal, I point out that the Liberal Party will not be voting for the disallowance. Mr Barber highlighted a number of issues about *Melbourne 2030* and the inconsistencies between the document that was originally advertised or given to councils and the perceptions the government created with the document, and the realities that have come out of that. I understand his frustrations with some of the inconsistencies that appear in *Melbourne 2030* compared to the reality of what is happening throughout the metropolitan area with planning as it is today.

The disallowance motion clearly deals with one specific development — the Victoria Street east precinct in Richmond which borders Victoria Street, Flockhart Street and the Yarra River and is broken into three precincts: Burnley Street west, Yarra Gardens and Shamrock Street north. The amendment we are dealing with today, C95, deals with Yarra Gardens and Shamrock Street north. As Mr Barber has said, Salta is the developer on that site. It has been the subject of a long-running series of planning procedures to get something on site which is acceptable to the community and to the council and fits in with the government's urban planning strategy for the area. It has certainly been one which has attracted a lot of attention, particularly from people in the Richmond area but also from people on the other side of the river in areas such as Hawthorn and Kew.

I understand that some people who are opposed to the current proposals are concerned that the heightened

scale of the development will impact upon not just those on the other side of the river but also on those on the Richmond side of the river and that it may be seen as a precedent for development further along the river. I understand their concerns. Some community groups that I have spoken to said that it may set a precedent for not just the Richmond area but further down the river, and I understand that they have some concerns.

To my knowledge the Yarra council has never actually opposed development on that site; it has just opposed the scale of the development with the current proposals that have been put forward. Passing the disallowance today will not just stop the development; in my mind it will create a precedent in the state of Victoria, particularly in relation to private development, which is one you would not want repeated on a regular basis. I understand that there are issues with the C95 amendment, such as that the amendment as it currently stands provides for a greater level of public open space than the C75 that would default if it were disallowed today. Already there is large-scale development in that area of Richmond, such as Victoria Gardens, which is quite close to it. I understand that those issues have to be taken into account, rather than just the single issue of one development on that site.

As I said, we have an issue with the way the whole subject has been handled by the government for a period of time. The Liberal Party has some concern that the results of that PDP (priority development panel) were not released before the election. You have to ask, 'Why on earth, if the process was supposedly open from the start, were those results not released before the last election?'. It is pretty clear that it was done specifically — as are most things by the state government at the moment — with politics in mind. It was to save the job of Dick Wynne, the Labor member for Richmond in the other place and the current Minister for Housing. It was done with politics in mind rather than genuine consultation. If they were going through a genuine process, I would imagine that those documents would all have been released at once — it would have been done properly, openly and transparently. As we have heard from the debate this morning, that is not necessarily how business is done in Victoria at this point in time.

While I understand the frustrations in relation to this particular site and to the planning processes in Victoria that exist through 2030, we are indeed focusing on one specific development rather than on what I believe is a major problem — that is, the planning systems in Victoria at the moment through Melbourne 2030. That is what we need to focus on. In my view our argument should remain consistently about state planning policy and not at this point individual planning scheme amendments. As I have stated, the Liberal Party will not be supporting the disallowance.

Ms MIKAKOS (Northern Metropolitan) — It has been very interesting listening to the debate so far. I noted that in his contribution to the debate on the disallowance motion Mr Barber failed to mention that the particular item came to the minister as a result of a request by the Yarra council to the minister to call the matter in. In fact, the Yarra council wanted a priority development panel appointed to work with council to try to come up with a good outcome, yet we have not heard any mention made of that fact.

When I came to this place I brought with me my experience as a former local government councillor and as a former member of that council's planning committee. Having that experience serves me well as a parliamentarian and in my new role as Parliamentary Secretary for Planning. Yet I find it interesting that in his very short time in this place Mr Barber is seeking to do something that is highly unusual — that is, to disallow a planning scheme amendment. At the outset of his contribution he conceded that it is highly unusual to be moving a disallowance motion to a planning scheme amendment. In fact he did not refer to any disallowance of a planning scheme amendment; he referred to a previous disallowance of a planning policy from decades ago. I think this chamber's time could be better spent debating more important matters that relate to planning issues in this state.

We can see that Mr Barber still thinks he is a Yarra councillor when bringing the issues of the Yarra Greens to this house. It is time that we got beyond parochial political interests affecting the Yarra Greens and focused on what is for the greater good of the Victorian community. The Melbourne 2030 policy, as we know, is about planning for the future and ensuring that the extra million people projected to be living in Melbourne by that date will be able to access affordable housing. It is also about protecting our green wedges and containing urban sprawl, with the associated need for more freeways, and pollution. These are objectives that I would have thought a party like the Greens would support. Rather, we are getting a nimby approach to planning issues and opposition to an approach that would support more housing in inner city areas that are close to public transport.

I refer Mr Barber to his party's planning policy, a document headed 'Planning and transport' which it put out at the last state election. Paragraph 2.12 states:

> Workplaces should be created in regional centres, small towns and suburban centres, especially those well served by public transport.

This is in fact what we have here. We have an unparalleled opportunity for development on a site which is very close to the central business district. It is a site of strategic significance, a brownfield development site with redundant uses. It was previously a hotchpotch of different planning zones. It is close to public transport. As has been said, it is close to the Victoria Gardens shopping centre. It is the only major activity centre with a northerly aspect to the Yarra River, and it has few direct interfaces to existing, sensitive residential areas. We all know that land is a scarce resource, particularly in the inner city. We need to ensure that we do not allow land with good infrastructure around it to stay idle or to be inefficiently used, particularly when it could contribute to new housing stock in the tightly held inner city housing market.

I have to ask the Greens if they do not encourage change and development progress in areas such as this, where is it going to happen? Is it going to happen in our sensitive green wedge areas? I would think not. I know that the Greens policy is to ensure that that is in fact not the case. Where are we going to accommodate our housing needs and provide for new job opportunities close to retail, employment and other services?

The Victoria Street east major activity centre is a site of state significance. That is why, at the council's request, the Minister for Planning called the matter in. It is important to emphasise that Yarra council wanted this precinct considered by the priority development panel. It wanted this development called in and considered in the context of the future of this whole precinct. The minister decided to become the responsible authority for this precinct in recognition of its strategic significance as a major activity centre and its sensitive proximity to the Yarra. It is important that I also emphasise that before any specific development is considered, the priority development zone requires the minister to further consult with Yarra City Council, nearby landowners and occupiers and other stakeholders. There are opportunities there for Yarra council to remain involved in the future of this precinct.

In terms of the outcomes that have been achieved, I think a very good outcome has been achieved for the local community. In a press release dated 16 August of this year the mayor of Yarra council said:

> … we have identified some aspects that will lead to some open space improvements for the community …

It is very important that I emphasise that. The outcome included in planning amendment C95 provides for twice as much open space as advocated for by the so-called green council. The original requirement for open space set down by the council would have provided for approximately 3145 square metres of open space. What has been achieved with this development plan is approximately 8435 square metres of open space. This has been achieved because the design agreed to is a building-on-legs design that provides for north-facing undercroft areas. The undercroft design can accommodate pathways, terraces and other landscape treatments. It is quite an innovative design. It will also ensure that members of the public will have pedestrian visibility through to the river.

The developer is also providing for new landscaped areas and new street furniture, lighting and bicycle ramps from Walmer Street to the river level. The community will also benefit from the developer contributing to segregated bicycle and pedestrian paths. That is a particular issue in this precinct. There have been problems along this section of the Yarra in terms of the bicycle-pedestrian path.

The height limits have been discussed. The highest buildings will be in the east of the precinct and will be up to eight storeys in height. This is only one more level than the existing Metropolitan Fire Brigade building. The controls also provide a transition in height from the lower rise areas in the west to higher existing development in the east. The street frontages will have lower heights of between three and five levels. I point out that the eight-storey height level is consistent with the approval given to the adjoining Walmer Street development site.

In relation to the setbacks I point out that the setbacks need to be 13.5 metres from the crest line of the river. In some areas they are set back further to align with the public acquisition overlay. The 13.5-metre setback is consistent with the council's own policy, the urban design framework, which outlines a minimum setback of 10 metres and a preferred setback of 20 metres. What has been achieved is a greater setback than the minimum setback provided for in Yarra council's own policy.

In terms of the economic benefits of this development, I have already discussed the additional contributions that the developer will make in terms of bicycle-pedestrian paths and many other things. That leads to a contribution of approximately $4 million of benefit to the community. In addition, an estimated 1300 permanent jobs will be created through this amendment. Even more jobs will be created during the

construction and development phase. In terms of what the community will ultimately attain once the development is complete, the rezoning envisages that retail, child care and other services will be able to be utilised by the existing residential community. There may well be things like medical centres, offices and other types of uses.

What we have here is a very good outcome for the community. As I said, the council commenced the process by putting in a request to the minister that the matter be called in. I think it is important that we take note of that. At the end of the day there will be better open space provision — as I said, a doubling of open space compared to what the council would have provided for.

We are yet to hear from The Nationals as to what their position is on this issue. I am not sure if Mr Hall will be speaking after me.

Mr Hall — I will.

Ms MIKAKOS — Good. As I understand it, they have flagged that they will be supporting the Greens with this disallowance motion.

Mr Hall — How did you know that?

Ms MIKAKOS — That is what I was led to believe. Is Mr Hall saying that that is not in fact the case?

Mr Hall — Wait and listen.

Ms MIKAKOS — I have to wait. I have been led to believe that that is in fact what is going to occur; Mr Hall could correct me if that is not the case. I would be highly surprised if The Nationals were to support the Greens on this one. The conservative Nationals supporting the anti-investment policies of the radical Greens might suggest they have some secret deal, that The Nationals are in cahoots with the Greens.

I wish to remind The Nationals that if they want farmland and rural areas protected from urban encroachment, then they should be supporting Melbourne 2030 and our urban consolidation and activity centre policy. They should be supporting the end of urban sprawl, making sure our urban infrastructure is used efficiently, and making sure that our farmland, green wedges and rural areas are protected. I urge all the parties to vote against this disallowance motion, something that is highly unusual, and to allow us, when we have debates about planning issues, to have more constructive debates than this one.

Mr HALL (Eastern Victoria) — The previous speaker has described this disallowance motion being debated by the chamber as an action that is highly unusual. I would not think that that is an appropriate term to describe this action. A better terminology to describe it would be that it is an infrequently used statutory right of the Legislative Council to debate the disallowance of a planning scheme. We have two disallowance motions on the books today, which is an infrequent action taken by the Council, and certainly the Council debates planning schemes infrequently.

Mr Barber pointed out that the last disallowance of a planning scheme amendment was attempted in this chamber five or six years ago, when I moved a disallowance motion in respect of a planning scheme amendment that facilitated the construction of pylons across the landscape of South Gippsland for the Basslink project. I was unsuccessful in that attempt because Ms Mikakos's government resisted that disallowance. In terms of looking to protect farmland, which is what I was advised by the previous speaker should be a priority of The Nationals, that is exactly what we were doing five or six years ago when I moved for the disallowance of a planning scheme amendment that has enabled pylons to be built across the South Gippsland landscape, yet the government allowed that amendment to proceed.

I also suggest that we MPs are usually not experts in these areas. The utilisation of the provisions available to us to disallow planning scheme amendments should not, as a matter of course, be exercised on a regular basis. We should have that right to do so when matters of process leave doubts about whether the best outcomes have been achieved by that process. In respect of this planning scheme amendment, there are some significant doubts about whether the best outcomes will be achieved by the process that has led to this amendment. It is irrelevant whether the council asked the minister to call in this project or not. The outcomes are the important things, and I am surprised, in terms of our contact with the City of Yarra, that the outcomes seem to conflict with some aspects of the previous planning framework approved by the state government. I refer in particular to the urban design framework for the city of Yarra. The planning scheme amendment outcome for this project seems to be in conflict with the urban design framework approved by the previous Minister for Planning in this government.

It is certainly my belief that planning scheme amendments should be the domain of local government. The states should set the framework for planning schemes and the planning decision framework and local government is best placed to implement its

local schemes within that framework. I concede also that there are times when the Minister for Planning could at the request of council take over as the planning authority. However, the simple fact that the Minister for Planning undertakes that role as planning authority for a project does not mean that Parliament, the community or the local council should blindly accept any recommendations that arise from that process.

Mr Barber made the salient comment that there are no appeal rights by the community or the council with respect to this development due to the fact that the minister has taken over that planning authority role. Although I am well aware of the site in the city of Yarra that is the subject of this planning scheme amendment and frequently drive past it on my way in to Parliament, I certainly do not claim to be an expert in the local area.

Ms Mikakos — Do you?

Mr HALL — When Parliament is sitting, I drive in that way from my Melbourne residence. So it was that I leant on my colleague the member for Shepparton in the other place, Jeanette Powell, who is the planning spokesperson for The Nationals, to consult with the City of Yarra in respect of this project. Mrs Powell, in her normal, diligent way, undertook to do that and spent some hours researching this project and discussing the matter with staff at the City of Yarra. She reported back to me that the people within the city of Yarra were not happy at all. I cite, by way of reference to an expression of their unhappiness, the same media release that was quoted by the previous speaker — that is, the media release of 16 August 2007 by the mayor of the City of Yarra, Jenny Farrar.

In that press release there were, to use the terms expressed in it, some 'mixed feelings' about the outcomes of the project. Overall there was significant disappointment that these outcomes have been achieved. The press release states:

> The council urban design framework —

the UDF —

> adopted the principle of the existing MFB —

Metropolitan Fire Brigade —

> building being the highest building element on the site and all other buildings stepping down in height from that existing location towards the river and adjoining street. The minister's decision has not followed this principle — buildings are eight storeys high abutting the river and not tiered.

The mayor is quoted in the release as saying:

> While the new pathway is very welcome, we believe the development of eight-storey buildings within some 13.5 metres of the crest of the river is a poor community outcome.

Also in that press release comments attributed to the mayor go on to say:

> Our concern is that the community has been forced to accept a building of such height and scale in exchange for a space that they will not feel comfortable using.
>
> That said, the improved access and activation of the riverbank area that will result from the construction of a dual pathway, with a view to extend through to Gipps Street in the future, is a positive outcome for the community.

As I said at the outset, the council has very mixed feelings about some of the outcomes. I want to quote a couple of other final points made in the press release:

> Further, the mayor expressed concern that the approved development does not meet the controls set for the area in council's UDF.
>
> 'It is disappointing that many of the outcomes across the two sites, such as building height and setback, still fall short of the controls contained in council's UDF', she said.

The mayor again reinforced the point that the council's urban design framework was a document that had been approved by Mr Hulls when he was the Minister for Planning. There seem to be some conflicts between the outcome of this planning permit and council's own urban design framework.

I agree with the comments expressed by all speakers to this point that the Yarra River is perhaps Melbourne's greatest asset, and it is important that we get development along the Yarra River right. However, in this instance the views expressed by the City of Yarra should be taken into account very strongly.

The Save Our Suburbs group, from which I received an email just this week, again expressed its concern that this was a very poor outcome in terms of community views. As I said at the outset, while this is an infrequently exercised power of the Parliament, it is a rightful one that we should exercise when there is some doubt about whether the process being used to determine a planning permit has produced the best outcomes. I am convinced by the views of the City of Yarra that this is not the best outcome for that municipality. For that reason The Nationals will join the Greens in supporting this revocation motion.

Mr BARBER (Northern Metropolitan) — I appreciate the contributions of all members to this debate. For the first time in a while we have been able

to have a real debate about planning, albeit one that has been about a specific site. However, it is a site that is certainly of state significance. The development of this site is setting a precedent for the most important natural feature of Melbourne, the Yarra River. Disallowances might be uncommon in Ms Mikakos's experience. Naturally that would have been the case in the situation where it was like a warm bath for the government to be controlling both houses of Parliament — or for that matter for the Liberals to control the upper house. It meant that things did not get too exciting around here, but they are set to.

Likewise, in the federal Parliament just last month Senator Bob Brown moved a disallowance motion against politicians' pay rises. Nothing brings Labor and Liberal together quicker than a pay rise, and so it was in that case. Let me assure you that disallowances are not that exotic an instrument when it comes to parliamentary procedure.

Mrs Peulich — Bob Brown was only grandstanding anyway, as usual.

Mr BARBER — It appears that Mr Bracks backed him, at least to a certain extent. The key Liberal argument appeared to be the precedent that taking this action would set and how it would affect private development in Victoria. By that reasoning, the Liberals should go to the next election with a policy that says it does not think these instruments should be disallowable; it should write that out of the Planning and Environment Act. It is fair enough if it wants to do that, but it cannot really argue that tactically. It is either a matter of principle or it is not.

Mr Guy said that he was disappointed that the government did not bring forward this proposal before the election. Given the stance the opposition is taking today, perhaps he is secretly happy that it did not come up before the last election. As he knows, the member for Kew on the other side of the river, and even Mr Baillieu, the Leader of the Opposition in the other house, have taken some very strong stances against this development, but today they are not prepared to back those up.

Ms Mikakos raised the point that Yarra council asked the minister to intervene in this matter. That is true, and in fact I mentioned that in my speech. Council introduced an urban design framework for this area to head off what was clearly going to be a booming set of developments up and down the length of the Yarra River. It asked the minister to intervene to implement that as an interim control. The minister did intervene to the extent that this development was considered by his priority development panel, but it was not considered in accordance with the council's C75 urban design framework. I quoted the panel, which said that that should not apply.

I do not know whether Ms Mikakos has visited the site. It is disappointing. I am on a first-name basis with every land title along the length of the Yarra. That is the level of effort that the council put in in order to develop its preferred outcomes for the river. There are only about 30 separate land titles between Burnley Gardens and Dights Falls. Most of them are former industrial sites and all of them will be developed sometime in the next few decades, because clearly this trend towards mixed commercial and even residential development is now the driver. People are again facing the river, whereas it used to be thought of as that messy bit down at the back of the factories that people did not want to know about.

Clearly what is going on here with the property industry is not so much that these are all developments of state significance but that we have a set of donations that are of state significance. If you look at the registers of industries that contribute to the Labor and Liberal parties, you will see that the property industry, above and beyond its representation in the overall economy, is pouring money into the political parties. The worst part of my job as the planning spokesperson for the Greens is to sit here and listen to the Minister for Planning and his shadow in furious agreement about virtually every aspect of Melbourne 2030 but making a great show of their disagreement. The Minister for Planning sat in the chamber today but did not actually stand up to speak in defence of his own administrative action. He sat right there in my line of sight. I had to look over his shoulder at Ms Mikakos to take the running on this one with the cheat sheet that he had presumably handed over his shoulder at some point.

Every day I sit here and listen to Melbourne 2030 according to the Minister for Planning booming out from one side of the chamber, and then it is the *Chipmunk Punk* version coming back from the other side of the chamber. They are in furious agreement. It is like a jungle mating ritual. The development industry is incredibly pleased about this, because for all the colour, motion and fury, it knows that on every key element of Melbourne 2030, after taking out a few little changes around the edges, Labor and Liberal are in alignment. They agree on the urban growth boundary. The Liberals want to keep it moving out. It is an oxymoron anyway; it is a boundary that actually causes sprawl, not limits it.

Today we are seeing another aspect of Melbourne 2030 on which the Liberals are in alignment with the Labor

Party — that is, where an activity centre has been designated and other considerations such as heritage, local amenity and, in this case, our key natural feature get pushed aside. I am sure that is a policy that we would continue to see if we had a Liberal government. In any case I appreciate the contribution of Mr Hall in supporting our amendment. We have not heard from Mr Kavanagh, but any other support we get for this motion would be appreciated. I thank the chamber for the opportunity to have a real debate about a key set of planning issues.

House divided on motion:

Ayes, 6

Barber, Mr (*Teller*)	Hartland, Ms
Drum, Mr	Kavanagh, Mr
Hall, Mr (*Teller*)	Pennicuik, Ms

Noes, 34

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

Motion negatived.

PIG FARMING: CODE OF PRACTICE

Ms PENNICUIK (Southern Metropolitan) — I move:

> That the Code of Accepted Farming Practice for the Welfare of Pigs 2007 (Revision No. 2) laid before this house on 21 August 2007 be disallowed.

I rise to follow my colleague Mr Barber in addressing a matter under an infrequently used provision.

Pigs are very smart animals. Scientists have discovered that pigs have an understanding of what is going in the minds of other pigs, and make their own decisions accordingly. This type of thinking has often been assumed to be unique to apes and humans, but it is not. Pigs are extremely active and inquisitive. When given a semi-natural area to live in, they spend much of their day smelling, nibbling, manipulating objects with their snouts, and rooting around in the soil. These behaviours are essential aspects of their welfare.

Few species are more social than pigs. If they are allowed, when they are ready to give birth, female pigs go to great efforts to make a nest for their young. They select a clean, dry area apart from the group, sometimes walking up to 5 or 10 kilometres, hollow out a depression in the ground and line it with grass, straw or other materials. The bond between mother and piglet is very strong. Weaning occurs naturally at three months, but, if left to their own devices, young pigs continue to live with their mothers in a close family group.

This code is about these particular animals. My interest in this code stems from my interest in the welfare of animals. In my inaugural speech I mentioned that for more than 30 years I have been various versions of a vegetarian. In fact, I have not eaten pork very many times in my life. When I was a child it was very rarely served in our house, and I certainly have not eaten any meat products in 30 years. The reasons behind that are to do with the welfare of animals and my abhorrence when I was a young person at the treatment of animals that are raised for human consumption in factory farming processes. That horror has stayed with me until now and is one of the reasons why today I am moving that the house disallow this code.

My other reasons for not eating meat are the impact that the production of meat has on the environment, in terms of water usage, impacts on the land, pollution of air and water, and — as is increasingly being recognised — the contribution of methane from agricultural animals to our greenhouse problem. People might laugh, but it is certainly becoming a very well-known issue. People laughed when, in 1996 in his inaugural speech in the Senate, Senator Bob Brown first said that climate change was the most pressing issue, but nobody is laughing about that now. These are serious issues and the contribution of methane to the greenhouse problem is quite considerable.

It is also the Greens policy that drives me to move that the house disallow this code of farming practice for the welfare of pigs, which I have to say is a misnomer because it is not really about the welfare of pigs, but the welfare of the pig industry and how those in it can apparently make more money by treating pigs badly.

The Victorian Greens animals policy has included among its goals:

> Ending all practices that inflict unreasonable or unnecessary suffering on animals in agricultural industries.

> Implementing systems that allow animals to satisfy their basic needs for natural physical movement, space, rest and interaction with others of their own species.
>
> Phasing out systems of intensive meat and egg production practices, and replacing them with free-range methods.
>
> Ending the export of live animals.
>
> Providing consumer education on the environmental and animal welfare impacts resulting from their choices.
>
> Requiring clear labelling of products, listing animal ingredients and derivatives, and any animal experimentation and testing methods used.

Our policy goes on to say that the Greens will pursue law reform:

> Ensuring that cruel acts and practices against animals by corporate and private offenders are treated as serious crimes.

And:

> Comprehensively reviewing and amending current legislation and codes of practice to better protect animal welfare in all areas.

As I said, that is in our Victorian Greens animals policy. I am not sure whether any other parties actually have an animals policy.

We also have an agriculture policy, which includes:

> Introducing enforceable regulations to protect animal welfare, based on current codes of practice for animal husbandry …
>
> Promoting legislation requiring the phasing out of battery cages and feedlots, and banning the routine use of antibiotics in animal husbandry, whilst providing transitional assistance to affected farmers through an appropriate fund.

This code of practice that has been tabled in the Parliament came out of a Primary Industries Ministerial Council. The situation is that the Victorian Parliament is supposed to prepare its own regulatory impact statement, but this can be avoided if the responsible minister issues an exception or exemption certificate. In this case, the responsible minister has done that, saying that, because the director of the Bureau of Animal Welfare was the officer who headed up the group looking at the regulatory impact assessment, he was able to meet those requirements, so we have not had that process in place here. The Minister for Agriculture in the other place has signed off on the regulatory impact statement and has said that it is adequate to meet required legislative processes.

Another reason for my moving that the house disallow this code is that I know that many people in the community become distressed when they find out what is going on in the pig industry in terms of the welfare of pigs. I have been informed by several members that, since this motion to disallow the code became public, most members have been receiving emails from members of the public about this particular issue. While that may be inconvenient for some members, it is the democratic right of people to have their view on this code and put it forward. I am choosing to read one email that I know members have received — that is, from Peter Singer. I have chosen to read this because I know that Peter Singer has had a long association with the Greens but also, in terms of my personal interest, because I have been inspired by Peter Singer in his raising public awareness of animal rights and the treatment of animals over a long time.

Peter Singer's email states:

> Some 30 years ago, as a member of the animal welfare advisory committee to the Minister for Agriculture, I opposed this code —

obviously not this code, but a previous iteration of it —

> because it permits pregnant sows to be caged for months at a time in stalls so narrow they cannot turn around and so short they can barely shuffle a step or two forward or back. These sensitive, intelligent animals have nothing to do all day except stand up or lie down and, when they do lie down, they have only bare concrete to lie on, without straw or any kind of bedding.
>
> These conditions are being phased out across the entire European Union. Can Australians feel proud that much less prosperous countries, like Poland and Lithuania, have better regulations to protect pigs than we do?
>
> In the US as well, voters in Florida and Arizona have, in citizens referenda, voted decisively to ban individual sow stalls. Now the largest pig producer in the country, Smithfield, has announced that it is phasing out sow stalls, in response to requests from its largest customers, including McDonald's.

That is the big hamburger chain. Peter Singer asked:

> Must Victoria continue to tolerate conditions that McDonald's seeks to change?
>
> The pig code also allows the continuation of many other forms of cruelty —

which I will talk about in my contribution to this debate.

Last year I bought one of Peter Singer's most recent books, which he co-authored with Jim Mason, entitled *The Ethics of What We Eat*. There are many points made in that book, and I recommend it to members. Basically it follows three families and their food choices. It examines what is behind those food choices and how that food is produced, and asks questions about the impact of food production on animal welfare and the environmental issues I was talking about

before. The book points out that the way food is produced is hidden from the public. Particularly with regard to meat, most people do not know or do not want to know how it is produced.

Many big food producers are secretive. The authors were not able to get access to many of the big intensive farming establishments to see what was actually going on in there. I would have to say that if what was going on in there was about the welfare of animals, you would think they would be opening the doors and letting people in. The major theme of the book is reflected in its title — *The Ethics of What We Eat*. Deciding what we eat is an ethical decision; the personal is political, to quote an old chestnut. The choices we make about what we put in our mouths impact on the environment and on the welfare of animals. A lot of people do not like to hear that. They do not want to face that, but it is the truth.

Apart from what is in the code, other issues that have been raised include the flawed process regarding the revision of the code and the production of the regulatory impact statement. For example, the options presented in the code review process and considered by the regulatory impact statement relating to the phasing out of sow stalls included costings provided to the RIS (regulatory impact statement) group authors by Australian Pork Ltd, the representative body of the producers. These included an assessment of the cost of a complete phase-out of sow stalls with a lead-in time of 10 years as $41 million, but no justification was ever given for that figure.

A proper costing of the phase-out of sow stalls should have included a consideration of the number of stalls — which seems to also be a piece of information which is hard to find — the cost of stalls, the age of stalls, depreciation of their value, the cost of providing extra shed space and so on. I know that Animals Australia was pursuing some of this data and was unable to obtain it, having been told it was commercial in confidence. If we are looking at a code of practice called the code of practice for the welfare of pigs, I do not think we can just rely on information or data supplied by pig producers. We need an independent assessment of the costs of moving to a better system for pigs than just what is provided by the industry.

European analysis of the cost of phasing out sow stalls has indicated there would be a minimal increase in production costs. We do not have those sorts of studies in Australia, but in fact quite a lot of work is being done in the European Union, and that has led the EU, as I mentioned earlier, to phase out sow stalls completely by the year 2013.

I will run through some issues in terms of problems with the code. I am taking this information from Voiceless, which is a group that has looked at both codes and compared them. Voiceless has pointed out that the federal Department of Agriculture, Fisheries and Forestry has said:

> One of the key changes in the code is that in the future (10 years from now), sows will be confined in sow stalls for no more than six weeks of their pregnancy.

I do not understand why that change is going to take so long. Assuming the pig industry continues to slaughter pigs at the rate of 5 million per year, at least 50 million pigs will still be subjected to the current practice of confinement in sow stalls. Voiceless has also said:

> Under the revised pig code —

the one we are talking about now —

> female pregnant pigs will still be permitted to be confined in situations known to cause them substantial emotional and physiological suffering for more than one-third of their pregnancy. It remains highly unlikely that these pigs will ever set foot outdoors.
>
> …
>
> Sow stalls are already banned in England and Switzerland and are being phased out in … Arizona, Florida and Oregon. They will be banned across all European Union member states, except for the first four weeks of pregnancy, from 2013.

That is only six years from now.

> That means that rather than being an animal welfare leader Australia is lagging behind many countries … despite its apparent commitment to animal welfare reform.
>
> The revised pig code does not contain any requirement for stockpeople to be trained. It merely states that stock people must be 'skilled' in pig husbandry.

A training requirement was included in the consultation draft of the code but has been removed from the revised version that was tabled in Parliament.

> This change limits the accountability of stockpersons by eliminating the need for them to acquire uniform, measurable skills.

Throughout the code there is reference to these skilled stockpersons having quite a lot of responsibilities, yet they are not trained people and there is no requirement for them to undergo accredited training. That is another issue that permeates the code just from this particular flaw.

A number of other changes were made to the revised code after the consultation draft was released. Those changes were not announced to the public and only

become evident when you actually look at the two codes. Changes were made to the consultation draft but then those changes did not go out to consultation. Two examples are that the size of a farrowing crate set out in the consultation draft was 0.5 metres by 2.2 metres, way too small by anybody's measurement, but the size of a farrowing crate in the revised code is 0.5 metres by 2 metres, which is exactly the same as it was in the previous code; therefore, the farrowing crate area has not increased at all. To make matters worse, the revised pig code allows for fixtures such as feeders and waterers to be included in the farrowing crate area provided they do not impede movement or cause injury, which was not previously the case. That is going backwards in terms of allowing pigs movement and space of the most minimal kind.

The revised code does not specify that farmers are obliged to inspect their pigs at specified intervals or any specified temperature. Temperature is a big issue. When you have a lot of animals squashed together in an enclosed area, temperature is a very big issue. The code recommends that steps be taken when the temperature reaches 35 degrees. That is very hot, especially when you have got animals crowded together. However, this is not a requirement; it simply recommends that lactating and gestating sows only be inspected when the temperature is above 38 degrees, which is 100 degrees on the old scale. That is appalling, and in fact it upsets me quite a lot. I do not think we would allow that for dogs, cats or any other companion animals. That we allow it for pigs, which are intelligent, sensitive beings, is very distressing. They are not enforceable requirements and are described as best practice suggestions, which is laughable.

As I said, surveys of public opinion, including a major survey carried out on the development of the new code, clearly indicate that the majority of people do not approve of keeping sows in sow stalls. The new code will permit for the next 10 years the keeping of sows in stalls for the entire duration of their pregnancy, which is about 16 weeks, and the keeping of sows with piglets in farrowing crates not much bigger than a sow's body for another three months or so. We are talking about an intelligent, sensitive animal. Perhaps we should think about our pet labrador, or whatever, having to endure those conditions.

The code talks about new stalls. Existing stalls can remain indefinitely. The only requirement is that they be bigger than a sow's body. It does not say how much bigger; it might be half a centimetre bigger. Even from 2017, when supposedly a sow can only be confined in such a stall for six weeks, there will be significant exemptions to allow farmers to continue to keep sows in stalls for their entire pregnancy. They are to do with, for example, recommendations that may be made by skilled workers. The failure to phase out sow stalls in the near future is completely out of step, as I said, with moves in the European Union, the UK, Sweden, Finland and other places.

Another issue is that the code is peppered with undefined terms which are so vague as to be unenforceable, such as 'competent', 'remedial action', 'checked', 'harmful', 'appropriate action' and 'recommended'. This is one of those codes that we have seen develop around the country over the years. In my previous employment I was involved in representing working people in the development of codes.

Many of these codes have poor representation from the community, environment groups, non-government organisations and unions, but are well represented by industry, which has the money and the paid lobbyists, and the development of these codes is very much influenced by their views, their needs and their opinions. It is hard for other opinions to be heard, let alone considered and taken into account. That is a wider issue than this code, but it is part of the issue. Dr Malcolm Caulfield, who is legal counsel for Animals Australia, says that:

> … the new pig code is at best a very marginal improvement … The major point is that it does not address the key failings, which are the keeping of pigs in close confinement, be it in sow stalls or farrowing crates. It also does not address the question of routine surgical mutilations without anaesthetic (such as tail docking and teeth clipping).

Tail docking is prohibited for dogs, and research that I have looked at shows there is no need for tail docking or teeth clipping of pigs. These are painful, unnecessary surgical procedures, or mutilations, which are carried out on piglets that are taken from their mothers very soon after birth. The mother has already gone through this terrible situation in the sow stall and the farrowing crate only to have the piglets ripped away to have their teeth clipped and tails docked without any anaesthetic whatsoever. Again I ask members to consider whether this would be appropriate treatment for companion animals and whether it would be allowed, particularly when it is not even necessary. It might be more convenient for pig farmers to indulge in this sort of mutilation and infliction of pain and suffering on animals, but it is not necessary and it is not acceptable. Dr Caulfield goes on to say:

> The rest of the western world is moving towards completely banning sow stalls.

In accepting this code, in his view, Victoria is out of step on this most important welfare issue.

We have a code which is advisory and which uses advisory, suggestive and unenforceable language when talking about the welfare of pigs. Of course we have the protection of the Prevention of Cruelty to Animals Act, but where an industry has a code with regard to animal husbandry that industry is exempt from the Prevention of Cruelty to Animals Act if it follows the code. We have problems here because the code is hard to follow and does not have much prescription in it; it is all performance based. Industry always wants performance-based codes, because they are hard to enforce. You do not run around with a tape measure making sure things are done properly. Things are just suggested, recommended et cetera.

In Victoria and Australia we also have a problem with inspecting farms to make sure animals are being looked after properly. Inspectors are the only people who can commence a prosecution in Victoria, which is different from everywhere else in Australia. There are about 100 Department of Primary Industries (DPI) inspectors in Victoria, 17 specialist inspectors and 22 Royal Society for the Prevention of Cruelty to Animals (RSPCA) inspectors, and police officers can be inspectors. There is a total of 430 people who nominally can enforce the code. You have to say that the DPI has a conflict of interest because as well as enforcing the code it is also the cheer squad for the industry. That is not the most desirable situation. The RSPCA is largely a volunteer organisation and has government grants, but leaving it up to that organisation is not necessarily the most desirable situation either. We would say that there needs to be a independent statutory agency created for the enforcement of the Prevention of Cruelty to Animals Act and the regulations.

I ask members to think very carefully about what I have said today about the code and the fact I have pointed out that it entrenches and allows inhumane and cruel treatment of pigs in intensive farming, particularly pregnant pigs and piglets, for at least the next decade. They are not allowed enough space or access to hay and some are not fed properly so they do not get enough roughage and feel hungry all the time. We can do better.

If we disallow this code we will revert to the old code, but we can undertake revision 3 — third time lucky — so we can get it right. We can put in provisions as the rest of the world is doing to phase out these cruel practices and move towards the more humane treatment of animals in the pig industry.

Sitting suspended 1.00 p.m. until 2.03 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Government: advertising

Mr D. DAVIS (Southern Metropolitan) — My question is to the Treasurer. I refer to the Auditor-General's 2006 examination of Victorian government advertising. Will the Treasurer assure the house that all rebates secured through the master agency media service (MAMS) are now being returned to the Consolidated Fund as called for by the auditor?

Mr LENDERS (Treasurer) — I thank Mr Davis for his question and his interest in government advertising. I find it interesting that a man who was a member of the Kennett government, which got caught — —

Mr Vogels — Last century.

Mr LENDERS — Last millennium in thinking and last millennium in practice, Mr Vogels! This government has come into office and cleaned up government advertising from the dark, dingy, shonky days of Leeds Media and its dirty links to the Liberal Party, the lack of transparency and the shameless advertising, which has been exceeded in the annals of this federation only by the current federal government. I find it extraordinary that Mr Davis would actually ask a question about this issue. But I can assure Mr Davis that the appropriate minister for dealing with current government advertising, which is coordinated — —

Mr D. Davis — The Consolidated Fund is yours!

Mr LENDERS — Mr Davis has an interesting view. As a member in this house who preaches that the Parliament is in control of money I am flattered that he thinks the Consolidated Fund is mine. I tend to think I am accountable for what the Parliament passes in the appropriation bill. But the monitoring of that account is an issue that is under the jurisdiction of the Minister for Finance, WorkCover and the Transport Accident Commission as a government account, and under the Department of Premier and Cabinet in a general sense. This government has sought, in a transparent fashion, to have government advertising revenue disclosed. This government has in a transparent fashion empowered the Auditor-General to review this.

It is a very interesting segue to where we are now. Under the Bracks and Brumby governments we have actually given the Auditor-General powers to review

government. What the Auditor-General did was to prepare a report into government advertising last year with a series of recommendations which the government is committed to act upon. Certainly I will take on notice the substance of Mr Davis's question because this is not an issue that is in my ministerial portfolio.

Mr D. Davis interjected.

Mr LENDERS — If you take what Mr Davis says to its logical extension I should be accountable for his electorate office budget, because that comes out of the Consolidated Fund as well. If Mr Davis wants me to look at his electorate office budget, and the Parliament gives me the authority to do so, I will. What he seems to forget is that out of the annual appropriation bill, and in conjunction with the minister for finance, the Treasurer is responsible for the monitoring of the outputs, and there is very good scrutiny of that, including by the Public Accounts and Estimates Committee.

I will take on notice the substance of Mr Davis's request, but I remind him that the reason there is an Auditor-General's report is because the Labor government empowered him to inquire into all activities of government, and he has done that. Mr Davis was part of the team which voted to gut the office of the Auditor-General, and until the electors of Mitcham in a by-election in 1998 actually gave it the wake-up call, the Kennett government thought it was okay to nobble an Auditor-General.

We will continue to legislate for openness, transparency and accountability, as the Premier announced yesterday with the freedom of information reforms which restore it to what it was before former Attorney-General Jan Wade wrecked it. We will continue to be open, transparent and accountable. I welcome Mr Davis's question, but I will reply on notice to his substantive question.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — I thank the Treasurer for his response, inadequate though it was. I remind him that he is responsible for the Consolidated Fund. Since 2002 his government has scooped up the rebates and used them as part of a political slush fund with secret and shonky allocation methods. As part of the Treasurer's response in conjunction — and I am happy with that — with the Minister for Finance, WorkCover and the Transport Accident Commission, will he and the finance minister, in their conferring on this, confirm that the MAMS advertising rebate funds have in some cases been applied by the government for funding government grants, and that the Auditor-General has requested this practice cease?

Mr LENDERS (Treasurer) — Mr Davis speaks with all the sincerity of a snake-oil salesman. The accusations of — —

Mr P. Davis interjected.

Mr LENDERS — I note the vigorous defence by his leader. I will not repeat it because the house knows what his leader thought of him after he beat Mrs Coote by one vote for the Liberal deputy leadership a year ago.

Mr Davis has raised this issue, and I said I would take the substantive question on notice, but I think we need to drill into what he is saying. What this government is doing with its modest advertising budget — and our advertising budget looks like a gnat compared to a mammoth if you compare it to that of the Prime Minister, John Howard — is to use it predominantly for safety features like the Transport Accident Commission and WorkCover and to consolidate our purchase so we get better value for taxpayers money, which I am sure Mr Davis would hope we would do.

We have heeded the Auditor-General's report. We will carry out what we committed to do in reply to that report, and because we have an open, transparent and accountable government, Mr Rich-Phillips and Mr Dalla-Riva for example — and Mr Barber — can ask questions of the Premier on this at the Public Accounts and Estimates Committee. They can ask questions of the Premier at the Public Accounts and Estimates Committee because this government actually believes in ministers appearing at the joint parliamentary committees and answering questions, unlike what happened under the Kennett government, when the Premier never appeared and never answered about Leeds Media. More to the point, we are open, transparent and accountable and we do not have a Public Accounts and Estimates Committee chaired by the then Premier's parliamentary secretary, Mr Forwood.

We welcome the Auditor-General's reports, and we will continue to welcome them because the Auditor-General is frank and fearless. He has tabled a series of reports today. Mr Davis will get a substantive answer on notice.

Economy: performance

Ms MIKAKOS (Northern Metropolitan) — My question is to the Treasurer, John Lenders. Could the Treasurer inform the house as to how the Victorian economy is performing according to the most recently released state accounts and other economic measures.

Mrs Peulich interjected.

Mr LENDERS (Treasurer) — I thank Ms Mikakos for her question, and I take up Mrs Peulich's interjection of 'Thank you to the federal government'. We cannot rely on the federal government, because it does not know how to spell the word 'infrastructure', let alone know how to deliver it. It does not understand targeted service delivery; it has received a 109 per cent increase in revenue from company tax in the last five years but has not invested it in this state, which represents 24.8 per cent of the nation, because it does not have marginal seats. Mrs Peulich should not interject.

Ms Mikakos asked a very serious question about how Victoria performs. We are in a time of unprecedented economic growth — —

Mrs Coote — Thanks to?

Mr LENDERS — Thanks to the Chinese economy, Mrs Coote.

It is unprecedented growth in the resource states of Western Australia, Queensland and the Northern Territory. We have seen extraordinary growth in Victoria. We have the highest growth in Australia of any non-resource state. We have seen our economy grow by 2.7 per cent in the statistics just listed by the Australian Bureau of Statistics. We have seen over the past eight years that Victoria's gross state product has grown at an average rate of 2.9 per cent, the highest of the non-resource states.

Mr Guy — Best of the rest, eh?

Mr LENDERS — Mr Guy says 'Best of the rest'.

Mr Guy — They are your Premier's words, not mine.

Mr LENDERS — I would invite Mr Guy, who seeks one day to be a minister in a state government — —

Honourable members interjecting.

Mr LENDERS — He wants to lead a state government?

Honourable members interjecting.

Mr LENDERS — I would say the capacity to outperform other states that do not have a resource boom — like New South Wales, South Australia and the Australian Capital Territory — —

Mr Guy interjected.

The PRESIDENT — Order! Mr Guy!

Mr Guy interjected.

The PRESIDENT — Order! Mr Guy!

Mr Guy interjected.

The PRESIDENT — Order! Mr Guy!

Mr Guy interjected.

Questions interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! Mr Guy's incessant interjections are disrupting this house. The fact that the member chose to ignore me three times when I called his name gives me no option. I ask him to vacate the chamber for 30 minutes.

Mr Guy withdrew from chamber.

Questions resumed.

Mr LENDERS (Treasurer) — In Victoria we see extraordinary economic growth in a time of economic challenge across the planet. Our gross state product is growing faster than that of any other non-resource state, but it is not just economic statistics. Victoria is the state of opportunity, and Mr Dalla-Riva has the chance to move to the front bench.

Ms Mikakos is interested in what this means across the state. It means we have the greatest growth of employment in any state, resource or non-resource. We have the highest business approval investment of any state. We are seeing greater immigration to Melbourne and Victoria than other places. Victoria is growing because of a great, vibrant, entrepreneurial community which is assisted and facilitated in that growth by a government that cares about growth, jobs and targeted service and infrastructure delivery. Victoria is growing — it is the place to be. It is a great place to live, work and raise a family.

Above and beyond that the methods we are using get a big tick from the Auditor-General. Whether it be the convention centre or the Southern Cross project, the Auditor-General's frank, fearless assessments say to government what we do well and what we can do better. We are seeing growth in this state.

Mr Atkinson interjected.

Mr LENDERS — I take up Mr Atkinson's interjection about the underwater centre.

Hon. J. M. Madden interjected.

Mr LENDERS — I say to Mr Madden the aquarium is a great underwater centre.

This government has invested in a convention centre to bring growth to this state and to create jobs. What is good about creating jobs? It means young Victorians have an opportunity to earn a living, to have a decent, innovative job and to contribute to society. This government is proud of its economic record. We can always do better, but we have better rates than any other non-resource state, and that is despite the brake put on this state by the national government, which will not invest in infrastructure. One-sixth of the road funding comes into this state, which should appeal to The Nationals, when we have 24.8 per cent of the population of this country. It abandons us on water infrastructure and all these areas. We are a state that is growing, and it is these policies which make Victoria an even better place to live, work and raise a family.

Melbourne Exhibition Centre: expansion

Mr D. DAVIS (Southern Metropolitan) — I direct my question without notice to the Minister for Major Projects. Why was the urgently needed floor space expansion of the Melbourne Exhibition Centre not incorporated in the Melbourne Convention Centre project?

Hon. T. C. THEOPHANOUS (Minister for Major Projects) — The Melbourne Convention Centre is a fantastic project that will be delivering a huge amount of economic benefit to the people of Victoria. I would urge the honourable member to go and have a look at what the Auditor-General said about the management of this project. The Auditor-General has commended the government on its management of the project, because this project, which in total with the commercial elements — —

Mr D. Davis interjected.

The PRESIDENT — Order! Mr Davis has asked his question, and he might like to hear the answer. I would.

Hon. T. C. THEOPHANOUS — It is a $1 billion project. It is a project which we have been able to get which will deliver to this state hundreds of millions of dollars of economic value over a consistent period of time as the convention centre comes on stream. Many conventions have already been signed up for the convention centre. They will deliver significant economic value to the state.

What has happened in relation to the centre is that the only two people in the state who are reflecting negatively on the centre are David Davis, who talks down the state, who does nothing but carp and whinge and whine and squeal about — —

An honourable member interjected.

Hon. T. C. THEOPHANOUS — No, he does not yap; he just does all those other things, President.

Mr Leane — Sooks?

Hon. T. C. THEOPHANOUS — He sooks as well about this centre. He also has an arrangement with the former failed Liberal candidate, Peter Clarke of the Melbourne City Council. Together they have a kind of duet that they do where they go out publicly and seek to bag the convention centre. This is part of that approach that the two of them take. I would advise Peter Clarke to give up on David Davis, because everybody else has given up on David Davis, including his own side. Really, Peter, you are on a loser with David Davis. I think you — —

Mr Atkinson — Point of order — —

The PRESIDENT — Order! Thank you, Mr Atkinson. The minister knows the rules and the guidelines about attacking the opposition or its policies. I just remind him of that. I hope I do not have to go any further.

Hon. T. C. THEOPHANOUS — Thank you, President. I was seeking to direct some of my comments to a councillor in the Melbourne City Council — and seeking to give him some very good advice, I might say. Back to the convention centre. The convention centre is being managed appropriately, not according to what I say but according to what the Auditor-General says, according to what business is saying, and according to the fact that 17 separate conventions have already been signed up — —

Mr D. Davis interjected.

Hon. T. C. THEOPHANOUS — That is something in excess of $150 million or more of economic value. That is just the start of the very good work that is being done in relation to this convention centre. I would be happy to report to the house, as I intend to do on an ongoing basis, about all of the important developments that are taking place in the convention centre and the fact that it is another great project for the people of Victoria.

Supplementary question

Mr D. DAVIS (Southern Metropolitan) — I note the minister's total failure to address the question that was asked. He talked about the convention centre but did not want to discuss the expansion.

The PRESIDENT — Order! What is the supplementary?

Mr D. DAVIS — My supplementary question is that the convention centre major project plans show that provision to expand the floor space and car parking has been made, and I therefore ask: is he able to inform the house as to the status of these plans, whether they will be part of a variation to the major project and whether these expansion plans are in fact fully consistent with the convention centre project that the minister is responsible for next door?

Hon. T. C. THEOPHANOUS (Minister for Major Projects) — I simply answer by referring the member to the glowing report by the Auditor-General on the development of this particular project.

Melbourne: retail, fashion and design industries

Mr SOMYUREK (South Eastern Metropolitan) — My question is to the Minister for Industry and Trade. Can the minister inform the house of any recent decisions by international companies that reinforce Melbourne's place as the centre for retail, fashion and design in Australia?

Hon. T. C. THEOPHANOUS (Minister for Industry and Trade) — I thank the member for his question; I know he has a great deal of interest in fashion and design in this state. I might begin my response, however, by talking about last week's report by KPMG that highlighted some of the economic growth statistics, building on some of the response by the Treasurer in answer to a question earlier.

The KPMG report highlighted the fact that at current population growth levels, the relative growth levels of Melbourne compared to other cities, Melbourne will overtake Sydney as Australia's largest city by 2028. In fact in the year to June 2006 Melbourne gained almost twice as many people as Sydney and over twice as many as Brisbane or Perth, at a level of some 62 000 people. This statistic shows very starkly why and how Melbourne is such an attractive place to come and live.

Building approvals are also at record levels — more than in any other state. Victoria had the highest value of building approvals of any state in the commonwealth.

Exports of services rose by 12 per cent in 2006–07. Despite the whining and whingeing of the opposition, the fact is that we have had the highest increase in services exports since 1999–2000. That is the situation. Victoria's largest services export, education-related services, has doubled in the past five years, reaching $3.5 billion in 2006–07 — an increase of 23 per cent over the previous year. Even in goods exports, where I know that David Davis has continually sought to criticise the government on — —

Mr D. Davis — The point is how poorly your government has done over those years.

Hon. T. C. THEOPHANOUS — For Mr Davis's information, goods exports from Victoria rose by 5.9 per cent in 2006–07. We have increasing goods exports, increasing service exports, the highest number of building approvals in the nation and the highest population growth statistics. Of course we are also creating more jobs than any other state — 61 900 jobs in 2007 so far. These are real jobs for families in Victoria. This is a terrific story for Victoria, and it is why investment continues to flow into this state in an unprecedented way.

But Melbourne is also emerging as the centre for Australia's retail, fashion and design industries. I want to highlight one particular example of this — that is, the decision by L'Oreal Australia to locate its Australian head office in a new facility on St Kilda Road. This is another coup for Victorian industry and will create 200 jobs in the process. Let me make the point that L'Oreal's decision to place its head office in Melbourne when it could have chosen a number of other locations around the country again highlights Melbourne's dominance across the creative sectors of design, fashion and retail industry. L'Oreal Australia employs 1000 people overall and is an active corporate citizen in a number of states including Victoria. It sponsors Australia's only large-scale retail fashion event, the

L'Oreal Melbourne Fashion Festival, which is a partnership between L'Oreal and the Victorian government. I might say I was very pleased to be able to announce that that event will continue for another five years under agreements that have been reached with the Victorian government. L'Oreal Australia supports this event, but it also supports the Melbourne Spring Racing Carnival and other Victorian events.

L'Oreal's investment decision again reflects the success of the strategy that the Brumby government and previously the Bracks government adopted in seeking to bring major investment to this state from a range of sectors. I have been absolutely impressed by the way L'Oreal and so many other industries have decided to locate their head offices in this state over the last few years. That fact is being indicated in the statistics that I read out about export growth, about the growth of the economy, about the growth of jobs and about the starring growth of the Victorian economy. It is part of the major achievements of the Brumby and Bracks governments in providing employment for our citizens in this state.

Clyde Road, Berwick: upgrade

Mrs PEULICH (South Eastern Metropolitan) — In view of his earlier comments about population growth and infrastructure I direct my question to the Treasurer, and I ask: given the federal government's fantastic recent commitment of $25 million towards the cost of the Clyde Road duplication in Berwick, will the Treasurer now commit to providing the required matched funding from the Victorian government?

Mr LENDERS (Treasurer) — I welcome Mrs Peulich's question. It clearly goes with the seat. Mr Bowden used to sit in that seat in the last Parliament, and he also had a great interest in roads. Clearly when that seat is allocated, a roads question will come from it. What I would say to Mrs Peulich is that this government invested $3.5 billion in infrastructure in its last budget, up from $900 million in infrastructure in the last Kennett budget. We are seeing the greatest infrastructure investment ever in this state, and that investment would be significantly enhanced if we got more than the 88 cents in the dollar in GST money.

Mr D. Davis — You have got all that GST money, haven't you?

Mr LENDERS — David Davis interjects, and I say for his benefit and that of the house that this state is actually worse off financially under the GST than it would otherwise be. For the benefit of the house, this state abolished a series of taxes under the GST regime. That was appropriate, because it was to get rid of some of inefficient taxes and the like. If we had not abolished those taxes, we would — —

Mr D. Davis interjected.

The PRESIDENT — Order! Mr Davis is warned.

Mr LENDERS — If we had not abolished those taxes we would actually be better off than we were before the GST. If anyone goes on to their Commonwealth Securities account and buys and sells shares, they will realise that the state duties on shares have gone. They have been replaced by the GST. The GST has gone up by 48 per cent in the last five years but commonwealth company tax has gone up by 109 per cent in the same time.

The point I wish to make to Mrs Peulich is that this government has tripled the investment in infrastructure. We could do even better with a fairer tax arrangement and even better with special purpose payments from the commonwealth for AusLink. My friend Mr Pakula will get very excited on this one, because AusLink — —

Honourable members — He is not here.

Mr LENDERS — That is right — he cannot take the pressure, he cannot take the excitement! If we had fair payment from the commonwealth under AusLink funding for roads alone — if we were getting closer to a 24.8 per cent share in line with our proportion of the population rather than 14 per cent or 15 per cent or whatever the AusLink payments are at the moment — if we had a fairer share of GST revenue, if we had a fairer share of our revenue, we could do a lot more things.

We welcome any commitment by the commonwealth to infrastructure funding in Victoria. However, as any prudent government would do — we do not treat the Parliament with contempt and presume that we can announce things without going through the appropriation processes — we will consider this in the context of the budget. We welcome any commitment from the commonwealth to infrastructure funding. It is a little late; it would have been nice if it had done it over the last 11 years. We will consider all of that in line with our obligations under the various agreements when we make decisions on this. It is nice that the commonwealth is making this commitment. I suspect it is all about it being fearful of losing the federal seat of Dunkley. We will look at it. We will deal with it in the context of the next budget, and we wish that the commonwealth had made some commitment to that area before it was fearful of Bruce Billson losing his seat.

Supplementary question

Mrs PEULICH (South Eastern Metropolitan) — It is a little far from Dunkley, but my supplementary question is: will the Treasurer assure the house that he will cease playing political games with this funding and take up the commonwealth's offer?

Mr LENDERS (Treasurer) — The political game playing has come from the commonwealth. Between the commonwealth budget and the calling of the election $1.5 billion was promised by the commonwealth in marginal electorates across the country. In the state of Victoria, $30 million was promised — one-third of the cost of the super-pipe from Bendigo to Ballarat. As far as playing political games goes, it has only been since recent coalition polling has shown that federal seats like La Trobe, Dunkley and McMillan are under some pressure that the commonwealth has suddenly decided that it is important to have some infrastructure expenditure in the state of Victoria. The political gamesmanship has come from the federal Treasurer, Peter Costello, who has sold his state down the drain. It is only when he is fearful that the money comes in.

The commonwealth has promised many things. It promises with one hand and takes away with the other. I could go through numerous instances where it has done that.

Mr Drum interjected.

Mr LENDERS — Mr Drum says, 'Which ones?'. The Wimmera–Mallee pipeline is an example; it has strings attached. Mrs Peulich is undoubtedly asking this question so it can go into last-minute Liberal direct mailing somewhere in an area she is interested in. However, I can assure Mrs Peulich that this government does not play political games with infrastructure. We do not have an Auditor-General writing reports on us like they do in Deputy Prime Minister Mark Vaile's regime. We have put money into the Wimmera–Mallee pipeline, which is in safe Nationals territory. We have just had a community cabinet in the federal seat of Indi, which is on a 17 per cent margin. We do not play those games. We govern for the whole state. We will take seriously any suggestion from the commonwealth and look at it at budget time. That policy is what makes Victoria a better place to live, work and raise a family.

Planning: skills shortage

Ms PULFORD (Western Victoria) — My question is to the Minister for Planning. The Brumby government is committed to continuous improvement in Victoria's planning system and has already implemented a number of initiatives in order to achieve that. I ask the minister whether he has taken any action to address the significant skills shortage of experienced and qualified planners, who have a critical role to play in the efficiency of the planning system.

Hon. J. M. MADDEN (Minister for Planning) — I welcome Ms Pulford's question in relation to this matter, because I know she has an acute interest in planning matters, particularly in regional Victoria. Part of this answer will mention rural Victoria in relation to the need for planners in the system. My colleague Mr Theophanous mentioned the enormous growth that is taking place in this state. That is a great thing for this state. When you have that sort of growth and that sort of demand it places pressure on the planning system. Planners, who are integral in delivering the implementation of much of that growth through the planning system, are vital to making sure that we can continue to maintain that growth.

We cannot deliver the likes of housing, retail, education, recreation or employment opportunities in the most efficient and effective way if we do not have significant numbers of planners in the system. It is important that we continue to support the planning profession and make sure that we have planners right across the state who are capable, have a degree of experience and are enthusiastic about the planning profession.

Last month during Planning Week I was proud to announce the establishment of an annual event which will promote careers in planning. Our intention is to hold that in Planning Week next year. Careers in Planning will give people who are considering changing their profession or young people who are interested in the planning profession the opportunity to get a better understanding of what they can achieve through being planners.

Mr Drum interjected.

Hon. J. M. MADDEN — Mr Drum, I mentioned people who are returning to work or are looking for a different career. You might make a good planner, Mr Drum. I suggest that you give it some consideration.

I am pleased to announce that as well as that, we are working collaboratively — unlike the opposition we like to work collaboratively — with the Municipal Association of Victoria and the Planning Institute of Australia to ensure that the right information reaches the right people.

As well as that, we are also conscious that in rural Victoria there is a need for planners, as there is a need for all professions at this point of time, which might interest Mr Drum. We are encouraging people in the planning profession to consider options in rural Victoria. As well as that, we are offering five internships for planning students at provincial councils. That will assist those provincial councils to accommodate the administration of that growth and assist in dealing with the growth we are seeing right across the state. We are a government that governs for all of Victoria, as the Treasurer just mentioned.

Already we have been able to clear on average 4000 unnecessary planning applications from the system each year so that planners can focus on the important bigger issues. Good urban planning has an impact on every community. We are making sure, by investing in and assisting the profession, that we will continue to not only grow Victoria but make Victoria a great place to live, work and raise a family.

Rail: Nunawading level crossing

Mr ATKINSON (Eastern Metropolitan) — My question without notice is to the Treasurer, John Lenders. I note the critical importance of the Springvale Road railway crossing at Nunawading in improving public transport services, reducing traffic congestion in the eastern suburbs and increasing safety for pedestrians, train travellers and motorists. I also note the federal government's support for grade separation options for the Springvale Road railway crossing and a commitment of $80 million towards that project. I therefore ask: will the Victorian government now commit the necessary funds to complete this important project?

Mr LENDERS (Treasurer) — I am just waiting for the question on the federal electorate of McEwen, the question on Corangamite and the question on McMillan. This is clearly the question straight out of 104 Exhibition Street about Deakin and what to put in the last direct mail-out that can be got out today before the federal election. This is what this is all about. If anybody other than Mr Atkinson is trying to get something from my responses for a direct mail-out and is actually listening or is reading this in *Hansard*, I would invite them and the house to reflect that in the 11½ years that Peter Costello has been federal Treasurer, he has not offered a cent for grade separation on Springvale Road or had any concern for the Deakin electorate until he decided he needed to shore up the seat.

What I would say on the issue of good government is that the state of Victoria lost approximately 5 per cent of AusLink funding when Peter Costello, in a capricious act, withdrew money from this state because he did not like this state having tollways. If you are Peter Costello, there is no problem in giving money for tollways to New South Wales or Queensland, but Victoria has been punished because when Mr Costello was campaigning for the Aston by-election in 2001 he ripped money out of this state. It was not just in Deakin but across regional Victoria and the metropolitan area.

If the Liberal Party wishes — and this question is part of an orchestrated campaign out of 104 Exhibition Street — to have a debate about road funding in the eastern suburbs of Melbourne, it should go to Peter Costello and say, 'Give back the AusLink money you took because of this government's Scoresby decision. Give that money back, and then you can invest it in the eastern suburbs of Melbourne'. In today's terms that is worth about $800 million. This is nothing but hot air. It is a false promise. If there were the slightest amount of sincerity from the federal Liberal party in Deakin, it would not have taken the AusLink money away. It would have made this offer at some time during the last 11½ long years it has been sitting on the Treasury benches in Canberra.

I know Mr Atkinson will trawl through *Hansard.* He will need to make the deadline to get it into the next direct mail letter for Deakin, where they are out trying to frighten people. I know that is what he is about. I can assure Mr Atkinson that the voters of Deakin are no fools. They will ask the questions: why does Peter Costello and the federal Liberal Party ignore them, why has it taken the money away all these years and why has it ripped the AusLink funding out of Victoria that could have built these roads and more over the last 11½ years? The answer is that there were no marginal seats, and they did not care. Now they care because they are worried.

Supplementary question

Mr ATKINSON (Eastern Metropolitan) — The minister might be interested to know that, much to the chagrin of others, I write all my own questions.

The situation in terms of the Springvale Road railway crossing is that the federal government has made a definite commitment of $80 million to construction. It has also supported, with a $1.5 million contribution, a study by the City of Whitehorse towards options for that railway. I note now that the federal Labor Party has also agreed to pay $80 million towards the project in

another me-too exercise. Therefore this project has bipartisan federal support.

I ask the minister: given that the Royal Automobile Club of Victoria and other organisations rate this as the worst intersection and bottleneck in Melbourne, when will the government make an allocation and a commitment towards the Springvale Road project of at least $80 million from state funds?

Mr LENDERS (Treasurer) — I open my response to the supplementary question from Mr Atkinson by saying that I take any promise from Peter Costello to be given with the same sincerity as his promise on national competition policy, where he cut $200 million out of the state's payment after promising to leave it there. I take it to be given with exactly the same sincerity as his commitment to the Scoresby freeway and the eastern suburbs. He took away a promise of money on the Scoresby. I take it to be given with exactly the same sincerity as a promise from Peter Costello to fund the Wimmera–Mallee pipeline, when after the event he added a caveat on the payment. Any words spoken by Peter Costello could be responded to by asking what he has done in the last 11½ years. What has he done for the eastern suburbs of Melbourne? A big fat zero!

Mrs Kronberg interjected.

Mr LENDERS — I take up the interjection by Mrs Kronberg, which is like asking, 'What have the Romans done for us?'. She asked what we have done for the eastern suburbs of Melbourne. We have put in 8000 teachers, we have put in 6000 nurses, we have actually built fantastic infrastructure, we have reinvested in kindergartens and we have boosted the economy and created jobs, for example at William Angliss. I could go on for days. It is a pity there is a time limit on question time. When I am asked what we have done for the eastern suburbs I can say that we have restored decency to government.

If we go back to the eastern suburbs and the Mitcham by-election in 1998 in the heart of the federal electorate of Deakin, that by-election was about restoring the Auditor-General's powers. What have we done for the eastern suburbs? We have restored the powers of the Auditor-General. That by-election was about restoring services in health, education and community safety. They have all been delivered. Mr Atkinson asked the question — —

Mr D. Davis — On a point of order, President, I think the minister has strayed a long way from the question about the Springvale Road intersection. Community centres and all of those things are very important, but they do not relate to the question.

The PRESIDENT — Order! I tend to agree that the minister is broadening out his answer to the supplementary question. I remind him of that and ask him to come back to answering the supplementary question.

Mr LENDERS — Thank you, President, for your words of wisdom. I was confused. I took Mrs Kronberg's interjection as a supplementary supplementary question. I will go back to answering Mr Atkinson's substantive supplementary question.

The basic premise is — and it is the same response as I gave to Mrs Peulich — that this government has a track record of investing more in infrastructure than any other government. Compared to the federal government, which pretends that the word 'infrastructure' does not exist and is not in the *Macquarie Dictionary* as it uses it, we invest. Victorians will judge us by the fact that we have more than tripled infrastructure spending in this state despite GST cuts, despite special purpose payment cuts and despite the capricious acts of the federal Treasurer in taking money away. We will consider every proposal in light of the budget so that we can get the best value for Victorian taxpayers and the residents of the eastern suburbs. We look forward to working with a Rudd Labor government to deliver on these areas. We know it will achieve on infrastructure and targeted service delivery. That partnership will make Victoria an even better place to live, work and raise a family.

Water: Wimmera–Mallee pipeline

Ms TIERNEY (Western Victoria) — Could the Treasurer please inform the house of any progress made in the final funding for the Wimmera–Mallee pipeline?

Mr LENDERS (Treasurer) — I thank Ms Tierney for her question and her interest in the Wimmera–Mallee pipeline, which I have spoken about before in this house. I have spoken about it being a fantastic infrastructure program and one that the Bracks and Brumby governments have led on. We have been in partnership with the federal government on this program, so I give credit to it in seeking to have a partnership. The federal government may have been tardy in paying for a while, but it was a fairly good partnership.

Sadly, and this will greatly disappoint Ms Tierney's electors and any member who represents a rural area, the federal government has moved from a commitment

to matching the funding to matching the funding if we sign up to the Murray-Darling Basin agreement. What the federal government is actually doing in its death throes during a federal election campaign is saying, 'We will only fund Victorian farmers if Victoria agrees to join a federal plan'. We have talked before about the fact that the federal government considers it is okay to send water to Adelaide but not anywhere else, it is okay to reward inefficient farming practices in other states. Sadly I say to Ms Tierney that this program is there but the federal government is blackmailing Victorian farmers, who are subjected to drought. It is saying, 'We will give you the money for the Wimmera–Mallee pipeline, if you put up the white flag to bullying from the federal government'.

Victorian irrigators have backed the state government's position on opposing a sell-out to the commonwealth government, and The Nationals and the Liberals have belatedly followed suit. What we see now is the federal Minister for the Environment and Water Resources, Malcolm Turnbull, blackmailing Victorians. He is saying, 'In a time of drought and stress you must capitulate, you must sign over on this despite the long-term economic benefits to the state, if you are going to get the water'. Mr Turnbull is a disappointment. It is a disappointment that we have moved from bipartisanship on this issue to blackmail. But the Victorian government will be vigilant. We will await the election outcome. We are confident that the incoming government will not have those strings attached to the project. It will not seek to blackmail Victorians in a time of drought, and this sort of pipeline will be one more thing to make Victoria a better place to live, work and raise a family.

Colbrook Reservoir: water use

Mr KAVANAGH (Western Victoria) — My question is to the Minister for Environment and Climate Change, Mr Jennings, in his capacity as the representative of the Minister for Water in the other place. It relates to the Colbrook Reservoir in the Wombat State Forest near Ballan in the greater Ballarat area. Colbrook Reservoir holds about 145 megalitres of water and Central Highlands Water, the local water authority, is authorised to take 45 megalitres a year.

The inflows into Colbrook, as I understand it, are regular and remain very good. Central Highlands Water, however, is no longer using this water. It says that in order to get the water to modern standards it requires about $2.5 million in equipment. The water could be gravity fed to Ballan, as it was in the past, or used for agricultural purposes, but it is not being used at all now. What is the government intending to do about this current waste of water in an area of the state that is facing a water crisis?

Mr JENNINGS (Minister for Environment and Climate Change) — I thank Mr Kavanagh for his question and his concern about the Ballan community, the availability of water supply to that community and the most effective use of water capacity and water infrastructure across the state. As a general principle, this government is particularly concerned about that issue, and every day we are exercising diligence in trying to rise up and meet the challenges faced by various communities across Victoria and to provide ongoing water security and certainty for communities.

Unfortunately I am not in a position to answer the question because, as Mr Kavanagh recognised in his question, the appropriate minister to do so is the Minister for Water in the other place. I am happy to draw this matter to that minister's attention and to work in any way I can within the government to support any initiative that will provide certainty for the citizens of Ballan and the surrounding area in terms of availability of water supply and make sure that any water resource in Victoria is put to its best use in balancing the needs of our citizens and the needs of the environment and to provide ongoing certainty of water supply into the future.

Film industry: government initiatives

Mr VINEY (Eastern Victoria) — My question is also to Mr Jennings, as Minister for Innovation. Can the minister inform the house how the Brumby government is supporting film production in Victoria through the Melbourne International Film Festival?

Mr JENNINGS (Minister for Innovation) — I thank Mr Viney for his question and the opportunity to reflect on something that I am particularly pleased to be associated with in my role as the Minister for Innovation, which is to assume some responsibility for providing support and encouragement to the film industry in Victoria. As members of this chamber and other members of the community would be aware, we do indeed have a rich film industry in Victoria and, despite stresses and strains within the film and TV production industry across Australia, it continues to grow within Victoria. The most recent measurement of this is that during the year 2006, $145 million of film activity was generated in Victoria. As I said, it is continuing to grow.

One of the ways in which the Brumby government wants to provide ongoing support for the industry to grow is to find innovative ways in which we can

support film and television production. Within the past week or two I have joined the Melbourne International Film Festival organisation in providing support to new emerging filmmakers, including source funding for productions in the first instance and to enable them to be premiered at the Melbourne International Film Festival. It is a longstanding film festival of international renown and is loved by many, many people in the Victorian community. Thousands of Victorians come out every year to the Melbourne International Film Festival. It is not only a great festival in its own right but it is creating a crucible, so that production houses will come to Melbourne increasingly, and it provides a supportive environment for the on-sale of the Victorian-based product.

In this instance the Melbourne International Film Festival's Premiere Fund has provided support to five projects that will be premiered at next year's festival. I would like to just outline to the house the names of the producers and directors who will be supported through their projects.

The first project that is a beneficiary of this support is produced and directed by Lizzette Atkins and Rhian Skirving. It is a film called *Rock and Roll Nerd*, which is a biography of Australian comedic sensation Tim Minchin. I will not attempt to emulate one of Tim's performances before the house at the moment, only in the interests of brevity!

Sue Maslin and Daryl Dellora are making a film called *Celebrity — Tales of Dominic Dunne*, which is a biography of Dominic Dunne, an international writer featured in *Vanity Fair*.

Phillipa Campey and Amiel Courtin-Wilson are making a film based upon the life of Jack Charles, a very prominent member of the Aboriginal community who was featured in a number of films, including *The Chant of Jimmy Blacksmith*. That film is entitled *Bastardy*.

Michael McMahon and Scott Millwood are making an important biography of a leading environmentalist who disappeared under quite questionable circumstances en route to Canberra, after her activism in relation to environmental matters in Tasmania. That film is entitled *Whatever Happened to Brenda Hean*.

Robyn Kershaw, Graeme Issac and Rachel Perkins are going to make a cinematic version of the Aboriginal play *Bran Nue Dae*, which we think will be very popular with our audiences here and internationally.

As I indicated to the chamber, this is the first of two rounds of a competitive application process for filmmakers — —

Mrs Coote interjected.

Mr JENNINGS — In this instance, $400 000, and there is a new round of funding that is available currently — as recently as yesterday. The application period will run until the middle of December. We encourage filmmakers to put in applications to have their work supported to enable them to be premiered at the Melbourne International Film Festival in 2009. I am very grateful for the great leadership shown by Richard Moore and Claire Dobbin of the Melbourne International Film Festival. I was happy to join them at the launch of these fantastic projects. I look forward to seeing those productions at the Melbourne film festival, and I hope many members of the chamber will also see them at next year's festival.

PIG FARMING: CODE OF PRACTICE

Debate resumed.

Mr VOGELS (Western Victoria) — Members have all just come in from a lunch where pork was one of the main courses on the menu, and I note it was a very popular dish indeed. There is a common theme we hear from animal activists, and I have just heard it from the Greens again, which I believe is an insult to our farmers. Victorians will not accept that infliction of pain and suffering on animals is acceptable. If you want to stay in this industry, animal husbandry is paramount. You cannot and will not survive unless animals under your care are looked after — well fed, watered and managed properly.

Another suggestion I make to all those people who sent me emails over the past 10 days is that it actually has the opposite effect from the one they want. I responded to the first emails that came through on the code for the welfare of pigs, but when they just came on in the hundreds, and basically all saying the same thing, I turned off and thought, 'Well, I'm wasting my time'. I also think it is counterproductive to send emails to MPs threatening that they will lose their seat in Parliament if they do not vote in a certain way. I do not think it works like that.

This Code of Accepted Farming Practice for the Welfare of Pigs has been under review for many years. It is the culmination of considerable work. The code builds on the previous Victorian document known as the *Code of Practice, Piggeries* of 1984 and then 1992, and is identical to the national Model Code of Practice for the Welfare of Animals — in this case, pigs. There has been a significant move at the national level to

unify and standardise the approach of the states to animal welfare issues.

We also have codes for broiler farms, cattle feedlots and so forth, and this is a good thing. We no longer hear sayings like, 'This place is a pigsty', 'happy as a pig in the proverbial'. That sort of language has disappeared because if you go to modern pig farms these days, you see that they are very well managed.

I heard Ms Pennicuik say the model code we are debating today was written by the industry. It was not written by the industry; it was written in conjunction with the states — all the states, the CSIRO, the veterinary profession, industry leaders, researchers, retailers, processors and animal welfare groups. It was not only written by the industry. It has undergone full and formal public consultation processes that were conducted on the basis of a thorough regulatory impact statement.

The ultimate purpose of the code is to provide those involved in the pig industry, animal welfare inspectors and the community with a guide to what constitutes acceptable practice. Non-compliance with the code may expose operators to prosecution, whilst compliance is a good indication of acceptable animal welfare outcomes, and provides a level of statutory protection.

What does this code actually say? It deals with half a dozen different issues: one, competence of stock persons; two, food and water; three, accommodation; four, husbandry; five, preparation for transport and slaughter; and six, emergency euthanasia. Then there are some appendices that deal with specifics such as space allowances, water volumes and so forth.

Victoria's pork industry was worth about $185 million in 2002-03, constituting 27 per cent of total Australian production. A further $275 million is value-added through pork processing. The Victorian pork industry continues to feel the effects of drought and grain prices, which are skyrocketing, as we all know. It is also at the mercy of pork imports into Australia, presently up to 40 per cent. These factors, in conjunction with the strength of the Australian dollar, have put the industry basically on its knees.

Victoria enjoys a reputation as one of the cleanest pork producing regions in the world. In Australia consumer attitudes towards pork are becoming more favourable, given its relatively low cost compared to other protein sources. Consumers take a keen interest these days in animal welfare when making purchasing decisions. To quote the Australian Pork Ltd website:

> Producers livelihoods depend on the wellbeing and performance of their livestock.

To do anything short of providing the best humane care possible would be self-defeating. Taking care of their animals is seen by producers as an ethical responsibility as well as a necessary business practice.

Under the code, there will be a requirement for all persons managing and conducting procedures on pigs to be trained or to be under the supervision of a person who is trained. They must be capable, and this competence must be able to be demonstrated within three years of endorsement of the code. The suggested level of training is certificate III in agriculture. Staff training is one of the most critical determinants of animal welfare and one of the industry's biggest challenges. There is also a recommendation that farmers join the industry quality assurance management programs to provide improved welfare, higher skill levels and greater market opportunities. The current program, the Australian Pork Industry Quality program, covers food safety — —

The PRESIDENT — Order! I am sorry to interrupt, Mr Vogels, but I should remind the house of the issue of reading set speeches, which was raised here about a month ago. I remind the member and other members of that ruling and of my statement that I would enforce the ruling on all members. I ask that the member reflect on my comments and at least show some restraint in the reading of his speech.

Mr VOGELS — Thank you, President. I am basically going through the welfare of pigs code of practice which we are debating, all of which I have not got in the top of my head. I have read the code of practice very carefully, and I want to make sure that I get it right and do not actually say something that is not in the code.

Once the code is adopted by each state, the key phase of the implementation is then of course necessary enforcement. There is no point in having a code of practice unless it is enforced in the industry and is regulated by the states. This code should be supported by all members in the house. It is the culmination of many years of work, and I believe it is a vast improvement on the code we are replacing, which was adopted in 1992, making it 15 years old.

In my opinion, the Liberal Party's opinion and I think the house's opinion, the code is a good compromise between competing interests that will deliver positive welfare outcomes. That is why the Liberal Party will not be supporting the Greens disallowance of the code

of practice for the welfare of pigs, and we will be voting accordingly.

Mr HALL (Eastern Victoria) — I am happy to present the view of The Nationals on the Greens motion of disallowing the code which is under consideration by the chamber this afternoon. I will start by admitting that I do not know an awful lot about the farming of pigs. It is a practice that I have not been involved with. In cases like this you need to take some advice from those who are well versed in the particular subject and those who have explored and studied it.

Mr P. Davis — Noel Maughan!

Mr HALL — Yes, it is a pity that my former colleague Noel Maughan, a former member for Rodney in the other place, is not still a member of Parliament. Pig farming was his profession, and he had a great interest in matters concerning the pig industry in Australia. I am sure he would have been able to offer some valuable advice in respect of this new code of welfare for pigs which has been developed.

As I said, it is important to take the advice of those with more experience and expertise in this area. I note that this particular code has been developed in a rather extensive process through the Primary Industries Ministerial Council as part of the Council of Australian Governments. Looking at that council's communiqué of 20 April 2007, I noted that the council has endorsed a major revision of the model code for pigs, developed through an extensive process managed by the Victorian government. Importantly, it says the process involved industry, state and territory governments, Animal Health Australia, the CSIRO and animal welfare groups. I am not sure which animal welfare groups assisted in the development of this code, but the communiqué indicates that animal welfare groups were consulted and were involved in it. This has not been developed overnight, as I understand it. I think it has been canvassed fairly extensively by the range of people to whom I have just referred.

When looking to disallow something like this code of practice we need to take into account whether there have been significant objections raised by any of those who were part of the process or indeed those upon whom the outcome is going to impact. Despite the fact that I, as I am sure have all others here, have received an extensive range of individual emails from various people urging our support for this disallowance motion, I have to say I have heard no objections from any of the interested organisations, including animal welfare groups themselves, to this motion. For example, the Royal Society for the Prevention of Cruelty to Animals in Victoria is quite frequently in contact with members of Parliament when it has an issue about animal welfare and is always very keen and forthright in expressing its views, but organisations like the RSPCA have not come to me on this occasion.

This is a bit different from the previous disallowance motion that we dealt with in this chamber this morning because in that instance one of the groups that was particularly impacted by the change which we sought to disallow had raised some concerns. But given the fact that we have not heard about concerns from any of the groups that this code of practice will impact upon, and given the fact that we have not received any feedback from animal welfare organisations in respect of this matter, we do not think there is sufficient evidence for the Parliament to support this disallowance motion.

Mr THORNLEY (Southern Metropolitan) — I rise to speak in favour of the welfare of pigs and as a consequence against this motion. I speak for the simple proposition that the new code is better than the old code, and they are the only two possible outcomes from this particular motion. If members vote in favour of this motion, the old code will prevail; if members vote against this motion, the new code will prevail. I am not going to say the new code is perfect. I understand it has come out of a long consultative process. It is not actually my job to defend the new code. In speaking on this motion it is my job to contrast the new code with the old code and ask which would be a preferred outcome.

I believe the new code delivers a range of improvements on the old code, and therefore disallowing the new code does not advance the welfare of pigs. It may advance the political careers of some people who want to grandstand on the issue, but it will not in fact advance the interests of pigs. To believe that you would have to believe that by blowing up this system a new one will magically arise and suddenly there will be a better code. It may well be that there should be a better code, but disallowing the current advances is not going to do anything to achieve that. If you want to see improvements, if you want to see a reduction in stall time, if you want to see minimum size requirements for stalls, if you want to see some obligation on people to have training or to demonstrate competence in their animal husbandry, if you want to see more floor space provided in pens for weaned and grown pigs, then the new code makes some provision for those things in ways that the old code does not. As a consequence, I and the government will be voting against this motion, because we would prefer to see those advances occur.

Like all other members of this chamber I have been the recipient of quite a large amount of correspondence on this issue. I think that is terrific. I think it is terrific that we have active citizens, many very good people, people who care deeply about cruelty to any living being, and I support them in that concern. They are people who wish to speak out against practices which they dislike. I welcome their opportunity to do that in a democracy, and I welcome their opportunity to speak to me as a member of Parliament in doing so. What is disappointing to me is that they have been misled by the proponents of this motion into believing that by voting in favour of this motion there will be any advance in the welfare of pigs at all. In fact quite the contrary is the case.

I read as much of the correspondence as I could. Obviously a number of the letters were form letters, sometimes with a personal introduction. It was a very well-written and thoughtful form letter, and many of the personal introductions were similarly thoughtful and thought-provoking. I must admit I was quite confronted by some of what I read and some of the issues around the welfare of the animals concerned, but when we came into the Parliament and I found out what this motion was about, I realised that this was not a motion about proposing some new pig code that was better than the revised code. I realised it was not a motion that could in fact do anything to change some of the disturbing examples that were given in the emails that concerned me and clearly concerned the writers of those emails. The only thing that was on the table was a motion to disregard the new code, thus leaving the old code in place.

I suppose I should have expected that from the Greens political party. I thought, and I think their voters probably thought, they were coming into this house to address some of the major environmental issues of our time, the issues particularly around climate change, around water and around a range of other matters. That is fair enough. I think that is good. People have voted for them to do that, or thought that was what they were doing when they voted for them. I can also understand that on occasions, particularly as a minor party, the Greens may seek to use their balance of power in this house to negotiate for some other reforms which may not have majority support, but using the leverage they have as a minor party, they may get majority support for them in exchange for something else. That is how a chamber of this nature works, and I can understand that. But the motion that is before us is neither of those things. It neither addresses the most significant and important environmental issues of our time, nor does it create even the slightest small victory on a smaller issue — in this case pig welfare. What it does is set the cause of pig welfare back further.

There are some pig farmers who in the way they work with their animals are undoubtedly exemplars for all others to follow, and I am sure, sadly, there are some who are not so. The only people who would benefit from this motion being passed are the people whose practices are the worst and those whose practices will be, by law, required to be reformed by this new code. So the only people who would logically be celebrating if this motion were passed are the worst practitioners, who are currently going to have to have their practices reformed as a result of this legislation.

I think we should reflect on what the new code says, and again my job is not to defend the new code but simply to compare it with the old code, since those are the only two possible outcomes from this motion. The Prevention of Cruelty to Animals Act supports the welfare of all animals in Victoria. The provisions of the legislation apply equally to people who are involved in animal production on farms or who use animals for other recreational purposes or for companionship. Under that act, codes of accepted farming practice for the welfare of animals have been prepared for the major types of animal production, including pig production, to provide minimum standards and more specific guidelines to livestock producers in Victoria. The revised Code of Accepted Farming Practice for the Welfare of Pigs was, as other speakers have indicated, developed by the Primary Industries Ministerial Council at a federal level, its appointed animal welfare working group in consultation with the states, territories, commonwealth agencies, the CSIRO, the veterinary profession, the industry, researchers, retailers, processors and animal welfare groups.

The reason we have those types of consultation processes is because there is a wide range of views about what is appropriate in this instance, and in a democratic society what we try and do is create a process that enables that wide and often competing set of views to be heard and have some input. Whether or not they got exactly the right answer, to be honest, I do not know, because I was not party to that process, and without hearing the evidence from all of those parties I am not sure that I would be in a position to have a definitive view on that. But I certainly accept that there is a wide range of people, some of whom have been in contact with us as MPs, who do not think that they got the answer right, and that is a perfectly legitimate position for them to take. What is not going to help, however, is for us to simply throw this work product out and leave in place a work product which all of those people, I think, would believe was indeed an even

worse product. In fact that would not seem to achieve anything at all.

I think there is a second part of the process that should not go unremarked — the movement towards a uniform national standard. Many people will be aware that a wide range of business groups in particular, other groups and general citizens are frustrated by the differences in regulation across states and are looking to have more uniformity among those things. It is a lot of work to get everyone together to try to get something on which everyone can agree. That work has now been done, and we now have a uniform code.

I would contend that even those who are activists in this area, who are very passionate about animal welfare, would see the benefits of our having a uniform code because that means you can have the fight once and you can put the proposition forward, particularly given, as Ms Pennicuik has already indicated, that many of those groups are relatively low in resources. It gives them the opportunity to concentrate those efforts on a single national piece of code and therefore gives the best chance of success. It also means that you do not have recalcitrant jurisdictions that do not accept the code, that are left behind and become backwaters and places where those producers who are not willing to abide by different standards will ultimately congregate. The benefit of having a uniform national code is that all states are brought forward and you do not create backwaters where the bad guys can hide.

Not only would approving this motion leave in place the old code, which is inferior to the new code, but it would also blow up the process of getting to a uniform national code. Having a uniform code might mean we could have these important and difficult arguments between different points of view, have them once, and ensure that whatever progress can be secured can be secured across the whole country. I think there would be a double disadvantage in this motion being passed, were it to be passed.

The current code allows pregnant sows to be confined in dry sow stalls for their entire pregnancy of 16 weeks, followed by a period in farrowing crates for 4 to 6 weeks. The cycle then repeats itself so that sows may be continuously restricted with adverse effects, many of which have been written about quite passionately and disturbingly, I might say, in the emails I have received. The revised code provides over a transition period of 10 years that sows must not be confined for more than six weeks of their 16-week pregnancy; for the balance of the time sows must be group housed.

Ms Pennicuik — That's not much of an improvement.

Mr THORNLEY — I take up the interjection. Ms Pennicuik says, 'That's not much of an improvement', which may be true, but the question is: is it a backward step? I do not believe — —

Mr Barber — The question is: what are you going to do about it?

Mr THORNLEY — No, it is not. I take up Mr Barber's interjection. What I am going to do about it is oppose the motion. What this motion does is send it backwards. When you are asking me what I am going to do about it I can say that it is not my no. 1 issue. I am working on gas-fired power because I want to see emission reductions in this state. I want to see the 60 per cent emission reductions you would get if you had gas-fired power taking over from coal. Since you guys want to spend the Parliament's time on this issue and give us the stupid choice of going either backwards or slightly forwards I will stand here and go slightly forwards, and I make no apology for that position. I think you should consider whether there are more productive ways for your group to advance the environment than putting forward this sort of no-win situation that you have put in front of the Parliament today.

It is worth reflecting further on Mr Barber's interjection, 'What am I going to do about it?'. I will make a few suggestions, but not on what I am going to do about it because, as I said, while there are important issues raised, there are even more important issues which as a parliamentarian I will be focusing greater attention on. For the people who believe that this is a very important issue and are clearly energised about it, writing about it and active about it and who were out on the steps of Parliament House today with a pig to gain publicity for their cause, I say good on them.

There are a lot of things they could do that would advance the cause, but passing this motion is not one of them. Many of them are out there supporting the organic pork industry, and I think that is fantastic. There are lots of useful things people can do there. Many of them are out there, as Ms Pennicuik is, promoting vegetarianism, and I say good for them. That would help. Many of them are focusing their efforts — those who can focus their efforts and will focus their efforts — on getting further gains in the next round of the code five years from now, and that is a productive use of people's time. There are many who can ensure and will work to ensure that the current code is policed. Ms Pennicuik makes the point that she thinks the code

will be difficult to police. I think that is an important question, and if activists are out there ensuring that people are complying with the new law, that is a good way for them to be advancing these issues.

There are many ways that people can advance the issue and I commend them for focusing on all of them. The one way you will not advance the issue is by passing this motion. That will achieve absolutely nothing that will advance the welfare of pigs. This motion does not save one pig. This motion does not reduce one tonne of carbon. This motion does not save one tree. This motion does not achieve any of the things which you people claim to stand for. I ask myself, why is it that we have a motion brought forward, ostensibly on what is clearly an important issue — an issue about which people feel passionately — that achieves none of those things?

Mr Barber interjected.

Mr THORNLEY — I have thought about it for a little while, because it was pretty confusing to me why if you really cared about these issues you would move a motion that has no useful effect.

Mr Barber — Why be a member of the Labor Party, then?

Mr THORNLEY — Mr Barber says, 'Why be a member of the Labor Party?'. I will get to that, but let us talk about why you would be a member of the Greens and move this motion.

The PRESIDENT — Order! I do not know where this debate is going but I have been distracted for the last 10 minutes. It has gone into the ether somewhere. I would like you to come back to the debate, Mr Thornley, and forget which party people belong to and why they are members of that party.

Mr THORNLEY — I will do that, President, and make the following points. This motion claims to be about the welfare of pigs but the motion put forward, were it to pass, would result in a reduction in the standard of welfare of pigs. I am trying to understand why someone, if they cared about the welfare of pigs, would move a motion that resulted in a reduction in the standard of welfare of pigs. I can only conclude one thing. Some people have an approach to political change that says incremental change is worse than no change and that if we have no change at all, maybe things will be bad enough that everyone will demand much better change.

It is not a school of politics that I subscribe to and it never works, but this is a classic example of that approach to politics. It is a classic example, and usually the only people who use it are the people who when confronted with an all-or-nothing situation can actually live with nothing. They can live with an outcome where they get nothing but they feel better. Most of us who come into this place and want to bring about real change accept that we do not always get all of what we want but that getting some of what we want beats getting nothing at all. I think that is a reflection of the differences in approach that people have to trying to bring about change.

Mr Barber — Like WorkChoices.

Mr THORNLEY — I will let that one go through to the keeper. I will conclude there. I think it is fairly clear that if people are concerned about the issues that the many constituents who wrote to me are concerned about, those concerns will not be advanced one iota by reverting to the old code as opposed to adopting the new code. I commend members to vote against the motion.

Mr KAVANAGH (Western Victoria) — Ms Pennicuik's motion to disallow the pig code of course raises conflicting interests and principles, as I guess anything controversial does. It seems to me that one of the principles is that generally speaking we should try not to interfere very much in the way businesspeople, including farmers, do their business and the way that they seek to make a profit. In particular I think we should be concerned if we are going to give international competitors a relative advantage, which I guess is theoretically possible in the case of this motion.

I disagree with some of the sentiments expressed earlier today, and in the lobbying that I think we all received, suggesting that humans are no more important than animals, or to put it another way, that animals are equal to or as important as humans. I do not accept that; nor do I accept that, as two of the emails that I received were labelled 'Pigs have rights too'. I do not think that pigs or other animals do have rights. In fact that raises pretty profound philosophical questions about the nature of rights, which I doubt the authors have ever even considered. What I would say also is that contrary to some suggestions today, it is not immoral, improper or wrong for us to eat meat. We have canine teeth in our heads which are there for the tearing of meat, and it is obviously a quite natural thing for us to eat animals.

Having said all that, it is my opinion nevertheless that we human beings have responsibilities. I do not believe animals have rights, but I do believe we have responsibilities. Among those responsibilities is a

responsibility to avoid unnecessary pain and distress to animals. It has been said that the most important test of character is empathy. Whether a person can sympathise with or feel for the suffering of others — not only human beings but animals — is probably the most important indicator of that person's true character. In the case of pigs it may be more difficult than with other animals to have that empathy because, contrary to cartoons and the like, pigs are not very cute or lovable animals. Most of them are pretty offensive and awful and even aggressive little creatures. Of course some of them are very big too.

To treat animals well would have a cost. It might cost a little bit more for ham or pork or bacon if we treat animals well. In my opinion that is a price we should all be prepared to pay.

Mr Thornley gave a very powerful speech about the practical consequences of voting for this motion. In my opinion the motion is probably unlikely to be agreed to, but I would like to make a symbolic gesture in favour of the principle that our increasing prosperity, our intelligence and our advantages should be partly modified or spent quite properly on improving our treatment of animals.

Ms PENNICUIK (Southern Metropolitan) — I would like to thank the members who contributed to the debate on my motion to disallow the Code of Accepted Farming Practice for the Welfare of Pigs. I would like to make just a few brief comments, particularly about Mr Thornley's contribution. I do not think it is appropriate for Mr Thornley to accuse me of grandstanding. I have not done this because I want to grandstand; I believe really strongly in the welfare of animals and in not mistreating them — and Mr Kavanagh also spoke about that. It is not a grandstanding issue. It is an issue that has come before the Parliament.

A code of practice came before the Parliament and I had the choice — and the Greens had the choice — to either say something about that code of practice or else let it just sail through unnoticed and unremarked upon. It is not the case that you stand up and speak about a motion only if you think it is going to be carried and only if you think it is going to be supported. I do not believe either that if this motion were supported, if the members of the house were persuaded that we should actually put the welfare of animals before profit and support the disallowance of this code and we defaulted to the 15-year-old code, we would go ahead and just operate under the 1992 code. It is not logical that that would happen. That would leave the whole issue needing to be looked at again. That would happen, partly because of the parliamentary debate in which issues have been raised about the myriad deficiencies of the code. The minuscule if any improvement the code will make in perhaps 10 years in terms of sow stalls, so that we have moved from 1992 to 2007, basically means that we will have stayed in the same place, and in some ways of looking at the code we will have gone backwards.

The rest of the world is moving to phase out this type of operation concerning pigs, particularly the keeping of sows in stalls and farrowing crates. It is not logical to suggest that if we were to disallow the code we would just live with the 1992 code until 2020. It would mean that as a community we would have to re-look at the issue. It would give us an opportunity to follow the European Union, the United States of America, New Zealand and the United Kingdom, which are moving away from this type of farming practice.

Mr Thornley made the point that supporters of my motion have been misled. They have not been misled; nobody has been misled into thinking there would be a certain outcome. All that people knew was that I was going to raise the issue and advocate for the welfare of pigs, as I would like to advocate for the welfare of other animals, and that is what I will do. The other issue I would like to take up that Mr Thornley raised was the issue of water and climate change, which I briefly mentioned in my contribution.

I talked about the overuse of water that is involved in intensive farming, not only the water used for pigs to drink but also the huge amounts of water that are used in cleaning out stalls and all that sort of thing that could be reduced by moving towards the better farming practices that are practised elsewhere. This code of practice moves us nowhere, and in terms of our reputation as a country with animal welfare as a primary concern it would give us an opportunity to look at what goes on in other parts of the world where they are moving toward much more humane methods of animal husbandry. We have got nowhere with this code.

They are the issues I wanted to raise in the Parliament today and draw members' attention to. If I had not raised them, no-one would have noticed and we would have just been stuck with this code that has got us nowhere. I thank Mr Kavanagh for his support and for his words of support for animals, and the other speakers for their contributions.

House divided on motion:

Ayes, 4

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

Noes, 36

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

Motion negatived.

GAMING: PUBLIC LOTTERIES LICENCE

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

That this house:

(1) expresses its concerns at the persistent refusal of the government and the Leader of the Government on behalf of the government to comply with resolutions of the Council of 19 September 2007, 10 October 2007 and 31 October 2007 to provide certain documents specified in those resolutions relating to the public lotteries licence;

(2) expresses its disappointment that the government has failed to make any attempt to find any resolution to this issue;

(3) believes that the actions of the government amount to a serious attack against the powers, privileges and immunities of the Council and demonstrates again the government's lack of accountability to the Parliament and the people of Victoria;

(4) notes that the Leader of the Government on behalf of the government has now, on two occasions, failed to comply with resolutions of the Council requiring him, on behalf of the government, to produce the said documents;

(5) regards its capacity to obtain information on any matter affecting the public interest as being fundamental to the reasonable exercise of its role and powers to scrutinise all aspects of executive behaviour;

(6) regards it as essential that the rightful powers and principles of the Council be protected and that appropriate sanctions be imposed for any obstruction to the proper performance of its important functions;

(7) accordingly adjudges the Leader of the Government guilty of a contempt of the Council for his failure to comply, on behalf of the government, with resolutions of the Council on 10 and 31 October 2007 to table or lodge with the Clerk the documents relating to the public lotteries licence specified in the resolution of the Council of 19 September 2007; and

(8) (a) orders the Leader of the Government on behalf of the government to lodge the documents specified in the resolution of 19 September 2007 with the Clerk by 4.00 p.m. on Thursday, 22 November 2007;

(b) suspends the Leader of the Government from the service of the Council for the remainder of the sitting on Thursday, 22 November 2007, if the documents are not lodged with the Clerk by 4.00 p.m. that day. Provided that if the documents are subsequently lodged with the Clerk at any time during the period of suspension on Thursday, 22 November 2007, the suspension will immediately cease to have effect; and

(c) in the event that the documents are not produced or tabled with the Clerk, foreshadows that further sanctions will be imposed upon the Leader of the Government, representing the government, for his persistent obstruction of the business of the Council.

I further move:

That the Council take note of the Leader of the Government's letter of 5 November 2007 in response to the resolution of the Council of 31 October 2007.

In so doing I should preface my remarks by making a personal observation, one which I have made privately and I feel I must at the outset of this debate make publicly. That is that I have a heavy heart, in a personal sense, in moving a motion that has an impact directly in regard to one of the ministers of the current government for whom I have a high regard. But this is not about personalities, it is not about respect for individuals; it is about the respect and responsibilities we have as parliamentarians with regard to the discharge of our duties in the house. It is about my role as Leader of the Opposition and it is about the role of the Leader of the Government representing the government in this place, who is clearly the responsible person accountable for the matters which we have been debating over some months. Those matters are of course about the powers, privileges, rights and responsibilities of the Legislative Council and the obligation of the executive to be accountable to each house of Parliament — in this case the Legislative Council.

The motion principally before the Chair raises concern and expresses disappointment. It raises concern at the

attack against the powers, privileges and immunities of the council and the demonstration by the government of its lack of accountability. The motion notes that the Leader of the Government has on two occasions failed to comply with resolutions of this house. The motion goes to the obtaining of information in relation to the public interest as being fundamental to the reasonable exercise of the powers, the role and the responsibility to scrutinise all aspects of executive behaviour. It is clear that the Council regards it as essential that the rightful powers and principles of the Council be protected and that appropriate sanctions be imposed for any obstruction to the proper performance of those important functions. Therefore, accordingly it adjudges that the Leader of the Government is guilty of contempt of this house.

It further orders the Leader of the Government to lodge those documents, which he has so far refused to lodge by 4.00 p.m. tomorrow — that is, Thursday, 22 November 2007. The motion provides for a suspension of the Leader of the Government should he fail to meet that deadline, but that suspension would be lifted should he subsequently table the documents.

It also notes, and I make this point importantly, that this is not just one shot in the dark; this is a motion which foreshadows, in effect, a continuum in terms of pursuing what is an important matter — that is, that there will be further sanctions imposed upon the Leader of the Government representing the government for the persistent obstruction of the business of the Council.

I need to refer to some particulars, but I do not intend to prosecute the case that has been prosecuted here successively over several months on three other separate occasions. But I wish to refer and particularly respond to some claims made by the Leader of the Government, firstly, in regard to the Leader of the Opposition's letter of 5 November which was tabled yesterday and which responds to the order to table documents passed by a resolution of the house on 31 October. In part he refers, as he did during his contribution to that debate, to the requirement for him to take an oath as a member of the Legislative Council, as a minister and executive councillor, and makes the point that because of constraints of the oaths of office taken, he could not respond in the way the Council had so ordered.

I would like to refer very briefly to a commentary about what it is that he is arguing. Greg Taylor, whom I have cited and quoted in previous debates and who has written the only functional text on the constitution of Victoria, says in his volume at page 90:

> Members of executive council, by constitutional practice rather than any legal requirement, take an oath (or make an affirmation) on appointment to that body 'to faithfully advise and assist the Governor' and not to reveal its deliberations if directed to keep them secret. Given that the oath or affirmation of an executive councillor is non-statutory in Victoria, it is binding only in conscience and (in the case of an oath) before God, and no formal legal consequences can flow directly from its non-observance. The obligation of secrecy which it imposes is also somewhat limited, requiring secrecy only when a vice-regal direction in that behalf is given — which in fact it never is. (In this respect the oath is a relic from a time when the executive council was a real seat of governmental power, in the early to mid-1850s.) Further, the better view is that the obligation of secrecy does not embrace matters discussed by cabinet which do not reach, or have not yet reached, the council; nor, it appears, is it the basis for a claim to public interest immunity of documents before the executive council.

Reciting that extract I wanted to put in perspective a response particularly to the Leader of the Government's view about the attesting to certain oaths. But I also wanted to pick up the point that he claims he has taken an oath as an executive councillor and also taken an oath as a minister.

On oaths of ministers, Greg Taylor has this to say at page 153:

> On appointment, a minister takes the oath (or makes the affirmation) set out in s 88AA and schedule 3 of the Constitution Act 1975, although this is not done pursuant to the terms of that section as it is not a requirement of the law (as distinct from a desirable practice).

Honourable members interjecting.

The PRESIDENT — Order! I am sorry to interrupt such an important matter but I just want to remind the house that this is without question an historic debate. It is extremely important, not only to the house but to the state. Therefore I would ask members of the chamber to refrain from interjecting. The last thing we want is for this debate to become inflammatory. I ask, again, the chamber to be respectful of my comments.

Mr P. DAVIS — Thank you, President, for your guidance to the chamber.

I want also to deal with the issue raised by the Leader of the Government concerning the confidentiality provisions of the Gambling Regulation Act. I do so on the basis of the notion that I think is relevant in this. The Leader of the Government has argued the case, as have some other members of the government, that the confidentiality provisions in the Gambling Regulation Act mean the documents the Legislative Council has ordered cannot be released, because it would be a breach of the law. The inference that one can draw from that argument is that any statute that prescribes some

form of confidentiality has application to the Parliament. I would argue that that is clearly a nonsense. The only way the powers, privileges and immunities of the Council can be affected is by a specific constitutional amendment or by an act that specifically deals with those powers. I put it to the house that in relation to confidentiality the Gambling Regulation Act contains nowhere any reference to a purported effect in regard to the powers, privileges and immunities of this place. However, it is clear under the Constitution Act that the power exists. I refer to section 19(2) of that act and I quote:

> 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.

That is to say, by particular instrument the Parliament can impose constraints on those powers, privileges and immunities. It would seem the lead argument of the government is that as a consequence of any ordinary act of Parliament being considered by this place the privileges of this house are in some way limited. Clearly that is a nonsense.

I think it is fair to comment that the issue of dealing with executive privilege needs to be refreshed in the minds of members. It was only in March of this year that a sessional order was adopted by this house to provide a procedure for the production of documents. This was not designed in any way to create a power for the house to call for documents, because that is inherent, as has been pointed out in previous debates, as a consequence of the privileges obtained from the precedents of privilege when the constitution of Victoria was adopted in 1855 — whatever were the powers and privileges of the House of Commons applied equally then to the Victorian Parliament. But the argument that it was necessary to put a procedure in place was made advisedly in anticipation that there could have been be a conflict between the view of the government and the view of the house as to the appropriateness of releasing documents to the house.

In the debate around that procedure, which I have to say went primarily to the problem of dealing with claims of executive privilege by the government, it was Mr Kavanagh who brokered a compromise that achieved a reasonable outcome. I refer to sessional order 21(6), (7), (8), (9) and (10) on page 10 of the Legislative Council sessional orders, which sets out the clear procedure for dealing with a document claiming to be covered by executive privilege. In effect it provides for a process where that document can be provided to the Clerk when the claim of privilege has been made. The member moving the motion in that case can examine the document and determine if there is a dispute. If there is a dispute, the document can be referred to an independent legal arbiter to be appointed by the President. I think it is important to note that the arbiter is appointed by the President, not by the house. The independent legal arbiter will be somebody who has the confidence of the President. I do not wish to reflect on the political allegiances of any member of this house in this debate but it is quite clear that the President is not a member of the opposition or of the non-government parties.

The procedure provides for confidentiality. It is only as a consequence of a report from the independent arbiter being made available to the house and the house then determining what further action to take in relation to that report that it would be possible for the documents provided under that procedure to be released, in the event that the house determined they should be. But that would essentially be on the basis of the advice from the independent arbiter, not the advice of the member who moved the motion for the production of the documents. The government's defence in relation to executive privilege, in my view, is singularly lacking.

What is even more bizarre is the Leader of the Government's letter, which we have before us, explaining his position. As I have said, he refers to executive privilege and oaths of office but he also refers back to his response of 12 October. I picked that up and scanned through it to refresh myself. I did note in that letter a line on page 2 which states:

> The executive government does not accept the position advanced by Mr Bret Walker SC on this issue in his opinion tabled in the Council on 10 October 2007.

I might make the point that that letter, which was a defence arguing a number of things, highlighted that the Leader of the Government does not accept the position proffered by the independent senior counsel instructed by the President at the request of the Leader of the Government — not at the request of the non-government parties, not at the request of the opposition and not at my request but at the request of the Leader of the Government — for the President to obtain an independent senior legal opinion. The President, acting in good faith, discharged that undertaking to provide that advice to the house. What did the Leader of the Government say? He said, 'The legal advice does not accord with what suits the government, therefore we will reject it'.

Therefore it is useful to remind us all of what Bret Walker's advice was. As this is a summary of debates that we have had in this place previously I do not need to go to a detailed iteration, but Bret Walker's advice

obviously refers to precedents. It refers to the 10th edition of *Erskine May's Parliamentary Practice* 1893 relating to the well-established powers of the Commons before 1855. It quotes from chapter 21:

> 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 …

I think we all understand what that means.

Further, referring again to his advice, it states unequivocally:

> Where a document is not to be regarded as a cabinet document, there should be no public interest reason to keep it from the people's representatives, the legislators, in the Council.

Further, it says:

> It is for the Council to determine, in its assessment of the public interest, how secrecy of this kind should be observed. In my experience, there is no difficulty in restricted access and redacted publication, where public disclosure would hurt the public interest.

But Mr Walker is of course saying that that is a matter for the Council.

Given that this is in effect a summary of all that has gone before, it is probably useful to refer back to the findings from the events of 1995–96 in the Parliament of New South Wales. I refer to the summary of those events in *State Constitutional Landmarks* and the section by Gerard Carney entitled 'The triumph of responsible government'. Carney writes:

> The constitutional significance of *Evan v. Willis*, a decision of the High Court in 1998, and of *Evan v. Chadwick*, a decision of the New South Wales Court of Appeal in 1999, is profound — both within the state of New South Wales and nationally. These cases judicially confirm the fundamental role of each house of Parliament, including the Legislative Council, to scrutinise the activities of the executive branch. Together, they establish the power of each house to call for the production of 'state papers' despite their privileged status. The fact that the government does not have to maintain the confidence of the Legislative Council does not mean that it is not accountable to that house. By recognising the different way each house of Parliament may hold the executive government accountable for its administration of the state, these cases have reinforced and reinvigorated, if not redefined, the principle of responsible government in Australia.

The New South Wales Court of Appeal in *Evan v. Chadwick* clarified the right of each house to order the production of state papers irrespective of claims of public interest immunity and legal professional privilege but cast responsibility on each house to determine how best to deal with such claims.

This is a serious matter. I have no doubt at all that members in this place regard it seriously. You could say it is a centuries-old contest: a matter between the Parliament and the executive. I am sure that this debate today is part of a continuum, because the behaviour of the government to date has, in my view, been a demonstration of contempt of this house and a contempt of its committees.

I know that members of the committees who have been trying to extract information from the government either by way of documents or simply by way of examination of witnesses who have come before the committee have been frustrated and, to some degree, insulted. It has not helped the tenor of the attitude of public servants to understand the contempt in which this place is held by the Attorney-General, but that is a debate for another day.

I was interested to see on page 4 of today's *Age* newspaper a useful summary of the principles, which was included in an article prepared by David Rood. It stated:

> … Monash University constitutional expert Greg Taylor said the default principle was that Parliament did not deprive itself of its own rights unless it specifically says so in a statute.
>
> 'There is quite a strong tradition in constitutional law that Parliament essentially is the no.1 boss cocky. It is certainly possible for a statute to deprive Parliament of its usual rights, but there is case law authority against that', he said, citing the 1870 example of *The Duke of Newcastle v. Morris* in the House of Lords.

I just read that into the record for the sake of brevity, because, while there have been a great many arguments led by the non-government parties in regard to the rights of this house in respect of the executive, what is distilled in those few lines is that, irrespective of the argument being run by the executive for the purpose of protecting it from proper and close examination, it is clear that those who have a profound and deep interest in the constitutional issues that are before us have a clearly contrarian view to the advice that is being received through the Attorney-General by the cabinet.

If the cabinet had been receiving the advice of those whom I would regard as thoroughly independent and reputable constitutional experts, the cabinet's behaviour may have been different, with the exception of this question: is it the case that the cabinet is not prepared to concede the powers of this Council on the basis of damage that may be done politically to the government? If that is the case, I do not believe the government has any excuse whatsoever, because the principles of responsible government and accountability

to the Parliament are above any matter of parochial, political opportunity.

In conclusion I say that the government must take due warning: we are engaged in an all-out conflict on fundamental principle and will not contemplate any outcome short of a final assertion of the right of the Parliament under the constitution of Victoria to hold the government to account. Should the Leader of the Government continue his obstinate defiance of the Parliament, it is beyond question he will incur significant sanction. The government's brazen rhetoric belies the weakness of its position on the constitutional power of the upper house, and it should hold no illusion that the non-government parties are committed to the right of the Parliament on behalf of the people to pursue the release of documents. Consequently the challenge confronting the government is to acknowledge a constitutional crisis is at hand. The course then is either to release the documents, or if it is confident in its constitutional position, to take the matter to the Supreme Court.

On the evidence the government is uncertain of the strength of its position. It should therefore simply come clean with the documents, as we believe its position is indefensible. One way or another we will arrive at an answer, as it is now inevitable that the Legislative Council must pursue to the end its powers and responsibilities to compel the government to account to the Parliament for its actions. I therefore urge the house to support the motion.

Mr VINEY (Eastern Victoria) — Of the 27 minutes that we have just heard from Mr Davis there was one thing I agreed with — that is, this is a pretty serious motion. For this house to find a minister in contempt is a pretty serious matter. What is more, this house is finding a minister in contempt for doing his job and abiding by the oath of office he took. I remind members that the oath of office that a minister swears is that:

> I —

the name of the minister —

> swear by almighty God that as —

the name of the office —

> in the state of Victoria, I will at all times and in all things discharge the duties … according to law and to the best of my knowledge and ability without fear, favour or affection.

The minister in this instance is following his responsibilities under the oath of office he swore that as a member of the executive council he would treat with confidentiality and privilege those things that he has to deal with as a minister, as does the Minister for Gaming in the other place who, under the Gambling Regulation Act, is not entitled to give documents to anyone other than a person who is entitled to have those documents in relation to the matters before the Victorian Commission for Gambling Regulation. That is the fact at law, and the Leader of the Government is following the law. He is following and abiding by his oath of office. The members on the other side have determined that they wish to find the Leader of the Government in contempt of this house for sticking to the oath of office that he swore on behalf not just of the government but of the people of Victoria. It was for the people of Victoria that he swore the oath of office.

No-one on this side of Parliament has ever argued that this house does not have an entitlement to hold the executive to account, but that entitlement to hold the executive to account exists within constitutional law. Section 19 of the constitution of Victoria says that the powers of this house are those of the House of Commons in 1855. In 1855 the House of Commons could not demand of ministers that they produce cabinet documents, and I have debated this on countless occasions. The Leader of the Government and every minister in this house have pointed out how the government is adhering to the constitutional provisions of the Victorian constitution. They are different from the New South Wales situation that Mr Davis likes to quote, because New South Wales acts under common law; in the Victorian upper house we act under the constitution of Victoria, and that is clear.

Evidence has been given to the house in relation to the letter from the Leader of the Government to the house dated 5 November. In that letter the minister quotes the 1867 addition of Alpheus Todd's book entitled *On Parliamentary Government in England*. I will quote a couple of sentences, although I urge all members to read it in full. It states:

> It is imperative that Parliament shall be duly informed of everything that may be necessary to explain the policy and proceedings of government in any part of the empire; and the fullest information is communicated by government to both houses, from time to time, upon all matters of public concern. Considerations of public policy and a due regard to the interests of the state occasionally demand, however, that information sought for by members of the legislature should be withheld —

and it goes on to say —

> at the discretion and upon the general responsibility of ministers.

The minister has made it clear in his letter, as we have made clear in previous debates, that there is a claim of executive privilege in relation to those documents. The

minister in claiming executive privilege under his oath of office cannot produce documents that he is not entitled to in any case because they are the documents of the Minister for Gaming. He cannot, on behalf of the government, produce those documents. The basis of the position of the government is a basis of constitution and convention.

The Liberals are behaving true to form in relation to this matter while in opposition. They are the constitutional vandals in opposition and then pretend to be the great upholders of the constitution in government.

If we think about what they did when they were in government we have to ask: when did they hold the Kennett government to account on anything? When did the Liberal Party set up a set of committees on public finance and administration, as this house has done today? When did the Liberals ever do that under the Kennett government? Not once. How many bills did they amend? None. How many times did the Premier go to the Public Accounts and Estimates Committee? Not once. Who did they appoint to be the chair of the Public Accounts and Estimates Committee? It was the Parliamentary Secretary to the Premier.

The Liberals have continuously shown throughout their performance in this house, in this Parliament and in Victoria that they do not respect the forms and traditions of accountability. They did not respect them in relation to the Auditor-General. It was this government that enshrined the powers of the Auditor-General in the constitution of Victoria and made him an officer of the Parliament, as indeed it did for the Ombudsman. These are the things that this government has done on the accountability of the executive. The Liberal Party does not have that proud history. In opposition it loves to wreck the constitutional conventions of this place — and it is doing it again.

I suggested that during the suspension of the Leader of the Government, if this motion is passed, the Liberal Party might like to consider pairing him in any vote that takes place in this chamber, but it refused. What is the effect of that? Just think about the effect of that on this chamber. Twice today we had two votes of 20 to 20 in this chamber. If such a vote were to take place while the Leader of the Government was removed from this chamber, it would change the numbers in this house.

This motion is essentially changing the determination of the people of Victoria at the last election. The people of Victoria, and in particular the people of the Southern Metropolitan region, chose Mr Lenders to be one of their five representatives, but this house through the connivance of the Liberal Party with the crossbenchers is going to thwart the decision of the people of Southern Metropolitan Region for a period that it is going to determine, and by the threatening tone of Philip Davis today the opposition is going to push on with this matter. It is going to push on and push on with this. What is it pushing on with? It is pushing on with attempting to thwart the decision of the people of Victoria and in particular the decision of the electors of one of the regions established at the last election. It is attempting to thwart that decision because the Leader of the Government is upholding his sworn oath of office. That is what it is doing.

I put to members of the council that this is a very serious matter. It is a very serious debate about democracy and constitutional convention. It is interesting that what the opposition wants to do on Thursday will be pretty much a token effort, because we have spent far more time debating this matter in this chamber than it is prepared to suspend the minister for. Members should think about the countless hours during which we have been debating process in this place. We spent half of this morning debating committees, because it wanted to rort the system of committees, and it has effectively done that today. It wanted to set up a committee structure in which 47 per cent of the members of this place get 23 per cent of the positions. It is continually rorting the electoral decision of the people of Victoria at the last election. It has not brought on debates about climate change, it has not brought on debates about education, it has not brought on debates about health, and it has not brought on any debates on the significant things facing the people of Victoria.

I wonder what some of the members opposite when they are in their dotage are going to say to their grandchildren when they ask, ‘Grandpa, what did you do in the great period of decisions about climate change?’

Mrs Coote — And grandma!

Mr VINEY — And grandma too, if you like, Mrs Coote. When they are asked, ‘What things did you do’ — grandpa or grandma — ‘ to protect Victoria from the ravages of climate change?’, are they going to say, ‘No, I didn’t bother with the big issues like climate change. I debated process. I debated parliamentary process. I decided that it was far more important to rig the electoral system, to rort the system of committees and to kick out the Leader of the Government on some parliamentary procedure when he had done nothing more than follow his oath of office’? That is what

members opposite are going to have to say to their grandchildren.

Why do they not wake up to the fact that this government has set up enormous processes of accountability in this place, which was something the Kennett government never had the courage to do. It never had the courage to set up or to accept the powers and responsibilities of the Auditor-General. It never had the courage to make him an officer of the Parliament. It never had the courage to insist that the Premier go to Public Accounts and Estimates Committee hearings. It never had the courage to do those things. To hear the nonsense coming from the Leader of the Opposition about how this is about great issues of accountability is actually nauseating. It is just a joke, because this government has set up those processes of accountability.

In relation to the particular documents that are the subject of the motion, there is a whole raft of reasons why the government has put forward that they cannot be released. Let us think about a few of them. Think about the impact on business confidence if, when dealing with the government of Victoria when it is considering a tender or a contract, all of the commercial information of a company could become publicly available at the whim of the opposition.

Members should think about the fact that the advice — and it was clear advice — to the Select Committee on Gaming Licensing from the Victorian Commission for Gambling Regulation was that it could not reveal the security analysis and reviews that it undertakes on applicants for gaming licences, not just in Victoria, not just in Australia but internationally. It clearly advised the committee that if those documents were ever to be released they would never be able to seek the support of those agencies to do background and security checks on any applicant for contracts with the state of Victoria. They are the documents you are asking to be released. We have been advised not only on constitutional issues but also on the impact of the relationship between government and business and the tenders and contracts processes of government that would occur if the release of such documents were to take place.

We have had the Merkel report on the inquiry that has gone through absolutely everything in relation to the gaming issues that the opposition is pursuing. We have had countless hours of discussion, questioning and public hearings, and we have had hundreds and hundreds and thousands and thousands of pages of documents given to the select committee on the issues of gaming and other issues that the select committee was seeking documents on. In all those public hearings and documents, members of the opposition were not able to find anything at all that was of any consequence or caused any embarrassment to the government in relation to the proper processes that it followed in the awarding of contracts and tenders. What members of the opposition have now done is try to get a discussion on process, because everything else failed. Their whole strategy collapsed so they have tried to bring it down to a discussion on process and procedures.

This is not a genuine discussion about the accountability of the executive to the Parliament, because members of the opposition do not stand for that. They demonstrated when in government that they did not stand for that. This is simply a ruse to try to kick along what was a political witch-hunt from the beginning — and they are trying to kick it along because everything else has failed.

This motion before the house needs to be rejected. The Leader of the Government is entitled to be in this house not only as a sworn member of the executive but also as an elected representative of the people of Southern Metropolitan Region. The house here is contemplating, albeit for a short period and as something of a token, the thwarting of that due decision of the people of Southern Metropolitan Region. It is an outrage, it is a disgrace, it is a hypocrisy and this motion must be rejected.

Mr HALL (Eastern Victoria) — The debate goes on. This matter was debated by this Parliament on 31 October, and we are back here this afternoon to debate this particular matter again. I suggest, by the tone of what people have already said, that there is probably not going to be much more new evidence or many more issues raised in the course of this debate. I can understand why Mr Viney makes the comment that he bemoans the fact that we are spending a great deal of time debating administrative matters in this chamber. I share that view, but let us understand why we are here again today debating this matter.

We are here again today debating this matter because there was a resolution of the Council — whether you like the numbers or not — again requiring a minister of the Crown, the Leader of the Government in this chamber, to table certain documents in the house. That resolution has not been complied with, so the house is again required to raise this subject and again require the Leader of the Government to adhere to the resolution — and it will impose a sanction if the resolution is not adhered to. It is extremely disappointing that we are back here today again debating this very subject.

What is even more disappointing to me is the fact that there seems to have been no effort by the government to try to resolve this matter between 31 October and today, 21 November. What has transpired during that three-week period is that a letter dated 5 November from the Leader of the Government was tabled in this chamber yesterday. That is an extensive letter.

Hon. T. C. Theophanous interjected.

Mr HALL — Yes, I read it very carefully. I was also here and listened to the Leader of the Government last time, on 31 October. I see precious little difference in terms of his contribution on 31 October compared with the letter that was tabled in this chamber yesterday. I say that the letter that was tabled yesterday is simply a repeat and elaboration of exactly the same points that were made by the Leader of the Government in that 31 October debate. I see no substantial new material, evidence or justification for the government's position in that six-page letter that was made available to members yesterday.

If you go through that letter and read it, you see it essentially again elaborates on the government rejecting its ability or willingness to table certain documents on two grounds. The first of those grounds is the government's claim of executive privilege and the second is that publication of the documents would contravene confidentiality provisions of the Gambling Regulation Act 2003.

The point that I made in my contribution to that 31 October debate and that I make again today is that we have a position adopted by the government — and that is outlined in the letter from the Leader of the Government — and we also have a position adopted by resolution of the Council, supported by the legal opinion of Mr Bret Walker, and it seems that never the twain shall meet. So it is that we have a major impasse. We seem to have made no progress towards a resolution between 31 October and now.

Probably my greatest disappointment about the whole debate we are having here today is that it seems to me that the government has made no effort to try to progress a resolution of this particular matter. In my contribution on 31 October I actually pleaded with the government to look for a way to try to resolve this matter — because I do not like censuring a minister, as we did last month, and I do not like suspending a minister, which is what may potentially occur this afternoon. I do not like to do either of those two things. That is why I pleaded with the government to try to seek a means of resolving this particular matter. During the course of that debate I suggested that we take it to a court of law and let it adjudicate, because the government has a view and the opposing parties have a view, and it seems that we are not going to find a resolution by this debate or any future debate. We are just going backwards and forwards across the Parliament. I for one would be willing to have this matter decided by a court of law and let that decision be accepted by all members of this house. I see that as the only way that this matter will be resolved. I continue to hold that view, and I am extremely disappointed that there seems to be no other mechanism suggested by anybody else as to how this might be resolved.

It is up to the government to come up with a resolution of this particular problem. It should be making a greater effort either to adhere to the resolution of the Council or to find an independent way of adjudicating on who is right, who is wrong and how we can actually resolve this matter. It gives me no joy to be standing here again debating this matter. As I said, it gives me no joy to be part of a group supporting a resolution of a chamber which censures a minister or suspends a minister, but if suspension is to be the action required today to be the catalyst to initiate some sort of court action to bring about a resolution of this matter, then I have no choice but to be part of that and support this motion.

Mr BARBER (Northern Metropolitan) — Just a bit earlier the President described this debate as historic. I certainly agree with him on that. However, it is not unprecedented and it is not unprecedented even in the life of the Victorian Parliament.

On 17 December 1855 a motion that dealt with similar matters was brought to this Parliament. The context for that timing, by the way, was a brand-new constitution for the state of Victoria, a brand-new franchise and a brand-new voting system. It dealt with what people then called the Ballarat outbreak, which we more often refer to as the Eureka Stockade.

A motion was put up by one of the new MPs elected as a representative of the miners, who previously had not had a vote. In relation to the Ballarat outbreak, the motion requested copies of all despatches between the Governor, the Ballarat officials and the Colonial Secretary. It also asked for all compensation claims relating to injuries caused by the military and the police. At that stage the issues they were investigating were that a number of non-protagonists — shopkeepers and so forth — had been shot at or otherwise harmed by the police who, having broken the stockade, were more or less still on the rampage. There was a great loss of property by some of these individuals, who were genuinely neutral in that whole debate

In the process the Parliament set up a select committee to examine all these issues. Unfortunately for us the detail of the debate and how these issues were discussed is not preserved. The parliamentary library could not find it for me. But certainly this motion was passed, and the select committee proceeded with its business and made findings.

I can only imagine what would happen if a similar set of circumstances arose now, perhaps in relation to a police shooting or, as we have had in Victoria, a really unprecedented series of fatal shootings by police, and we as the Parliament decided to investigate that, and in the process of investigating that asked for all relevant documents that had passed between the various bits of the executive to be delivered. The argument that the government is putting forward is that the provision in the Victorian constitution freezes in time democracy as it existed in 1855. In some ways that might be a good thing, but it is certainly not the case.

I know a little bit about how the Kennett government operated, but I am not a historian of all the bad things that the Kennett government did. I was outside the Parliament during that period. My interest for the last 20 years has been pursuing certain issues and in the process getting some serious accountability and transparency from a succession of governments — the Cain, Kirner, Kennett, Bracks, Keating and Howard governments — so I do not particularly interpret any bad behaviour of any particular government in the past as indicative of anything. I am starting with a clean slate.

I had a look at the letter that the Leader of the Government tabled; I read it carefully and considered all the arguments that were in it; I went back to some references to compare the issues that he was raising with other authoritative writings on these issues; and I have concluded that the letter, albeit quite a long letter canvassing a large number of arguments, is deficient. I will explain why.

The letter brings in a number of issues of historical practice, which certainly provide a reference point, but I do not think that this chamber particularly can pursue enough of the historical record to be definitive in using that reference point alone. It then presents a set of arguments, which I think are actually quite political arguments, as to why the information should not be provided. They are the dot point paragraphs towards the end of the leader's letter. These are arguments I am very familiar with because they are the same arguments that are brought up when we pursue matters through freedom of information, which I have been doing regularly over the last 20 years.

The first dot point, where the leader argues that the commission requires the fullest information —

Hon. T. C. Theophanous — Are you going to support our FOI legislation?

Mr BARBER — it can get in order to identify and exclude persons and so forth, effectively argues that the release of the information is not in the public interest. That is a provision of the Freedom of Information Act as it stands now. In fact this list of dot points reads like a list of the reforms that the government will not be making to the Freedom of Information Act, because the same arguments that the government brings up here in relation to the powers of the Parliament are the arguments that I consistently get thrown back at me every time I lodge an FOI request. One of the arguments is, 'It is simply, in the government's view, not in the public interest to release this information'. Clearly that is not an either/or argument; it is one that needs to be balanced against the public interest of releasing the information.

The government then argues that the information is secret and will impair the ability of the commission to obtain information and thereby to do its job. But the matter we are attempting to review here, through this select committee and through this motion, is the capacity of this organisation to do its job. So that is obviously an issue.

Hon. T. C. Theophanous — Which organisation? What — that stacked committee?

Mr BARBER — The VCGR. Thank you, Mr Theophanous.

The third dot point deals with the commercial-in-confidence argument. Okay, we have all heard that before. The fourth argument — another one I have had sent back to me many times — is that if we expose the deliberative processes of an agency or a minister then they may not be able to do as thorough a job in the future with people watching them. We all know what the counter-argument to that is.

In the next dot point the government says that the release of the documents may impair the ability of proper decisions to be made at 'high levels of government'. I do not know what 'high levels of government' means in this context. In a minute we will get into the cabinet, which is a separate issue, but for the moment we are just left with, 'Well, up here at the high levels of government we want to make our decisions and we do not really want anybody watching us while we make them'.

The second-last dot point relates to legal advice. I think it is an issue that perhaps the Parliament has already conceded. Certainly the advice from Bret Walker, SC, is that with respect to legal advice, that is probably off limits.

The final argument that is presented is statutory secrecy, and I think we have dealt with that one enough times for it to be clear. I have certainly brought it into previous debates and Mr Davis raised it a minute ago.

The problem with this letter and the argument that is mounted in it is that it skirts around the fundamental issue. The letter refers to the fundamental issue as 'The function of the executive in a system of responsible government'. That is the key issue that the government has never yet addressed head-on in this debate, and nor does it do it in the letter. We have one paragraph about it and then reference to what we are all familiar with — the section that the government inserted into the constitution headed 'The principle of Government mandate'. Everybody who wrote about that said it is a very nice principle, but we all know it does not mean anything in practical terms. In fact the provision itself says it does not mean anything in practical terms. The government has completely skirted the issue that it really needed to address and that it still must address — that is, how does all this stuff play out in a system of responsible government?

You do not bring in pages and pages of different references and quotations to get to that. You just need to go to the fundamental references that we have here in the Australian system — that is, two High Court cases of *Lange v. Australian Broadcasting Corporation* and *Egan v. Willis*. For the first time in a long stretch of Australian history the High Court laid out for us what the components of the system of responsible government are and how they might operate in relation to the principles that were then at stake. You will find in that discussion, for example, the understanding of the justices that ministers cannot simply be held accountable to the lower house. That was one of the issues at stake in *Egan v. Willis*. The reason, as the justices understood it, is that over the last 100 years a system of political parties has developed, and it is quite clear that if a minister were only to be accountable to the lower house yet that minister were only a minister because their party controlled the lower house, then you would have no accountability. This is the beauty of the way the High Court does its work. After examining all the periphery it goes to the guts of the issue and just makes a common-sense judgement.

Unfortunately this issue, I would guess, is headed for the High Court again. I say that because I am reasonably well informed of the determination of the government to simply not cooperate on all these matters. The government continues to add to the list of grounds on which it argues that the answer is quite simply no. Its determination is very clear. I am sure that when it gets to that point the arguments it is going to present to the court will be different to the set that we have been presented with here today in this letter, because this is more of a political document, I have to say, than a learned document. I am not saying that some of what we are doing is not political either; I am simply saying that when we move from the parliamentary and political sphere, where the government may feel on stronger ground, and into the judicial sphere there is going to be a very different set of arguments where it will not prevail quite so well.

Mr Hall said he thought this should be resolved legally. For my part I have said on a couple of occasions that I think it could be resolved through negotiation and compromise, which we have not even begun to explore yet, so I cannot say how that would play out from the point of view of the Greens. My aim here is the endgame, which is that the government be held accountable. I am quite happy for the government to be held accountable just in relation to this specific matter and for the constitutional and legal issues to be dealt with some time in the future. But I have now learnt that that is not an option the government wants to enter into. It has not approached the Greens or talked to the Greens in any way about that, so perhaps the government is as keen as others in this chamber to have this shifted into the legal sphere and resolved there. That being the case, the Greens will support the motion.

Mr KAVANAGH (Western Victoria) — It is with considerable difficulty for me personally that I have reached a decision in this matter, particularly because it seems that some time ago the other parties had already established their positions on this motion and therefore my vote has become important. It is particularly difficult for me also because the motion is personalised in the name of John Lenders, and Mr Lenders is a man I have come to very greatly respect in the last year since I entered this Parliament. In fact I think Mr Lenders is probably a most fair-minded person and should be the last to be suspended from the house.

As Mr Viney said, it is a big decision to suspend a member who has been elected by the people of Victoria. It takes a bit of audacity, I think, in some ways. With reluctance I have come to a decision to support the motion, partly on the basis that it really is about a token or gesture of suspension, but more importantly because I feel upon consideration that I, like all of us here, owe it to the people of Victoria and

to the state to retain or, if necessary, even establish a role of scrutiny for this house — scrutiny that is fair and honest. Indeed that role of scrutiny seems to me, as I have said before, to be largely, although not entirely, the raison d'être for this house.

I hope the passing of this motion will present the government with opportunities to have this conflict between the two houses of this Parliament resolved in court, because as I have also suggested before, in my opinion the dispute between the two houses is actually a legal one and court is the proper forum for its resolution. I hope the dispute will be resolved and that we can get on with advancing the interests of the people of this state, which is what we were elected to do.

Mr PAKULA (Western Metropolitan) — Like other contributors to this debate, I too find myself in a position where there is almost nothing to say that has not been said before. Nevertheless it is an honour to be part of this debate and to defend the Leader of the Government — a leader who has done absolutely nothing wrong. It is perfectly understandable in many respects that this chamber would want to effectively test its arm, because apart from being a house of review, as members have argued, more pertinently it is the chamber in which the government does not have a majority and is the chamber in which the opposition can from time to time compile a majority. Some of the components of the coalition — and I use the term loosely — of parties that comprises that majority in regard to this issue want to see what political capital can be gained from that majority.

I think we really need to forget the high-flown rhetoric of the Leader of the Opposition about democracy and accountability, because it is simply not believable. A good friend of mine has always said to me, 'Don't judge people by what they say, judge them by what they do'. Nothing that the Liberal Party does, either in government or in opposition, supports the proposition that it is the great defender of accountability and democracy. It is a cover for what is fundamentally a political act, because none of the Liberal Party's actions in any regard support the proposition that it is the great defender of accountability and democracy.

The Greens talk about democracy and accountability. I put it to you, Acting President, that there is no party in this chamber that is generally less concerned about the views and aspirations of a majority of Victorians than the Greens. No party is less concerned about democracy and about what the majority believes and wants. As for the argument about accountability, I say the Greens have no choice but to talk about democracy and accountability in terms of its justification for its actions because to do otherwise would be to concede the existence of the political alliance which has caused them to vote with the Liberal Party all the way along the line in this debate and in almost 80 per cent of all votes taken in this chamber. Mr Barber talks about compromise and says that he wishes the government had compromised. At no stage in this debate or in almost any matter in which the government has had discussions with the Greens have they shown any preparedness to compromise. That is fiction.

Mr Kavanagh in his response talked about this being a token measure. Even Mr Viney conceded that the suspension of the Leader of the Government for half a day or thereabouts is in some respects tokenism. I do not accept in any regard that the Council's finding the Leader of the Government guilty of a contempt of the Council is token. There is nothing tokenistic about that whatever. I say that in nearly all regards the series of motions that have led us to this point have been about those in the majority seeing what political capital can be made of the majority, seeing what dividend they might get and what might fall out from that majority rather than any high principles of accountability and democracy.

I say this issue is the wrong issue on which to test that — and if it ever were the right issue, it is not the right issue now. I say that for a number of reasons. Many of them have been canvassed already by Mr Viney in this debate and by the Leader of the Government and other speakers in previous debates. As has been indicated previously, the Leader of the Government is not the minister responsible for these documents. The decision on whether or not to release the documents is not his decision to make; it is the decision of the Minister for Gaming. Beyond that the Leader of the Government claims quite genuinely that even if it was in his power to comply with the resolution, to do so would put him in breach of the Gambling Regulation Act.

In his contribution Philip Davis was — I do not want to verbal him — somewhat dismissive of that argument. It is difficult to be dismissive of the argument that the Legislative Council cannot simply ignore the will of both houses of Parliament which is expressed in the form of an act. The Legislative Council and ministers who reside in the Council are obliged to adhere to legislation and to the limits of the powers of the Legislative Council that are enshrined in legislation. The legislation makes it clear about when and to whom the documents can be released.

We say this is not the issue upon which the Council should test its arm, because as we have argued before,

having 21 votes by and of itself cannot logically make a demand justifiable, particularly when that demand is for the Parliament to have access to reports that will disclose — what? Let us go through what those documents would disclose. We know they will disclose the investigations of foreign law enforcement agencies. We know with a fair degree of certainty that would impair the ability of government, not just governments of this political persuasion but any government in this state. It would impair the ability of future governments to avail themselves of the services of those foreign law enforcement agencies to test the bona fides of applicants for tenders. We know sensitive financial and technical information about corporations and their affairs and about individuals who participate in those corporations will be disclosed. We can be pretty sure that the disclosure of the reports would impinge upon the principle of legal professional privilege.

We can be pretty sure that the reports would disclose the deliberations of cabinet. What else? To my mind when the request for these documents was first made by the opposition, indeed when the select committee was set up, the fundamental thing that both the motion sought and the select committee wanted to discover was what were the defects in the licensing process that caused the first Victorian Commission for Gambling Regulation (VCGR) report to not be accepted. That is what people wanted to find out, apart from a few other matters about what the former Premier may have said at a boardroom lunch — and I think we have dealt with that. Fundamentally what we wanted to find out was what caused the first VCGR report to not be accepted.

As the Treasurer indicated during the last sitting week, the answers to those questions are before the Parliament. They are before the Parliament in the form of the Merkel report. There is no mystery or conspiracy or attempt by the government to hide that information. It is all contained, chapter and verse, in paragraphs 72 to 89 of the Merkel report.

The great mystery that these Victorian Commission for Gambling Regulation reports might disclose is here in this report; there is nothing being hidden. I must say that if members of this house have not read paragraphs 72 to 89 of the Merkel report, I urge them to do so, and I urge those in the gallery to do so, because this document makes it crystal clear that the government is hiding nothing about that first VCGR report and why it was not accepted. The justification for taking the incredibly serious step of — and the words are — 'finding the Leader of the Government guilty of contempt', is fatally undermined by that fact and by the fact that what the opposition is seeking is already before it.

It is particularly undermined when, in order to comply with the request, potentially the Leader of the Government would have to breach the Gambling Regulation Act, when the documents that are being sought are not within his control anyway; when to comply would place at risk commercial-in-confidence material, legal professional privilege, cabinet-in-confidence documents, private and personal information and information obtained with the assistance of international law enforcement agencies; and when, as Mr Viney pointed out, the opposition has pointedly refused to provide the government with a pair for the duration of the leader's absence from this chamber. That is where the gap between the Liberal Party's rhetoric and its action is exposed.

The Liberal Party talks about the primacy of Parliament, but whenever it is given an opportunity to behave undemocratically, it takes it. It took it when it decided to give the government two places out of seven on the select committees, even though the government has 19 members out of 40 in this chamber, and now it seeks to disenfranchise more than 200 000 electors in the Southern Metropolitan Region who voted for Mr Lenders. The opposition wants to use its majority to fundamentally change the balance in this Parliament.

I want to deal with one final point that was made by the Leader of the Opposition. In his contribution to the debate Mr Davis claimed that the government was treating the Council with contempt. I have spoken to the Leader of the Government about his decision not to comply with the request of the Council, and I can assure the Council that it is not a decision the Leader of the Government took lightly. I can assure the Council that in fact the Leader of the Government has enormous respect for this chamber, but for all the reasons outlined by me, by Mr Viney and by the Leader of the Government in debate previously, he cannot comply with the request of the Council. For all the reasons I have set out in my contribution I urge the house to reject the Leader of the Opposition's motion to find the Leader of the Government in contempt. It is totally inappropriate to find him in contempt or to suspend him, and I urge the house to reject the motion.

Mr P. DAVIS (Eastern Victoria) — In concluding debate on this matter let me say that it is evident from the commentary by the two spokespersons from the government party that there is a presumption of a continuing refusal by the Leader of the Government to comply with orders of this Council, for if it were not the case of that presumption then the nature of their debate would be different.

The motion before the house enables the government to comply with the order with which we have sought compliance on three separate occasions now: firstly, by the Secretary of the Department of Premier and Cabinet; and then twice by ordering the Leader of the Government on behalf of the government to table documents, which has so far been refused.

It is clear that the deliberations on this matter have brought a motion to the house which in the view of a number of people sets the scene and opportunity for the government, if it wishes and if it has confidence in the legal advice obtained and given by the Attorney-General, to have the matter resolved in the courts. Certainly Mr Hall and Mr Kavanagh have expressed that desire strongly. For my own part I am probably with Mr Barber in thinking that at the end of the day it is desirable that there be an accommodation within the Council itself on this matter and that the Council ought be able to resolve what is essentially a political question. But because the government has been persistent in its refusal and has flagged in the debate today that it will persist in refusing to comply, we must as a Council — to discharge our sworn oath of office — persist in ensuring that the government is accountable to this chamber.

I reject absolutely the argument led by Mr Pakula and touched on by Mr Viney with regard to the confidentiality provisions. They reflected the view put by the Leader of the Government. The confidentiality provisions of the Gambling Regulation Act have no impact on the rights and responsibilities, privileges and immunities of members of this place. If it is the government's determination to impose those confidentiality provisions, it will need to move a bill through the Parliament that specifically deals with the privileges of the Parliament, because the constitution of Victoria protects the rights, the powers and the privileges of members of Parliament. A mere statement by the Leader of the Government and the camp followers that somehow the confidentiality provisions prevail over the constitution is an absolute nonsense.

What I say in conclusion is this: any member of this house who behaves in a disorderly manner and does not obey the orders of this house is subject to a finding of contempt. That is a matter of form. It is a matter provided for in our standing orders. It is clear in regard to the procedures for suspending a member that the procedures we are pursuing in this matter are no different from the naming of a member by the President for any other disorderly conduct, and that a failure to comply with an order of the house or indeed behaving in a disorderly way and ignoring the procedures of this place will eventually lead to a member being named. There is nothing peculiar about the matters we are dealing with at this point prospectively leading to a suspension if indeed it is the government's will to clearly ignore the orders of this place. But I say this: this motion is no more undemocratic than any other circumstance in which a member is suspended. It is up to the member to find a way to comply with the orderly conduct requirements of this place, including orders of this place, and if it is that the Leader of the Government cannot bring himself to comply with an order, then inevitably there must be a sanction.

I urge the Leader of the Government between now and 4.00 p.m. tomorrow to comply with the order and to table the documents. In that event he will not be suspended. The matter is in his hands and in the hands of the government. I therefore commend the motion to the house.

The PRESIDENT — Order! The question is:

That this house:

(1) expresses its concerns at the persistent refusal of the government and the Leader of the Government on behalf of the government to comply with resolutions of the Council of 19 September 2007, 10 October 2007 and 31 October 2007 to provide certain documents specified in those resolutions relating to the public lotteries licence;

(2) expresses its disappointment that the government has failed to make any attempt to find any resolution to this issue;

(3) believes that the actions of the government amount to a serious attack against the powers, privileges and immunities of the Council and demonstrates again the government's lack of accountability to the Parliament and the people of Victoria;

(4) notes that the Leader of the Government on behalf of the government has now, on two occasions, failed to comply with resolutions of the Council requiring him, on behalf of the government, to produce the said documents;

(5) regards its capacity to obtain information on any matter affecting the public interest as being fundamental to the reasonable exercise of its role and powers to scrutinise all aspects of executive behaviour;

(6) regards it as essential that the rightful powers and principles of the Council be protected and that appropriate sanctions be imposed for any obstruction to the proper performance of its important functions;

(7) accordingly adjudges the Leader of the Government guilty of a contempt of the Council for his failure to comply, on behalf of the government, with resolutions of the Council on 10 and 31 October 2007 to table or lodge with the Clerk the documents relating to the public lotteries licence specified in the resolution of the Council of 19 September 2007; and

(8) (a) orders the Leader of the Government on behalf of the government to lodge the documents specified in the resolution of 19 September 2007 with the Clerk by 4.00 p.m. on Thursday, 22 November 2007;

(b) suspends the Leader of the Government from the service of the Council for the remainder of the sitting on Thursday, 22 November 2007, if the documents are not lodged with the Clerk by 4.00 pm that day. Provided that if the documents are subsequently lodged with the Clerk at any time during the period of suspension on Thursday, 22 November 2007, the suspension will immediately cease to have effect; and

(c) in the event that the documents are not produced or tabled with the Clerk, foreshadows that further sanctions will be imposed upon the Leader of the Government, representing the government, for his persistent obstruction of the business of the Council.

House divided on question:

Ayes, 21

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

Noes, 19

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

Question agreed to.

The PRESIDENT — Order! The question is:

That the Council take note of the Leader of the Government's letter of 5 November 2007 in response to the resolution of the Council of 31 October 2007.

Question agreed to.

HEALTH (FLUORIDATION) AMENDMENT BILL

Second reading

Debate resumed from 31 October; motion of Mr KAVANAGH (Western Victoria).

Mr D. DAVIS (Southern Metropolitan) — I rise to make a contribution to the debate on the Health (Fluoridation) Amendment Bill, a bill moved in this chamber by Mr Peter Kavanagh of the Democratic Labor Party. I want to place on record as I make my contribution, and I plan in that process to refer to a number of studies, that the Liberal Party supports the fluoridation of water and the public health measures around that.

In brief summary, the purpose of the bill introduced by Mr Kavanagh is to prevent the addition of fluoride to a public water supply unless a poll of voters in each municipal district or in each ward of each municipal district within the relevant water supply district has first approved it. The bill amends section 5(1) of the Health (Fluoridation) Act 1973 — and I will come back to and relate in some detail some of history around the fluoride debate in Victoria — by substituting for the words 'A water supply authority' the words 'Subject to section 5A, a water supply authority'. Section 5A is a new section. The new section details that a poll of voters must be undertaken before fluoride can be added to a public water supply.

It is worth going into some background discussion here. The original act, the Health (Fluoridation) Act 1973, was introduced by the Hamer Liberal government and supported by the Liberal Party at the time. The long sweep of public health activity to get better health for Victorians is an important history that I think all Victorians can be proud of. In 1954, the Health Commission, which later became the Victorian Department of Health and then the Department of Human Services, was said to be considering a report which it was claimed recommended fluoridation to local authorities. There was wide discussion of this, and a 1964 bill delegated fluoridation to local government with a required 70 per cent majority at referendum. It was deferred by Premier Henry Bolte and eventually lapsed.

The 1973 debate was a long debate both here and in the community. The bill that was passed at that time did not pass with amendments requiring plebiscites or other local democratic steps. It gave authority to the Secretary of the Department of Health or the Secretary of the Department of Human Services as successors, to

require fluoride to be added to any public water supply and require water authorities to submit plans and specifications for a proposed fluoridation scheme. The net capital costs and expenses incurred have been provided by the government. I will come back to say something about the financial benefits and health benefits to the community of fluoridation.

It is worth understanding what we are talking about here. It is the adjustment of natural levels of fluoride in the water supply to a concentration that is shown by scientific studies to optimise particular outcomes for a particular climatic area. Millions of people throughout the world receive water with controlled fluoride concentrations. About 11.5 million people in Australia are in fluoridated water supply areas — that is, about two of every three Australians in every capital city except Brisbane have a fluoridated water supply. Most Australians have had fluoridation for 25 to 50 years. In Victoria about three quarters of the population receives fluoridated drinking water — that is most of the people living in metropolitan Melbourne and many other centres. There are some parts of the state — Portland, Nhill, Port Fairy and Kaniva — that have naturally occurring amounts of fluoride that approximate the levels that would be sought for fluoridated water supplies.

Studies have shown — and I will talk about this in some detail in a moment — that fluoridation reduces dental decay and that water fluoridation provides the greatest benefit to those who can least afford dental care. I will say something about that shortly. A Victorian Department of Human Services document dated December 2006 shows that 6-year-old children living in fluoridated areas in Victoria experience 45 per cent less decay in their baby teeth than those in non-fluoridated areas, that 12-year-old children living in fluoridated areas in Victoria experience 38 per cent less decay in their adult teeth than those in non-fluoridated areas and that by preventing tooth decay water fluoridation saves individuals and families money on dental treatment. Some estimates from the department suggest there is a saving to the Victorian community of about $1 billion over 25 years through water fluoridation, through avoided dental costs, lost productivity and saved leisure time. For every dollar invested in water fluoridation it is estimated the savings in dental treatment costs alone range from $12.60 to $80. The source of that information is *Healthy Mouths Healthy Lives — Australia's National Oral Health Plan 2004–2013*.

There are opponents of water fluoridation — people who have a view that in some way it is dangerous. I have evaluated a lot of that evidence and I am personally not persuaded by it. I have a quite significant knowledge of public health, and I value very much the openness of discussion in this matter. I believe that open debate about these things is important. I believe that on balance — and I will come to some of that in a moment — the evidence does support the fluoridation of water supplies, although there are people in the community who have genuine views to the contrary.

Water fluoridation has been endorsed by the United States Centers for Disease Control and Prevention as one of the 10 greatest public health achievements of the 20th century. I think that is true. There are many other important public health measures, and we need to look at the spread of those, but water fluoridation is certainly among the most important. It has been a significant contributor to the health of our community, specifically the health of our young people.

Professor John Harris from the Centre for Social Ethics and Policy of the University of Manchester said in 1998:

> In considering the ethics of fluoridation … we should ask not are we entitled to impose fluoridation on unwilling people, but are the unwilling people entitled to impose … damage and costs of failure to fluoridate on the community at large.

I think that is the sensible point of balance. We face different courses of action and there are different advantages and consequences of each course of action. I think those are the valid examinations made in public health steps. They are examinations made in the light of evidence that is presented and in the light of studies that are available. I will come to those in a moment.

In terms of interstate comparison, as I said, about two out of every three Australians are in areas with fluoridated water. Seventy-five per cent of Australians have access to fluoridated water, except in Queensland where only 5 per cent of water is fluoridated. Brisbane is the only non-fluoridated capital city. Compared to other Australian states and territories, Queensland has a lower proportion of the population with access to water fluoridation and it has higher levels of dental caries.

All Australian parliaments have conducted debates about artificial water fluoridation. With the exception of Queensland all legislatures have implemented widespread fluoridation. All non-Queensland fluoride legislation permits centralised executive decision to fluoridate and discourages the use of other steps. This means that everywhere except Queensland the Minister for Health has a direct and active role with discretionary implementation powers because artificial fluoridation is considered to be a health issue.

Additionally, as in Victoria, most states provide financial incentives through the state government bearing some or all of the installation and subsidy costs to local authorities or water boards. I will come back to talk about plebiscites or referendums or whatever term we wish to use to describe acts of the community within the parameters of this bill. I also want to talk more broadly.

Before I do that I will make some comment about the Scrutiny of Acts and Regulations Committee's report on this bill. As I said, the bill amends the Health (Fluoridation) Act. The committee's report talks about the Charter of Human Rights and Responsibilities and in particular notes that clause 4 of the bill inserts a new section 5A(1) into the Health (Fluoridation) Act requiring a poll of voters in a municipal district before fluoride can be added to any public water supply in that district. The committee also notes that new section 5A(2) exempts districts where fluoride has already been lawfully added. The committee observes that clause 4 may promote the charter's rights against non-consensual medical treatment and to have the opportunity to participate directly in public affairs. The committee also observes that new section 5A(2) limits new section 5A(1) by excluding families and children in areas where fluoride has already been lawfully added.

The committee referred to the Parliament for its consideration the question of whether or not proposed section 5A(2) is a reasonable limit according to section 7(2) of the Charter of Human Rights and Responsibilities. I also note that the committee said it considers that the question of the health effects of fluoridation, and hence the compatibility of new section 5A(1) with section 17 of the charter, is a matter for Parliament. Section 17 of the charter deals with the protection of children and families. It states:

> (1) Families are the fundamental group unit of society and are entitled to be protected by society and the state.
>
> (2) Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.

That is a matter for this chamber to determine. My colleague Mr Kavanagh has made comment on that, and I am sure the house will examine that as well.

The key aspect of this bill in a sense deals with plebiscites. I want to make some broad comments about plebiscites and referendums. I know the traditional political science distinction argues that referendums are about amending the constitution and plebiscites are about voting acts, as it were, of the community. I will come to a paper by Greg Craven in which he makes some points about these distinctions.

In a sense at the moment there is an outbreak of enthusiasm for plebiscites and referendums around the nation. In my own area, in Boroondara, there has been a local temperance-inspired set of plebiscites since about the 1920s where local liquor licences are determined by the acts of local communities. That has worked well in that area, according to most. It is only in very recent years that the local community has agreed to allow certain licensed premises and it is a case-by-case step. Some like those arrangements, some do not. I have always respected the local choices that people have made, and there is something to be said for that.

I notice that as part of this federal election period there has been an outbreak of enthusiasm for plebiscites by both the government — the Liberal Party and The Nationals — on the one hand and the Labor Party on the other. It seems both parties endorse the idea of a plebiscite in Queensland to decide whether councils should be amalgamated according to the Queensland government's proposals. I think most people from Victoria would find this a novel set of steps.

However, it is worth noting that this idea of plebiscites at the local level seems to have some national currency at the current time, with a level of endorsement by both political parties. It is difficult to argue against plebiscites on every occasion. I do want to say that the decisions the Liberal Party makes in this debate — we will not oppose the bill — should not be regarded as conveying any precedent or any intention to support plebiscites on future occasions or not. These things have to be treated individually.

It is true that plebiscites carry risks and, potentially, benefits. As I examined the case, both academically and in the practical examples that have occurred historically, and also those examples that appear to be breaking out nationally, spontaneously as it were, elsewhere around the country, I was drawn to this helpful paper in the *Australasian Parliamentary Review*, autumn 2005, volume 21, pages 79 to 88, by Greg Craven, a political scientist or constitutional lawyer perhaps of some merit for whom I have considerable respect for.

His paper is headed 'Referenda, plebiscites and sundry parliamentary impedimenta'. I have not seen this done systematically elsewhere. There are probably other examinations, but he attempts to look systematically at the benefits and disbenefits of referendums, plebiscites and other sovereign acts as they may be called — that is my word. I intend to quote small sections out of this

because I think it may be of some assistance to the house. I make it clear that I just think this is a useful, structured guide to the benefits and disbenefits of these sovereign acts and may, as I said, be of value to the house. It says:

> The approach adopted here will be, first, to define briefly the relevant terms; second, to consider the suggested advantages of referenda and plebiscites, especially as instruments of constitutional and quasi-constitutional policy; third, to pose their very real disadvantages …

The paper goes on to talk at length about this. It looks at the history of section 128 of the commonwealth constitution. The fact is that, of the 44 occasions where referendums have been put, they have only been successful on eight occasions. That is indicative on one level of the natural resistance the community will often feel where there is an opportunity to change the status quo. There is an innate conservatism in some respects.

The paper goes on to talk about plebiscites and makes the point that they are not a fixed feature of the Australian constitutional landscape. The argument in favour of plebiscites in a constitutional or any other context is that they are fundamentally democratic. It goes on to say that so far as this proposition goes, it is hard to argue with. But it also says:

> This does not necessarily mean it is an exercise in quality democracy.
>
> Second, plebiscites are not only democratic, they are directly democratic. Whereas Parliaments are only derivatively democratic as comprising the people's representatives …

There is an argument that plebiscites may represent a better or, to quote the paper, 'a superior or purer brand of democracy'. Further, it states:

> Third, plebiscites have the potential to directly engage people in government. Where parliamentary processes are things done to people by their representatives …
>
> Fourth, popular engagement in government means popular education in government …
>
> Fifth, a population that has gone from being an idle spectator of its own government to a direct participant … is far more likely to feel confidence in and attachment to its constitutional structures.

This could be said about government decision making generally.

> Finally, plebiscites seem to be a highly plausible means of resolving legislative and constitutional deadlocks.

They are the advantages Craven sees. I think they are a fair summary of some of the advantages. Then under the heading 'Critique of referenda and plebiscites' the paper talks about:

> Most obviously and notoriously, constitutional change is extremely difficult in Australia: of 44 proposals since Federation, only 8 have succeeded.

That is in a constitutional context. I think it is worth quoting an important paragraph:

> Even more serious has been the ease with which a no case can sway the electorate. Possessing a perfectly functioning constitution, the basic position of the Australian people on referendum questions has been: when in doubt, vote no. The practical effect of this has been that, like a criminal barrister defending his client by confusing the jury, proponents of a no vote have merely to sow epic confusion to guarantee a measure's defeat. As constitutional propositions and confusion walk hand in hand in the popular mind, this is a far from a difficult task.
>
> …
>
> Turning to plebiscites, they have many disadvantages, both in a constitutional and non-constitutional context, though they sometimes are hard to discern against the rosy background of direct democracy.
>
> Perhaps the first is they have the obvious potential to be deeply destructive of our standard psychology of representative democracy.

That is an argument about citizen-initiated referendums on one hand but, in a broader context, even plebiscites.

> A further inherent difficulty with plebiscites, flowing from their non-dispositive character, is that they tend to promote shallow, lackadaisical consideration of the issue to which they relate.

The paper goes on to say:

> This has the effect that, all things being equal, plebiscites will operate advantageously in respect of certain types of proposals.

He is obviously not in favour of the use of plebiscites in a constitutional context — for example, in terms of changing the constitution with respect to the selection of a head of state and so forth.

> Finally, in all these senses, plebiscites (and especially constitutional plebiscites) have the potential to be deeply anti-deliberative.

I think that is a fair summary of the arguments in favour and against plebiscites as a form of direct democracy. There is reason for concern about the use of plebiscites in this way. There are advantages for the use of plebiscites, as Mr Craven has pointed out.

It is worth putting on the record the dental problem that exists in Victoria today. This is not an abstract debate in the absence of specific health problems. In Victoria we have specific dental health problems. As a former shadow health minister I was critical of the Bracks government, although I was not uniformly critical of it.

It is worth putting on the record the achievements. The waiting time in Victoria in 1999–2000 for restorative care and general dental care, averaged to whole numbers, was 20 months; for dentures, it was a 21-month wait. In 2006–07 — and I will come to more detailed figures on this shortly — the wait for restorative or general care was 23 months, and for dentures, 23 months. Victoria has not performed well, and that is over a longer period. It is also true that the Bracks government did not perform well, with some general exceptions.

Turning to the Department of Human Services annual report, the waiting times are listed as 22.9 months for both of those treatments — I have rounded them to 23 months. It is interesting to note in the budget this year that $138 million is to be spent in the dental output group. I note that $138 million includes additional funding for the Bendigo dental school for better dental health for seniors and the flow-on impacts of certain initiatives in 2006 and 2007.

While the government in general has not performed well, I want to place on record today my appreciation of and my respect for the deputy leader in this chamber when he was the Minister for Aged Care for making an additional provision out of his budget because he recognised at that time the seriousness of the situation of people, particularly older people in that case, not having proper dental care and the impact it has on their general health. If you cannot eat because you cannot chew and you cannot get good nutrition you are going to be sicker and have more disease, and the impact of that on broad public health results is very serious. There is every reason why when you are treating individuals as whole people you need to deal with dental health as an important substrate of their general health.

Victoria has not had high levels of spending on dental health, and this is an historical issue. The most recent comparative figures I have seen relate to a study by the South Australian Dental Association in 2002–03, which at that point showed that the national average adult per capita dental funding was $14.31 per head. In Victoria the spending was $10.68 per head, a long way short of the national figure. At that time — I am reading from material I produced in December 2004, and I have not seen any more recent comparative analyses; they may exist, and I have had a search for them but have not found a detailed analysis of this nature — former Premier Steve Bracks was spending less on public dentistry than Peter Beattie, the then Premier of Queensland, was spending, despite Victoria's larger population.

This problem of dental health goes to a deeper level, and with the forbearance of the house I want to put on the record the achievements or otherwise of the government in certain areas of the state. Some of the points I want to make are damning. I turn to the *Your Hospitals* report for October, a very recent report. I want to put on the public record in this chamber as part of this debate the waiting times for dental care. At Bairnsdale Regional Health Service the waiting time for denture care was 7 months and for general restorative care it was 8 months. At Ballarat Health Service Clinic it was 46 months for denture care and 56 months for general care.

I want the house to reflect on what we are doing when we say to a person with dental pain, dental discomfort or dental problems that they will have to wait 56 months for public dentistry. I do not think that reflects well on any of us as a community, and it is something to which the government needs to devote a lot more attention. At Banyule Community Health Service the wait for denture care was 18 months and the wait for general care was 2 months. At Barwon Health, Corio, it was 37 months for denture care and 30 months for general care. At Barwon Health, Newcomb, it was 31 months for denture care and 37 months for general care. At Barwon Health, Belmont, it was 23 months for dentures and 22 months for general care. At Bass Coast Regional Health Service it was 34 months for denture care and 19 months for general care.

At the Bellarine Community Health there was a 16-month wait for denture care and a 14-month wait for general care. At the Bendigo Health Care Group the wait was 23 months for dentures and 26 months for dental care. At Bentleigh Bayside Community Health Service it was 32 months for denture care and 16 months for general care. That is simply unacceptable. Electorates like Bentleigh need the push of their local member; the member needs to get active. It is just simply not satisfactory that people are forced to wait these extraordinary periods of time.

At Boort District Hospital the denture care wait was 11 months and the restorative care wait was 12 months. At Casey Community Health Service it was 31 months for dentures and 34 months for general care. At Central Bayside Community Health Service there is a wait of 30 months for denture care and a wait of 12 months for general care. At Central Gippsland Health Service it is a wait of 41 months for denture care and 59 months — that is almost 60 months — for general or restorative care. That is almost a five-year wait for care. I do not believe anyone in this chamber would argue that that is acceptable and that it is not a significant community health problem.

At Colac Area Health the wait for denture care was 7 months and for general care it was 35 months. At Darebin Community Health Service, East Preston, the denture care wait was 19 months, the general care wait was 6 months. At Darebin Community Health Service, Northcote, it was a wait of 9 months for dentures and 7 months for restorative or general care. At Darebin Community Health Service at PANCH it was 26 months for dentures and 5 months for general care. At Dionella Community Health it was 37 months for denture care and 32 months for general care. At Doutta Galla Health Service, Kensington, the wait for denture care was 3 months and 8 months for general care. At Doutta Galla Health Service, Niddrie, it was a wait of 18 months for dentures and 14 months for general care. At the East Grampians Health Service the wait for denture care was 22 months and 10 months for general care.

The figures for East Wimmera Health Service, St Arnaud, are not available, but they should be. At Eastern Access Community Health, Maroondah, there was a wait of 33 months for denture care and 18 months for general care. At Echuca Regional Health on the Murray there was a wait of 29 months for dentures and 26 months for general care. At Edenhope District Memorial Hospital there was a wait of 2 months for both denture and general care. At Frankston Community Hospital there was a wait of 1 month for denture care but 35 months for general care.

These are problems across the state. The extreme length of waiting times clustered in certain areas of country Victoria are noticeable. At Goulburn Valley Health the wait for dentures was 23 months and 19 months for general care. At Greater Dandenong Community Health Services in Springvale, the wait for denture care was 27 months and the wait for general care was 32 months. At Hamilton, there was an 11-month wait for dentures.

Ms Tierney interjected.

Mr D. DAVIS — Dentists are part of the problem, but there are other problems, too.

Ms Tierney interjected.

Mr D. DAVIS — The state government waited a number of years before it took its initiative at Bendigo Health. It could and should have done something earlier to provide more people in the dental workforce.

At the Hepburn Health Service at Creswick there was a 21-month wait for denture care and a 21-month wait for general care. At the Hepburn Health Service at Daylesford the figures were 15 months for denture care and 39 months for general care. The figures for the Inner East Community Health Service, or the Craig Centre, were 5 months for denture care and 7 months for general care. At the Inner South Community Health Service they were 6 months for denture care and 9 months for general care. At the Isis Primary Care in Brimbank, an important service provider, there was a 45-month wait for denture care and a 30-month wait for general care. At Isis in Wyndham, it was a 46-month wait for dentures and a 26-month wait for general care.

At the Knox Community Health Service there was a 25-month wait for denture care and a 23-month wait for general care. At the Latrobe Community Health Service at Moe there was a 36-month wait for denture care and a 52-month wait for general care. At the Mallee Track Health and Community Service there was a 5-month wait for denture care and there was no available data for general care. At the Maryborough District Health Service there was a 20-month wait for dentures and a 14-month wait for general care. At the MonashLink Community Health Service there was a 32-month wait for dentures and an 11-month wait for general care.

At the Moreland Community Health Service there was a 42-month wait for dentures and a 43-month wait for general care. At the Nillumbik Community Health Service there was a 25-month wait for dentures and a 29-month wait for general care. At the North Richmond Community Health Centre at North Yarra Community Health there was a 9-month wait for dentures and a 15-month wait for general care and in Richmond there was an 18-month wait for dentures and a 12-month wait for general care. At Northeast Health Wangaratta there was a 28-month wait for dentures and a 49-month wait for general care. There were no figures available for Omeo District Health.

At Orbost Regional Health the wait was 17 months for dentures and 49 months for general care. At Peninsula Health community service the wait was 12 months for dentures and 40 months for general care. At Plenty Valley Community Health the wait was 30 months for dentures and 34 months for general care. In Portland there was a 24-month wait for dentures and a 42-month wait for general care. At the Ranges Community Health Service there was a 22-month wait for dentures and a 17-month wait for general care. The Royal Dental Hospital did not have figures available. In my view they should have been available for that major service provider.

At South West Healthcare at Warrnambool there was a 50-month wait for denture care and a 51-month wait for general care. At Sunbury there was a 25-month wait for

dentures and a 19-month wait for general care. At Sunraysia Community Health Services there was a 14-month wait for dentures and a 4-month wait for general care. At Swan Hill there was a 4-month wait for dentures and a 9-month wait for general care. At the West Wimmera Health Service there was a 2-month wait for dentures and a 21-month wait for general care.

The Western District Health Service did not have figures available for dentures but there was a 22-month wait for general care. At the Western Region Health Centre there was a 25-month wait for dentures and a 29-month wait for general care. At the Whitehorse Community Health Service the wait was 16 months for dentures and 10 months for general care. At the Wimmera Health Care Group in Dimboola there was a 1-month wait for dentures and a 9-month wait for general care, and in Horsham there was a wait of 31 months for dentures and 21 months for general care. In Wodonga the wait was 29 months for dentures and 31 months for general care.

As I said, these are extraordinary lengths of time. I have read them into *Hansard* because they show the times that individuals around the state are waiting. It is important that members understand that individual areas are affected differently. There is no doubt that workforce issues are part of the problem, but there are other factors at work, too. The department could do better in managing these areas. It could have put more resources into these areas, it could have better retained the workforce and it could have taken initiatives to ensure there was a greater supply of dentists and dental technicians. It should have done more.

I turn now to the evidence on fluoridation, in particular the fact that there is strong evidence in favour of fluoridation. I will put a number of points on the record. Some say that there is no evidence that fluoride is effective. Scientific evidence is always difficult and expensive to gather, but it is very important. It is the view of the Liberal Party that the evidence is strong that water fluoridation is an important public health measure. I refer to a couple of important studies.

The first is the York review. In 1999 the United Kingdom Department of Health commissioned the Centre for Reviews and Dissemination to conduct a systemic review of the efficacy and safety of the fluoridation of drinking water. The review looked specifically at the effects on dental caries and decay social inequalities. It was published not only on the Web but particularly in the *British Medical Journal* in October 2000, for those who wish to examine it.

It is important to look at what the review examined. Objective 1 was:

> What are the effects of fluoridation of drinking water supplies on the incidence of caries?

Objective 2 was:

> If water fluoridation is shown to have beneficial effects, what is the effect over and above that offered by the use of alternative interventions and strategies?

Objective 3 was:

> Does water fluoridation result in a reduction of caries across social groups and between geographical locations, bringing equity?

Objective 4 was:

> Does water fluoridation have negative effects?

Objective 5 was:

> Are there differences in the effects of natural and artificial water fluoridation?

I have to say that in the first instance the review pointed to a need to strengthen data in a number of areas. It did reach a number of important conclusions. It looked at 214 studies that met full inclusion criteria for one or more of the objectives. There was an absence of full randomised trials, which is not surprising in this area. But it drew attention directly to the need to have more trials and gather more data. It did reach some very clear conclusions about the issues that were put out. On objective 1 it states:

> The best available evidence suggests fluoridation of drinking water supplies does reduce caries prevalence, both as measured by the proportion of children who are caries free and by the mean change in dmft/DMFT score.

Those conclusions are important.

Objective 2 was:

> If water fluoridation is shown to have beneficial effects, what is the effect over and above that offered by the use of alternative interventions and strategies?

The review reached some conclusions also in general point, stating that the studies:

> … would have been enough to provide a confident answer to the objective's question if the studies had been of sufficient quality.

While there is insufficient data, there is more to be done on some of those points. I think that the conclusion is still that there are strong beneficial effects. It states:

> In those studies completed after 1974, a beneficial effect of water fluoridation was still evident in spite of the assumed exposure to non-water fluoride in the populations studied.

Objective 3 was:

> Does water fluoridation result in a reduction of caries across social groups …

The report states:

> There appears to be some evidence that water fluoridation reduces the inequalities in dental health across social classes in 5 and 12-year-olds …

Objective 4 was:

> Does water fluoridation have negative effects?

It is important for members to understand the conclusions of this high-level study that brought together data from many different sources. It looked at dental fluorosis in particular as one of the key areas of investigation, and it pointed to certain aesthetic issues with dental fluorosis but nothing beyond that. In terms of bone fracture and bone development problems it concluded:

> A meta-regression of bone fracture studies … found no association with water fluoridation.

In terms of cancer studies, there were 26 studies of the association between water fluoridation and cancer. It concluded:

> There is no clear association between water fluoridation and overall cancer incidence and mortality. This was also true for osteosarcoma and bone/joint cancers. Only two studies considered thyroid cancer and neither found a statistically significant association with water fluoridation.
>
> Overall, no clear association between water fluoridation and incidence or mortality of bone cancers, thyroid cancer or all cancers was found.

It looked at other possible negative effects and concluded:

> Overall, the studies examining other possible negative effects provide insufficient evidence on any particular outcome to permit confident conclusions.

It does say that there is a need for further research but that there is certainly not sufficient evidence in any area to point to other possible negative effects.

On objective 5, looking at artificial versus natural water fluoridation, the report states:

> No major differences were apparent in this review.

The report also calls for more evidence in terms of this objective. The conclusions of the review are:

> The review presents a summary of the best available and most reliable evidence on the safety and efficacy of water fluoridation.

The evidence on the benefits and harms needs to be considered alongside other material. The report certainly points to deficiencies in terms of the total data, but on balance it strongly supports water fluoridation.

In Australia the *Australian Dental Journal* published the results of an important study in a paper entitled 'The use of fluorides in Australia — guidelines. The study by the Australian Research Centre for Population Oral Health at the dental school at the University of Adelaide in South Australia appears in volume 51 of the journal, no. 2 of 2006. I want to put on record the background to this information.

These guidelines refer to the consensus view of 35 attendees at the workshop. These are very high level and knowledgeable people from across the public health and medical world. I urge people to look at the list of attendees. They are academics representing Australian dental schools, jurisdictional health authorities and peak bodies. While the guidelines reflect the views of those who attended the workshop, they are not necessarily those of their organisations. I will discuss the importance of that shortly.

This workshop sought to put in place a set of guidelines that were founded on the best available consensus evidence, and the conclusions I think are telling. The paper states:

> Studies of the cost benefit of water fluoridation document a very positive net saving to the community, based on a tapering of effectiveness with increasing age. Water fluoridation is also socially equitable. It provides the greatest absolute benefit to those of low socio-economic position who are at greatest risk of dental caries, with the consequence that socio-economic disparities in caries levels are less pronounced among those with exposure to fluoridated waters.

This is important. Therefore, the paper says in its conclusions:

> Water fluoridation should be continued as it remains an effective, efficient, socially equitable and safe population approach to the prevention of caries in Australia.

It says it should be extended to as many people as possible living in non-fluoridated areas, ideally supported by all levels of government. It concluded that the level of fluoride in the water supply should be in the range 0.6–1.1 milligrams per litre, with variation within that range around local and temperature factors.

The paper talks about the labelling and importance of bottled water. There is certainly work in South Australia in particular on this matter, but I know

nationally there is concern about the increasing use of bottled water that is non-fluoridated and the impact that may be having on dental health over the long term. There is certainly I think a reasonable argument that bottled water products should be properly controlled and labelled, with accurate levels of fluoride content marked, so that people can make informed choices about bottled water and make the decision to have fluoridated bottled water, which is currently not a clear option to them.

I think I have said enough. The point is that this is an important study. It is a consensus study, a study that sought to build guidelines on the best available evidence in Australia as recently as 2006. We have international reviews that assess, warts and all, the arguments for and against fluoridation. These arguments are overwhelmingly in favour of the fluoridation of water. We have, as I say, Australian information. There are many sources of the information. I could go on, but I simply want to say that it is not correct to assert that there has not been such discussion in a recent period.

The World Health Organisation has looked at a number of these issues, and I know there was a call for action from the World Dental Federation, the International Association for Dental Research and the World Health Organisation in recent times — November 2006 — in Geneva, Switzerland, again reaffirming the need for good public health approaches in this area. There is international research in this area. I could go on but I do not wish to take more of the time of the house than is necessary.

As I have said, the Liberal Party will not oppose this bill. We want to place on the record very strongly and clearly our support for fluoridation. I understand the arguments for and against plebiscites, referenda and other such democratic acts, and their advantages and disadvantages. I put on the public record that there are both strengths and weaknesses in those, and that is something the house needs to be aware of.

Mr HALL (Eastern Victoria) — I want to start this evening by thanking and congratulating Mr Kavanagh on bringing this private members bill to the Parliament. It will not come as any surprise to people that The Nationals will be supporting this piece of legislation when I read to the house The Nationals policy in respect of fluoridation of domestic water supplies, a policy that we took to the 2006 election. That policy reads:

> That the fluoridation of domestic water supplies should not occur until completion of the following process:
>
> Publication by the government as to the intention to fluoridate water supplied to the customers of a specified water authority.
>
> The provision by the government through the specified water authority to its customers, of published material reflecting the arguments for and against fluoridation.
>
> The conduct of a referendum of the customers of the specified water authority as to whether they support or oppose fluoridation, such process being overseen by the Victorian Electoral Commission.
>
> The decision as to whether fluoridation should proceed to be determined upon the basis of the outcome of the referendum.

The house will see that the policy position of The Nationals clearly supports the position put by Mr Kavanagh in his private members bill that fluoridation of domestic water supplies should be decided by a referendum of people within a municipal area. With respect to a comparison between The Nationals policy and the private members bill, as part of our policy The Nationals clearly said the important precursor to a referendum would be the provision of information both for and against fluoridation being made available to the general public before it has its say. When the introduction of fluoridation was discussed in a large number of Gippsland areas early last year, in 2006, I found that there was little information provided to the public on both the benefits and disadvantages of having fluoride put in domestic water supplies. I felt very strongly that there was a deficiency in terms of the process employed by government.

I was also very disappointed by the fact that the government seemed reluctant to stage public forums to help in the education process of people about fluoride being put into their domestic water supply. I strongly believe there is a case for a public education program — public information program is a better term — being made available by government through the water authorities as to the benefits, advantages and disadvantages of having fluoride added to domestic water supplies, because I think there is a diversity of views about this matter in the community. I certainly experienced that diversity of views when this matter was before many members of the Gippsland public just last year. I am sure in this chamber there is a diversity of views about the benefit of fluoride being in water or not. Certainly within our own party, The Nationals, there is a diversity of views about whether fluoride in water is on the whole a good thing or a bad thing. I think it is fairly well recognised that fluoride in water can be a significant factor in improving dental health, but not in all instances.

The divisive factor is whether there is a commensurate impact on the general medical health of people from the intake of greater quantities of fluoride. I think this is a subject that it is appropriate to deal with at a local level, and the conduct of a plebiscite, a referendum or a poll of people whose water is proposed to be fluoridated is an appropriate step.

One thing that came up when this issue was debated in the Gippsland region last year was a comparison with the compulsory immunisation we have in this country. We require and generally support compulsory immunisation against disease. Why would we not, in the same vein, support compulsory fluoridation of water supplies? In response to that I want to make the point that, in respect of immunisation against disease, we are immunising against the spread of disease to others in our community, so we need to take into account not only personal circumstances but the impact that disease can have on others in our community. But tooth decay is not contagious or spreadable; therefore I do not think there is equality in those two arguments.

As I said, I would not advocate that we should have a referendum on every subject at a local level, but in this particular instance I think it is appropriate. Before I finish I just want to make this comment about the expansive nature that this debate could take on. We could debate the merits of fluoridation as opposed to any disadvantages, but that is not what this private members bill is about. This bill is about a process. It simply establishes a process by which people can make that decision for themselves. There is a wealth of information out there about the advantages and disadvantages of fluoridation. Mr Davis put on the record quite extensive information relating to the status of dental health and some instances where water supplies have been fluoridated and where they have not. That sort of information is available. Part of the referendum process, as per our policy, should be that people have the opportunity to access information for and against the fluoridation of water supplies. That is a necessary precursor to any referendum that is held.

In essence I think it is a very sound principle that people be offered the chance to have a say on whether they want their water supply fluoridated or not. That is what this bill seeks to do, and I wish it every success, because I think it is appropriate that people have that choice.

Ms HARTLAND (Western Metropolitan) — There are a number of things the Greens like about this bill, and one of the basic factors is that local communities get to decide whether their water will be fluoridated. The Greens policy is quite clear on this. We do not have a policy for or against fluoride. Our policy supports the right of communities to determine the introduction of fluoride into local water supplies. I put the emphasis on 'determine' rather than on being consulted with or being given information. They should have the right to determine whether fluoride goes into their supply, and that is a very important point.

I am not going to go over the issue of dental care because I think that has been previously done quite thoroughly, but one of the things I found in speaking to a number of country people and also in attending a forum at Ballarat, which Mr Kavanagh also attended, was that the slides and statistics show that it is not so much about whether your water is fluoridated; how good your teeth are depends on your family's income and whether your family can afford ongoing expensive dental treatment. The waiting times that have been read out previously in debate clearly show that there are simply not enough services. I am not saying that is the state government's fault or the federal government's fault. I think it is a combination of a lack of training of dentists and a lack of funding for dental services, and both state and federal governments have to take some responsibility for that.

We have some problems with the bill and we have proposed some amendments, but there are parts of the bill we cannot amend, so I would like to go through some of those concerns, such as: if 51 per cent of people vote in favour of adding fluoride to the water supply, what happens to the 49 per cent who have actively campaigned against it and voted against it? This is a problem for a number of people I have met over the last few weeks who have told me that they have moved to areas where fluoride is not in the water because they believe they have an allergy to it or that it affects their children's health.

The original act, the Health (Fluoridation) Act 1973, prevents people taking legal action in respect of the fluoridation of public drinking water if they think their health has been impacted upon. If fluoride is safe the government does not need to fear legal action. This bill would have been a good opportunity to amend that provision. Unfortunately we will not be able to do that because of the scope of the bill.

Public information on the case for and against should be readily available to the community. The water authorities and the government have the money to do this and we do not believe the impost should be put on local government, because that is cost shifting. As I said earlier, I have attended community forums and those campaigns will go on. In my mind it would be good if

those community campaigns could be funded for the no case.

A critical issue is who will pay for the poll. There is no mechanism in the bill to direct the water authorities or the government to pay for the poll. Whoever wants to add fluoride to the water should pay for the poll. The Greens would move an amendment to make sure local government did not bear the cost, but we understand because this bill originates in the upper house we cannot do that. Nevertheless, we request the government consider this issue and does not put the burden of the cost of such a poll on local government.

The Greens will move a number of amendments during the committee stage. Amendments 1 and 2 go to the issue of who writes the question. There is nothing in the Local Government Act to tell us who writes the question. We believe our amendments will make that clear. Amendment 3 is technical in that it corrects grammar.

As there is no provision in the bill to indicate who will undertake the poll at the request of the government or the water authority, a local government authority that has a dispute with the government could refuse to undertake the poll. Since the whole point of the bill is to bring about a poll of local people and let them determine whether fluoride should be added to the water supply, the Greens want to make sure this can actually happen. The Greens amendments will make sure that a poll of local residents will take place if the government or the water authority request it.

Greens amendments circulated by Ms HARTLAND (Western Metropolitan) pursuant to standing orders.

Ms HARTLAND — The Greens believe this is an important bill because it allows local communities to have self-determination. We will be supporting it and will speak to our amendments later.

Ms TIERNEY (Western Victoria) — I rise to speak in opposition to Mr Kavanagh's private member's bill. In my opening remarks I wish to make a couple of statements. One is the fact that 77 per cent of Victorians now live in areas that have fluoride. It has been interesting to talk to people over the last couple of weeks. When asked about what matters I would be speaking on in Parliament this week I mentioned the fluoride debate, and those who do not live in certain parts of western Victoria or east of western Victoria found that even the notion that the upper house was debating fluoride was quite interesting, to say the least. The response has been essentially that surely Parliament is not dealing with that issue because that was debated in the community in the 1950s, the 1960s and the 1970s. I had to assure them that the debate is going on in some parts of Victoria that do not have fluoridated water, particularly in parts of western Victoria which has had a robust discussion of late and certainly over the last four months in the regional newspapers. We have seen a flurry of letters to the editor and various articles in the papers. I have a few of those that I have gathered in the last few weeks before me. Many of the letters are attributed to familiar names, and those names seem to appear on a regular basis.

I advise the chamber and particularly Mr Kavanagh that I have taken a serious interest in this issue and all of its associated development, not just through articles in the newspaper but in a variety of other activities, including people coming to see me and talking through the issue. I also had the opportunity to take some time to look at the history of fluoride and how the major parties have dealt with it over time. I found it interesting that there had been a bipartisan approach to fluoride when the Liberal government was in power. I found a number of comments in *Hansard* from the various health ministers who supported in a very upfront fashion the introduction and the continuation of fluoride.

One of them was the Honourable Robert Knowles who, as the then Minister for Health, said:

> … it is unfortunate that any decision about fluoridated water always generates a great deal of hysteria and misinformation through scare campaigns … The truth is that on every occasion an inquiry has been held into the issue the health outcomes perspective has always been the same — that is, that fluoride is safe and effective in reducing dental decay.

I raise that at the forefront of my contribution. That has also been reinforced by David Davis's contribution this evening, which has taken us through the history of support from the Liberal Party in respect of fluoride.

There are a number of key benefits that I wish to mention. One that is a key and central issue to the Brumby government is the commitment that it has given to extend water fluoridation in rural and regional Victoria. Obviously that is to help protect teeth against decay, and it is for everyone in the community regardless of age, gender, income or indeed education level. It is about a government that wants to make sure there is no disparity in health outcomes for rural Victorians, and I think all of us would support that commitment.

The government also committed $4.7 million in the 2007–08 budget to improve oral health outcomes for Victorians living in rural and regional areas and for disadvantaged seniors. We are not just talking about

objectives or principles; we have actually put money on the table in this current budget, which delivers what is required to bring that objective to the forefront. We have already heard that water fluoridation helps to protect teeth against decay in the most effective way and allows everybody to access the benefits of fluoride. Underlining that the World Health Organisation has stipulated that in fact it is the most cost-effective way of ensuring that people's teeth are protected.

I also want to raise a couple of salient facts in respect to children. The benefits of fluoridation are illustrated by the fact that six-year-old children living in fluoridated areas in Victoria have up to 36 per cent less tooth decay than those living in non-fluoridated areas. That needs to be underlined. I do not think any mother or father would want to watch their child at a dentist having injections and having to submit to anaesthetic, certainly when it is unnecessary. In Victoria in 2004–05 almost 5000 children under 10 years, including 250 two-year-olds, had a general anaesthetic in hospital for the treatment of dental decay. In the 25-year period following the introduction of water fluoridation it has been estimated that there have been resulting benefits to the Victorian community of around $1 billion through avoided dental costs and savings in work and leisure time.

I also want to touch on the generations that did not have fluoride, and they are the generations of my parents and my grandparents. Essentially when they got to the age of around 45 years they had to make a decision about tooth extraction and dentures. My generation — certainly in the first 10 or 15 years of life — did not have fluoridation in our water and a lot of people ended up at the dentist. Unfortunately even with a vigorous oral hygiene code exercised at home morning and night a number of children have a mouth full of metal fillings. Of course we have also had to pay the price for that because over time, with the pressure of chewing and eating, those metal fillings have now to a certain degree cracked the original teeth, and there has been infection which leads to the need for root canal work. Again you are left with the option of tooth extraction — or indeed, if you have money and you can afford dental treatment — root canal treatment and crowns which cost approximately $2000 or $2500 in each instance. People like myself and friends and relations in my generation who did not have the benefit of fluoridation in our early years are still paying the financial and physical costs, and indeed the cost of the time that it takes to have those repairs done.

It is also important to mention the support that there is in relation to fluoridation. There are a number of levels of support at a local, national and international level, and I think it is worth mentioning the organisations for the record. They include the World Health Organisation, the National Health and Medical Research Council, the Australian dental and medical associations, Dental Health Services Victoria, the Australian Dental Therapists Association, the University of Melbourne's School of Dental Science, the Royal Children's Hospital's Department of Dentistry, VicHealth, the Australian Centre for Human Health Risk Assessment, the Public Health Association of Australia, Cancer Council Victoria, Osteoporosis Australia and Arthritis Australia.

A full report of the National Health and Medical Research Council went online last week. It noted that the fluoridation of drinking water remains the most effective and socially equitable means of achieving community-wide exposure to the carriers of prevention of effects of fluoride. The World Health Organisation has reiterated its support for the extension of water fluoridation in Australia, stating that at the recommended levels it is both effective and safe for people and the environment.

I also draw people's attention to local support. In the Geelong-Colac area we have Barwon Health, Barwon Water, Bethany Community Support, Colac Area Health, Committee for Geelong, the faculty of health, medicine, nursing and behavioural sciences at Deakin University, the Geelong and district subdivision of the Australian Medical Association, the GP Association of Geelong, Glastonbury Child and Family Services, Otway Division of General Practice and the south-west maternal and child health nurses regional group. In Warrnambool and Hamilton we have South West Healthcare.

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

Ms TIERNEY — Before the dinner break I was going through a list of local organisations that support the fluoridation of water. I got up to South West Healthcare, and will continue: Otway Division of General Practice; Australian Dental Association, south-west group; Greater Green Triangle University Department of Rural Health; Warrnambool Shire Council — municipal public health plan; Western District Health Service; and Southern Grampians Shire Council. With respect to Ballarat, there is: Ballarat Community Health Centre; Centacare Ballarat; Ballan District Health and Care; Committee for Ballarat; Ballarat Health Services; Australian Dental Association, mid-western group; Central Highlands Primary Care Partnership and Hepburn Health Service.

In reiterating the bipartisan nature of the support for fluoride, it is also worth mentioning the historical connection that the Liberal Party has had in relation to this. I draw the chamber's attention to statements from the member for South-West Coast in the other place, Dr Napthine, which go back as far as 1995 when he is reported as saying:

> The fluoridation of our water supply has had a significant impact on dental health. We should never forget that or weaken our resolve to ensure that fluoridation of water supplies across this state is maintained.
>
> …
>
> The evidence is unequivocal that students and adults not only across Victoria but throughout Australia enjoy better dental health because of the fluoride in our water. No member of Parliament should ever become involved in any campaign to remove fluoride from our water.

The then Minister for Planning and Local Government in the Liberal government, Mr Maclellan, is reported as saying:

> Like former generations who were responsible for the erection of the Exhibition Building in all its grandeur, putting fluoride in the water, introducing seatbelt legislation and a dozen other controversial matters at the time, in the years to come when we see the glorious new museum erected on that site we will probably look back and wonder what all the fuss was about.

I say to Mr Kavanagh that I am hoping that will be the case in terms of western Victoria.

I also draw the chamber's attention to comments made in 1995 by the then Minister for Health in the other place, Mrs Marie Tehan. She said:

> I and my department strongly support the use of fluoridation as a preventative measure against dental decay. I give my unequivocal support to the dental officer at the Wodonga District Hospital who seeks to have fluoride in the Wodonga public water supply.
>
> I will also take up the other suggestion of the honourable member that we look at the provisions of the Health (Fluoridation) Act 1973 which we understand enables the Secretary of the Department of Health and Community Services to request that fluoride be added to a water supply. My colleague the Minister for Natural Resources has similarly indicated that he sees value in having fluoride in the water supply and does not believe this cost would be great.

I mention that for the public record so that people are very clear that the Liberal Party does support fluoride being in our water system, although I am in a quandary as to why it is supporting the overall private members bill. I suspect that the speakers from the other side of the chamber who will follow me will take us through the Liberal Party's support of fluoride, but it also wants a plebiscite.

It is an appropriate point to make a few general comments about plebiscites. I state up-front that I oppose a plebiscite on this occasion. I do so because we have had no less than seven major public documents in which this government has made public commitments to extend the water fluoridation program to communities that do not already have it. It was in the election documents, election commitments, *A Fairer Victoria* and a whole range of other documents that I am more than happy to provide members with.

The issue of fluoridation is not a new issue; it has been with us for a long time. If you unravel the populist call for a plebiscite in this area, there are a number of things that come to hand. I do not intend to go into any detail on this because my colleague Ms Jaala Pulford will go to the substantive issues associated with the proposed plebiscite. But for the record I wish to state that I do not believe that the proposed plebiscite is a genuine plebiscite; I believe it is a ploy of just playing politics. I think the parties on the other side of the chamber — —

Mr Vogels — We actually believe in democracy.

Ms TIERNEY — If you listen, Mr Vogels, you will understand that in a moment. If the parties on the other side of the chamber were really honest about the proposed plebiscite they would have structured it in a way that would have been more democratic, in that it would have allowed all people to be involved in it. The way it is structured at the moment it essentially pre-orchestrates an outcome that delivers little chance for the introduction of fluoridation. With the plebiscite being a non-compulsory vote it will not be truly representative of community views, which will mean that only those who have strongly held views will participate in it. I really do not think that that can be called democracy at work. Even leaving the proposed plebiscite to one side, if you possibly can, there is a point in time in public administration when decisions need to be taken. Those areas where we particularly need to make decisions are public health and, similarly, public safety. As examples, there was no plebiscite, there was no referendum with the introduction of mandatory seatbelts; there was no plebiscite, there was no referendum with the introduction of bike helmets; and there was no plebiscite, there was no referendum when it came to banning smoking in public places.

So I have to say that I find it quite disappointing that the opposition party has continued to form this ongoing alliance with the minor parties on this bill. I think it is an unwise thing to do, because it is a matter of public health policy. As I said, it has been there as a bipartisan approach between the major parties for some time. Securing good health, particularly dental health, needs

to be an absolute priority of any major — or minor — political party in this chamber. I believe this government needs to be given the full opportunity to go ahead and make sure that it secures water supplies and keeps on delivering on really good health outcomes, particularly for those people who live in rural and regional Victoria.

The only way I can describe the Liberal Party's position in this debate is that it seems to want to run with the foxes and hunt with the hounds. If that is what we have been reduced to with public health policy in this state, that is really sad. We now have a situation where people want to talk about and support fluoride, but then on the other hand basically ensure that it does not happen. It reeks of all care and no responsibility. I wonder whether this neo-populism will be seen in other aspects. I certainly hope it will not in terms of public health or public safety policy. I urge members to reject this bill.

Mr VOGELS (Western Victoria) — I want to make a few brief comments on the Health (Fluoridation) Amendment Bill. First of all I want to congratulate Peter Kavanagh for bringing this private members bill into this house, because it has a lot to do with democracy and choice. I listened to Ms Tierney saying that we did not have a choice about when we had to put on seatbelts or helmets or about smoking laws, but road accidents and smoking can kill you and also other people. Tooth decay is a matter of your own personal health — it does not actually kill anybody else.

The purpose of the bill is to amend the Health (Fluoridation) Act 1973 to require the consent of affected citizens at a referendum before the government may add fluoride to the drinking water of that area. I support this notion. I have no issues about the benefits of fluoride at all, but lots of people have, and many of those people have a lot more brains than I have. I have listened to scientists on both sides — there are two sides to this argument. In 1973 — 34 years ago — when the fluoride act came in, there were not a lot of concerns out there. You put fluoride in the water to help people, especially young kids, with tooth decay. But fluoride is being put into 100 per cent of the water that goes into a district — just for someone's teeth.

My cows have beautiful teeth because they are drinking fluoridated water — I think it is a waste of fluoride — and so have the pigs that we talked about before. If you have got a skin irritation, you put Dettol on it — you do not drink it. You do not swallow it to fix up the irritation on your skin. I think fluoride is very similar. A lot of fluoride goes through your body just for one part of your body and that is your teeth. We have other alternatives these days. If you are concerned about tooth decay, as you should be, especially with young children, you buy toothpaste with fluoride in it. You can get fluoride pills. I believe it will not be long before someone comes out with bottled water that has got fluoride in it, and you will be able to make that choice and drink fluoride in bottled water if you want. But why put fluoride in the water which the whole community in the whole district has to drink? There are concerns about the effects on people's bodies. I would like to quote from a letter I received — —

Mr Pakula — I feel like I am in Alabama.

Mr VOGELS — This is very important. This is a letter written to Dr Carnie, the chief health officer, by 21 doctors in Warrnambool. I would like to read from it because I think it is very important. It states:

> We the undersigned are medical practitioners who have concerns about the efficacy and safety of water fluoridation.
>
> There is heated controversy and disagreement among the international scientific and medical community about the effectiveness and potential further adverse health impacts of water fluoridation.
>
> We recognise dental disease is a major problem with wide-ranging, adverse, quality of life and health sequelae. We also understand the major factors impacting on dental disease are oral hygiene, nutrition and access to dental services rather than water fluoridation.
>
> It is conceded by the dental profession that the mechanism of action of fluoride in dental protection is topical, rather than systemic (via ingestion). Dose-related adverse effects are acknowledged, most obviously with dental fluorosis. The practice of public water fluoridation predates much of the scientific data that is coming through in recent years. The current scientific interest in the effect of fluoride on tissues other than teeth is also raising questions on safety that have not been previously addressed and may need further studies and time to validate.
>
> We feel that it is imprudent to initiate further fluoridation of public water supplies until such time as modern data can either substantiate or refute the alleged benefits, and the safety or otherwise is established.

I know all of these 21 doctors in Warrnambool and district who signed this letter and I respect them greatly. Who am I to argue with Dr John Hounsell, physician and haematologist; Dr Bernie Oppermann, general practice; Dr Alan Baldam; and Dr Janet van Leerdam from Cobden? I respect them all very much. They treat people on a daily basis and I am much more inclined to listen to their concerns than those of some of the people in this house.

All that Peter Kavanagh has asked for is before we put fluoride in a water supply area that is unfluoridated at

the moment we put the case for and against, if necessary, to all the people who are going to be affected. We say, 'We are going to put fluoride in your water. These are the pros, these are the cons. How do you feel about it?'. If the majority say they want fluoride, you give them fluoride. If the majority say they do not want fluoride, and the polls in the local papers are saying about 80 per cent do not, you do not put fluoride in their water. I find it amazing that the Labor Party, which you would have thought would support this democratic right of people to be able to make a decision on what is in their water, is saying, 'No, you will drink it whether you like it or not'. I have always said in here that it is typical of Labor governments. They are about control, regulation and doing as you are told. The Liberal Party is not like that. We want to give people a choice. As time goes by — —

Ms Tierney — It is not democracy.

Mr VOGELS — It is democracy.

Ms Tierney — It is a flawed proposition.

Mr VOGELS — I do not think it is a flawed proposition. I am very pleased to be standing here supporting my colleague Peter Kavanagh on this issue. The Liberal Party will be supporting the bill and the Greens' amendments when they are put later on in the committee stage.

Ms PULFORD (Western Victoria) — It was good to hear from my colleague from Western Victoria Region, Mr Vogels. Until his comments in this debate no-one had actually tried to argue the case against fluoride. It is very difficult to argue the case against fluoride. David Davis came into this chamber and spoke for no less than an hour and made a most compelling case. He analysed a great deal of scientific research in this area and made a series of compelling arguments in support of fluoridation. This stands in great contrast to the position the Liberal Party is going to take on this bill.

Ms Tierney outlined in some detail the conclusive evidence about the benefits of fluoridation. As I stand here as a member for Western Victoria Region it concerns me that a great many of the people who live in my electorate do not receive the benefits of fluoridation — benefits that have been enjoyed by people in Melbourne for decades. People in Bendigo have had these benefits since 2002. The Liberal Party has supported fluoridation for a long time.

Mr Vogels — We still do.

Ms PULFORD — That is quite in contrast with the comments Mr Vogels has just made. We have public statements and statements in this Parliament from the Liberal Party in support of fluoridation. I wonder about the motives for its support of this bill. In language that is commonly heard in this place David Davis said the Liberals are not opposing this bill. By contrast Mr Vogels is supporting this bill.

I brought with me a recent publication from the National Health and Medical Research Council. I thought it would be handy to comment on some of the arguments that people make from time to time in opposition to fluoridation, but no-one has come to this place to make these arguments. Rather everybody has stood up and furiously agreed about what a wonderful thing fluoridation is, except they are going to support a position that would make it more difficult to deliver fluoride to people in the communities in Western Victoria Region which I represent. This very recent publication comments on a relationship between infant formula and dental fluorosis, about fluoride supplements and the use of low-fluoride toothpaste in children and the importance of advising parents and young children about the appropriate amount of toothpaste to be used by young children.

This document comments on the allegations of a relationship between fluoride in drinking water and cancer and states:

> There is no clear association between water fluoridation and overall cancer incidence or mortality.
>
> …
>
> There is insufficient evidence to reach a conclusion regarding other possible negative effects of water fluoridation.

But nobody came here with these arguments. Everybody seems to be opposing fluoridation in all but the words in their speeches in this place.

Our government committed $4.7 million in the 2007–08 budget to improve the oral health of Victorians. The budget contains $1.5 million to extend water fluoridation to regional centres to increase fluoridation coverage in Victoria. But there was not a peep from anybody about this at the time of the budget.

We know the benefits of fluoridation. Mr Davis mentioned some of the statistics about tooth decay in six-year-olds. I have stood in this place before and expressed my grave concern that every week in the hospital in Ballarat there are three to four preschool children having to undergo a general anaesthetic to deal with issues of dental health and dental decay. In my view that is just not good enough.

Some of the other arguments I have encountered in opposition to fluoride are particularly unsophisticated. For instance, 'Kids do not drink water any more; they drink soft drink', and, 'What is the point? People's teeth are decaying because people have too much junk food in their diet or diets with too much processed food'. Of course fluoridation is part of an overall dental health strategy, but it is an important part of an overall dental health strategy.

Members would have seen in their pigeonholes today a document titled *Fluoridation is Fraud*, a publication of the Barwon Association for Freedom from Fluoridation. Time permitting, I could talk at length about this. There are a couple of bits to highlight. I quote from part of the document titled 'Summary of the problem':

> Fluoridation is an alluring belief system, on false foundations, the 'science' is hogwash. It is above all a mythology that serves to defeat society and the interests of community members, in favour of those of industry and the state.

The document refers to the separation of powers. Again, I quote:

> In a public measure such as 'fluoridation' this lack of separation (monopoly) leads to corruption.
>
> …
>
> Advantage to industry and the state was the real intent at the beginning; the PR and propaganda of 'benefit' operates to hide that purpose, as 'means to that end'.

Under the heading 'Cheating and lies', it states:

> Fluoridation today continues as it began — organised full of cheating and lies. It has to be so to have the public maintain belief in the mythology as a consistent 'mask' to hide an ulterior motive, since there is in reality no truth in it.

This document stands in contrast to the statements on this topic from organisations like the Australian Medical Association, the World Health Organisation and the numerous organisations, as Ms Tierney has indicated, within the Western Victoria Region which support fluoridation. The document indicates:

> … that the wishes of Victorians be taken by referenda (and in this case an imposition on all, with a 60 per cent majority required), and that we immediately unite to have fluoridation legislation repealed by Parliament.

That is an interesting slant on the argument that has emerged during this debate about the virtues of democracy and communities being able to have a say. A 60 per cent vote in a non-compulsory ballot is like the kind of democracy we have here in the upper house when we select our representatives for our select committees. I was scratching my head and wondering why the Liberal Party was taking a position on this that is in contrast with its views expressed over many years, and again this evening by Mr Davis. I found a bit in this document from the Barwon Association for Freedom from Fluoridation, and I wondered if this might have been the reason for the Liberal Party's position:

> The ADA —

referring to the American Dental Association —

> is simply a union that represents the best interests of dentists …

I thought maybe I was onto something here, because I could not find any other explanation. Maybe the 'union' word, that five-letter word that is like a red rag to a bull, could perhaps shed some light on what is otherwise a difficult thing to understand. The position that is being taken here is encouraging and playing into the agenda of organisations that would publish documents like *Fluoridation is Fraud*.

A bipartisan approach to public health campaigns is a fine tradition in this place and in politics in Victoria. I would ask if it is a logical extension of some of the arguments put by Mr Vogels that the Liberals believe the recent reforms banning smoking in licensed premises ought to have also been taken to a vote.

Mr Kavanagh's bill seeks to amend the Health (Fluoridation) Act by preventing a water supply authority, either on its own initiative or when required to do so by the Secretary of the Department of Human Services, from adding fluoride to any public water supply under its control, unless a poll is conducted in that municipality. In fact the current arrangements are that the secretary of DHS has the power to direct a water authority to commence water fluoridation.

The boundaries of local government areas do not match up all that neatly with the areas that water authorities provide. Certainly water authorities in my electorate do not sit along local government boundaries. I know, for example, that Central Highlands Water services at least four municipalities: Golden Plains, Pyrenees, Moorabool and the city of Ballarat. I wonder how you would go if you had a plebiscite with a result saying yes in the city of Ballarat and a plebiscite saying no, for example, in the Golden Plains shire. Would you put up a fence or some sort of filter system to implement this type of a proposal?

The bill does not require a council to conduct a poll in any circumstances, so we would be taking an area of state government responsibility and, by this proposition, putting that in the hands of our elected councillors. If

the amendments were passed, the secretary of the department would be powerless to act unless the council had undertaken to hold a poll and a majority of voters had supported water fluoridation.

The bill is drafted in a way so that it would not be compulsory to vote. The Labor Party's views on the importance of compulsory voting ought to be well known to members here. The bill does not require a minimum number of voters on the roll to cast a valid vote in relation to the question in order for the poll to be carried. So it certainly has its flaws. Further on the subject of the referendum proposal, we believe that governments and health professionals have a responsibility to make decisions that balance the best possible community health outcomes with individual choices. Water fluoridation is safe and highly effective. The jury is in on this issue.

The government is committed to ensuring that no Victorians are disadvantaged by where they live in terms of accessing the health benefits of water fluoridation. For 30 years people in Melbourne have had fluoride. As I said, since 2002 people in Bendigo have had the benefit of fluoride. The government is committed to providing this benefit to all Victorians, no matter where they live.

Of significance is the fact that the people who will most benefit from fluoridation are children under the age of 18. It is the foundation that fluoride in the right one-part-per-million dose lays down in people's dental development in their early years that provides the strength within their teeth for their lifetime. Fluoridation provides a lifetime benefit to people, but it is those without exposure to fluoride in those safe levels in early childhood who would be most disadvantaged.

It is a puzzle to me why the children of Warrnambool, Hamilton and Ballarat do not enjoy this benefit. Certainly the adults I know and have spoken to, who live in those towns and cities or who have grown up in those areas, often remark that they wish they had better teeth now because as adults they are paying for it and they are living with the day-to-day reality of bad dental health.

All Australian states except Queensland have an act or have made amendments to a health act which allows for the government to mandate on water fluoridation without recourse to public votes. Furthermore all Australian health ministers endorse fluoridation of community water supplies as an effective public health measure and are signatories to *Healthy Mouths Healthy Lives — Australia's National Oral Health Plan 2004–2013*.

I am concerned that the Liberal Party in particular is playing politics with this issue, and I cannot go without commenting on the contrast in the Greens' position on referenda in this area. The Greens are happy to have a referendum on fluoride but not on nuclear power stations delivered courtesy of the federal government.

The case for fluoridation is clear. The government believes all Victorians ought to benefit from this. We did not have a referendum when we introduced the compulsory wearing of seatbelts; we did not have a referendum when we took smokers out of the pubs; we did not have a referendum when we introduced compulsory wearing of bicycle helmets. We have an obligation as a government and as community leaders to the public safety. For those reasons I believe all Victorians ought to enjoy the benefits of fluoridation. I would urge all members, in particular Liberal Party members who I know share our view on fluoridation, to oppose the bill and to not give too much more encouragement to organisations that would promote publications like *Fluoridation is Fraud* with all its flaws.

Mr ATKINSON (Eastern Metropolitan) — I wish I had the confidence of some of the other speakers in this debate, particularly Ms Pulford and Ms Tierney, with regard to the safety of fluoridation, because I do not. I am not an expert in these matters. I am not a scientist. I am simply a person who is responsible and accountable for public policy. I believe part of our responsibility as legislators and as people developing public policy is not simply to implement that policy in the first place and forget it, but rather to monitor it, to go back and review it and to ensure that we can say to people without question that there is safety and surety in the decisions that we have made.

The reality is — and this is a personal position; it is not the Liberal Party's position, so members should understand the distinction — nobody can point me to any studies that show that fluoride has no link at all with health conditions in the community such as type 2 diabetes, Alzheimer's disease, arthritis, ADD (attention deficit disorder) and declining fertility rates. Nobody can point me to any studies that have been done to test the impact of fluoride on any of those significant health issues.

Twice I have raised in this Parliament questions for the Minister for Health asking that I be shown where those scientific studies might have been completed. On the first occasion I got the glossiest and thickest brochure I have ever got from government on any issue I have raised. It was a public relations document. It totally avoided any matters related to science that tested the

health benefits — the safety — of fluoridation in water supplies. The second time, obviously the government saw me as a serial offender, and I did not get the glossy colour brochure but I also did not get any answers. I rang VicHealth, I rang the mental health research council, and I chased the matter up further with the health department and with local government authorities. Nobody could point me to any scientific documents supporting fluoride's position from a positive point of view in the community.

I then found an Australian government document published in June 2007 by the National Health and Medical Research Council. An interesting thing to note is that that document was not referred to me by the Minister for Health in the other place, despite the fact that it might well have qualified as a suitable document to respond to my question. But I am not really surprised, because in the 203 pages of this report, which is entitled *A Systematic Review of the Efficacy and Safety of Fluoridation*, nearly every one of the studies that are documented say that the data was poor or fair — I think I counted about five studies in the 203 pages where there was some credibility attached to the study.

Most of the other studies said that the scientific evidence was not in; that the jury was not in on this issue and that right around the world the scientific community had not done the work on these issues. This paper tackled issues such as fluorosis and dental benefits. A lot of the report was about dental benefits, and lot of those studies were also inconclusive, according to the National Health and Medical Research Council. A lot of them did not prove the case for the dental benefits of fluoridation.

I do not challenge those dental benefits, because I think there is some credibility in the role of fluoridation, although I also strongly agree with points made in the second-reading speech and by a number of opponents of fluoridation that when you compare areas that do not have fluoridation with areas that do have fluoridation you actually find very similar improvement rates in dental health. One of the reasons for that, as was pointed out in the second-reading speech, is increasing affluence and improved dental techniques.

I heard Ms Tierney talk about her family's circumstances many years ago, and I share an understanding of what she was talking about. In the old days they used to whip the tooth out or they used to chuck in fillings at the drop of a hat, but the reality is that today dental practice has changed. Dental techniques have changed, equipment has changed and knowledge has improved. There is any measure of activities in the community where if you could go back and treat people the way we did 40 years ago, you would be burying them, whereas today we are not. The reality is that dental practice has changed, and that is also responsible for a significant improvement in dental health right across the world in areas where it is measurable.

The report titled *A Systematic Review of the Efficacy and Safety of Fluoridation* cannot substantiate the dental benefits, let alone prove the scientific case on other matters of public health. As a policy-maker that concerns me because what I want to know is whether or not what we are doing in the community is safe. I want to know the answer to questions like, 'Why do we have such a rise in the incidence of type 2 diabetes?' Yes, I understand about lifestyle factors and our sedentary lifestyles, but I also wonder if something like fluoride, which builds up in the system, is a poison and has an impact on the body's ability to cope with sugar levels, is an inhibitor to the body's natural immunity to diabetes. I want to know whether it has an impact on mental health and in areas such as Alzheimer's disease, which is also rising without an understanding of why that is happening. I want to know whether it has an impact on ADD. We see a decline in fertility rates amongst both men and women. I want to know what some of the reasons for that are, and I want to know if fluoridation is one of the culprits.

Nobody seems to be prepared to fund studies that are going to do the job properly and not just result in a report in a national official government document that has reviewed studies over more than five years and says the evidence is only poor or fair. David Davis's contribution to the debate tonight was measured, responsible and effective. It was a much better contribution than that made by speakers from the Labor Party. The Labor Party was strident in saying that this is a good thing, because it is telling us it is a good thing. It is telling us that the government would do the right thing by the community and it should just happen, whereas Mr Davis acknowledged that in the reports he referred to, including the York review, there was an admission that the studies were inadequate. In fact there are further areas that need to be looked at that were not part of the studies.

This particular report contained studies that had looked at the impact of fluoridation on fractures and on fluorosis. It looked at topical fluoridation measures. It looked to some extent at cancer, but I would suggest that it looked all too thinly at cancer because essentially it confined itself to bone cancer, whereas I wonder about the increasing incidence of prostate cancer. The prostate is part of a human being's waterworks and uses

the water that we take into our bodies. As I said, I am not a scientist, and I do not suggest that I am an expert in these matters. I simply suggest that I am a person who is elected to ask questions. What bothers me is when I ask questions and do not get satisfactory answers to those questions. What bothers me is getting public relations documents in answer to my questions. What bothers me is when I ask questions and I have to go and do extra research myself to try to get beyond this wall of people saying, 'Don't criticise mum's apple pie and don't criticise fluoridation'.

When I try to penetrate that wall, suddenly I find admissions in a very credible document published by the Australian government that nearly all of the studies that have been done are inadequate, that their data is poor, that it is inconclusive, that they cannot prove it up, that they cannot justify any claims that have been made — and that is even on the dental benefits.

We need to be serious about this sort of stuff if we are policy-makers who are making decisions for people. There is a very big difference between this and not wearing seatbelts and smoking, which were the decisions raised by Ms Pulford, because in my view there is a very clear recognition that both of those are damaging to health. Lots of scientific studies have proved that up without question.

When it comes to fluoridation, in fact those same sorts of studies have not been completed to any degree of satisfaction. One of the questions posed in a key study on fluoridation was whether intentional water fluoridation was associated with other adverse effects over and above non-intentional fluoridation. What came back as the answer was that the authors of systemic reviews concluded that the studies examining other positive negative effects of water fluoridation provide insufficient evidence to reach a conclusion. That is what the authors of this study found when they were asked to look at the public health impacts of fluoridation beyond dental health.

I know that there is a massive tsunami of support for fluoridation. Frankly I do not understand why people are so strong on this issue when the evidence is not there to back up that confidence and assurance. Everybody dismisses the critics of it. I am not out there with people who make all sorts of weird claims. I do not know whether they are right, and I do not advocate for their claims, but I certainly agree that they have every right to ask the questions. I ask the same questions, and when I do not get the right answers, just as they do not get the right answers, and when I cannot be pointed to scientific studies that prove that in fact this material is safe to put into the water supply, then I get very angry. I get angry at the stonewalling and at what appears to be almost an industry behind fluoridation that does not really have the benefits to point to.

I know that a lot of learned people have looked at this and that there are a lot of advocates of it from a dental point of view. But I want to know — and I think we all should want to know — whether fluoride is a culprit in the increase in other public health issues in our community. One of the issues that has been raised often in terms of dental health — and it is in some of these reports — is that there is an enormous cost to the community for even one cavity in a tooth. I agree with that, but I point out that if fluoridation had anything to do with type 2 diabetes, then members might consider what is the cost of type 2 diabetes to our community now and in the future. I just think we ought to know. I just think that we ought to be funding studies that research this and, as I said, research it properly, so that the National Health and Medical Research Council does not have to come back with a systemic review that says that the studies that have been done on fluoride have been poor or fair in terms of the information that the people conducting the studies have used.

I think it is appropriate that people have the opportunity in any event, irrespective of any individual positions that people have on fluoride, to express their opinion. I think this is a very different issue from wearing seatbelts or smoking tobacco. Indeed, particularly when I look at these sorts of reports, I think that much of the support for fluoridation has been circumstantial. Mr Kavanagh is to be congratulated on bringing forward this legislation. I also commend the Greens for preparing some amendments. I note the contribution made in respect of other matters that might well have been considered as part of this bill but are excluded because of the way that the bill has been drafted.

What I am saying is that we ought not to simply take things at face value. Part of our job is to ask questions, and our job is certainly to make sure that we get decent or credible answers and the right answers. I have to tell members that in all the work that I have done on this issue I have found lots of people who can express opinions, but I have not been able to find anybody who can show me any scientific fact and prove that there is not a link between fluoridation and some of the health issues in our community, not necessarily because it is not there but simply because nobody has bothered to or nobody wants to do the scientific work. I think that we should all be demanding that that scientific work is done.

Ms DARVENIZA (Northern Victoria) — I am very pleased to rise and make a contribution to this debate. I will be speaking against Mr Kavanagh's private members bill, which is before us this evening. I want to make a few points quickly. First I will comment on Mr Atkinson's contribution. That was a ramble, if ever I have heard one. I think I heard him repeat the same thing 10 times. It was probably one of the worst contributions I have ever heard Mr Atkinson make in this house. Some of those broad, sweeping concerns he raised and allegations he made really made me wonder how he could get up and make such a contribution.

I want to start with the three things I want to cover, the first being the issues raised by David Davis, the first speaker from the opposition. His contribution was very long winded. In part of that contribution he was talking about the lack of dental health services in Victoria and he made the accusation that the Bracks and Brumby Labor governments had not put any funds into dental health. What Mr Davis failed to mention in his contribution was not only the very shameful record that the opposition had when it was in government but more importantly, as we move towards Saturday and the federal election, the very shameful contribution and behaviour of his colleagues in Canberra, the Howard government. What it has been doing is actually ripping out very badly needed dental health services.
Mr Davis's party did it when it was in government and John Howard, the Prime Minister, has axed the commonwealth dental health program. In his contribution Mr Davis failed to mention that and the ripping of $27 million a year out of the Victorian dental health budget. As he flipped through the pages of what needed to be done, he failed to mention that.

If Mr Davis really cares about the dental health services that are provided for Victorians, particularly for Victorians on low incomes, then he should get to the ballot box on Saturday morning and register a vote for Kevin Rudd, the federal Leader of the Opposition. The reason he should do so is that if he looks at what Kevin Rudd stands for he will see that his policy is to put in $290 million. That is his commitment. What has John Howard done? He has ripped $27 million out of the commonwealth program. Kevin Rudd is going to put in $290 million, which will go towards more than a million dental consultations. His commitment is to rebuild the commonwealth dental health program that the Howard government axed. David Davis did not mention that in his contribution, even though he wanted to talk a lot about funding — —

Mr D. Davis interjected.

Ms DARVENIZA — I take up that interjection. I am glad that you mentioned it, because I did want to talk a little bit about the contribution that our government has made to dental health, as opposed to what Mr Davis's lot did to dental health when they were in government. Mr Davis should listen to this, because he failed to mention it in his contribution. When the Bracks Labor government came to office the Kennett government had allocated just $60.5 million in the 1999–2000 budget for dental care. By contrast, in the 2007–08 budget the Brumby government has allocated $138 million for dental health services, which Mr Davis did not mention.

Mr D. Davis interjected.

Ms DARVENIZA — All right. I might have missed that contribution by Mr Davis. What he did fail to do was to mention the level of contribution to dental health services that his lot was making when they were in government and compare it to what the Bracks and Brumby Labor governments have done for dental health services. We have increased public dental health funding by providing over $800 million in extra money since 1999 to have more patients treated and to improve access for children and for the disadvantaged in particular. I could go on to talk about the number of community dental chairs that have been set up in rural and regional Victoria — an area that I have a very big interest in — and the opening of the new $52 million Royal Dental Hospital.

I want to mention some other matters very briefly. The first is the benefits of fluoridation, particularly after hearing Mr Atkinson's contribution. We know that six-year-old children living in areas in Victoria that have fluoride in their water supply have up to 36 per cent less tooth decay than in those living in non-fluoridated areas. That alone stands as fairly strong evidence that fluoride works in preventing tooth decay. In Victoria in 2004–05 almost 5000 children under 10, including 250 two-year-olds, had general anaesthetics in hospitals for the treatment of tooth decay. In non-fluoridated areas three times as many people per capita require a general anaesthetic in hospital for treatment of tooth decay.

The Australian Institute of Health and Welfare report *Australia's Dental Generations — The National Survey of Adult Oral Health 2004–06* shows that members of the fluoride generation, who were born after 1970, had about half the level of dental decay of their parents' generation by the time they were young adults. So we have very significant evidence to show that putting fluoride in the water does work to prevent tooth decay. There are also health benefits that come from not

suffering the effects of tooth decay. I will not go into all of the problems associated with tooth decay, but they impact on a person's ability to work and carry out other duties, such as those of students or parents.

The third point I want to raise, and perhaps the main reason I object to Mr Kavanagh's bill — I have a number of reasons — is that the bill is drafted so that it will not be compulsory to vote in a poll on whether fluoride should be added to a public water supply. It would be a non-compulsory vote, and I do not think a non-compulsory vote would really represent the community's views. I think what you would have would be those people who have very strong views, either for it or against it, turning out vote — and it would be more likely to be those who are opposed to it. I do not think that would give you a truly representative view of what those in the community think. There is a whole range of other problems that have been raised in relation to the way the voting would take place in a local government area and what would happen if one local government ward were to vote one way and another ward another way when they shared the same water supply. Those are those sorts of logistical problems that might arise, but they have already been covered by previous speakers.

It should also be noted that the bill does not require that a minimum number of voters have to cast a vote in order for the poll to be determined to be valid and for the outcome of that poll to be carried. It is not a good bill at all. I do not think it is really in the interests of public health and good public health policy. I believe strongly that fluoride has many benefits and that those benefits are well documented. I do not think that this is a good bill. I do not think that it should be supported. I will not be voting for the bill.

Mr KAVANAGH (Western Victoria) — I would like to explain in some detail why I believe it is wrong, regardless of the opinions of affected people, to fluoridate new areas of Victoria and therefore why all members should vote for the Health Fluoridation (Amendment) Bill. I will argue that the efficacy of fluoridating water supplies to prevent tooth decay is actually dubious, that it is very possibly harmful and that the democratic principles to which we all aspire demand that this mass medication should not proceed against the wishes of affected people.

There is very strong opposition to fluoridation throughout western Victoria, and not just by a small vocal minority. I have attended some very large meetings throughout western Victoria, including one with 800 people about six weeks or so ago in Warrnambool — the largest public meeting ever held in Warrnambool.

Yesterday I tabled in this house a petition signed by 2543 people from western Victoria urging all members to support this bill. On Friday I was sent a letter, which was described by Mr Vogels, which was signed by 21 medical practitioners, including specialists, in Warrnambool. They were all opposed to fluoridation. Their opposition to fluoridation is expressed on the basis of scientific evidence suggesting that fluoridation may be harmful. I am not a scientific expert, but I will attempt to outline some of the scientific concerns over the possible effects of fluoridation.

It is often assumed that proponents of fluoride represent modern scientific thinking, that fluoride is the norm in advanced countries and that its use is growing around the world. None of that is true. Fluoridation is common in North America, Australia and New Zealand; however, less than 6 per cent of the world's population drinks deliberately fluoridated water. Several advanced countries have stopped adding fluoride to their water supplies, including Germany, Finland, Japan, the Netherlands, Switzerland and Sweden — not Alabama, Mr Pakula. I have a reference from the *British Medical Journal* of last month. Parts of Canada have also recently decided to stop fluoridating their water supplies.

Fluoride, or more accurately fluorosilicic acid, also known as hydrosilicofluoric acid, which is actually the fluoride compound added to Victoria's water supplies, is toxic even in very small doses. Indeed fluoride is a prescribed poison under the national drugs and poisons schedule, and I have the Australian government internet site reference for that schedule. The fact that something is very toxic does not necessarily mean that it can never be consumed by people under any circumstances. Sometimes even poisons can be beneficial in their effects — for example, radiation treatment. Inherent toxicity surely does demand, however, that any benefits must be demonstrated before it is used on human beings, particularly when it is proposed to be used on people who are not sick, when it is intended to be distributed to tens of thousands of people whether they want it or not and will continue to be given to them for the rest of their lives.

It seems to me very clear that the onus of proving that a poison is beneficial and not otherwise harmful is on the proponents of the practice — those who want to add fluoride to our drinking water — and not on those who would oppose it. In that context Ms Pulford quoted something which she assumed supported her argument — that there is insufficient evidence to draw

conclusions about other possible negative consequences of fluoridation. She said it is impossible to prove that fluoridation is harmful and that therefore is an argument for adding it to the water supply. I think the onus should be the other way around. The onus should be on those who are wanting to add this poison to the water supply to show that it is not harmful.

Not very long ago my main interest in requiring referendums as a prerequisite to fluoridation was based on democratic principle. I thought that fluoridation was probably quite beneficial to teeth and otherwise harmless but that people should have a say in whether their water supplies would be fluoridated. I have been surprised to learn that the benefits of fluoridating water supplies are actually very to extremely limited, that mildly adverse effects are common and that severely harmful consequences are, on the basis of the scientific evidence, entirely possible. I found that the opponents of fluoridation are not a lunatic fringe; they include some of the world's finest scientific minds. The average standard of dental health of children varies greatly within fluoridated areas such as Melbourne.

The average standard is much higher in, say, Brighton than in, say, Sunshine. This difference in standards between different parts of fluoridated areas would not negate the case for fluoridation if it could be shown that fluoride significantly increases average standards and that it is clearly not harmful to other aspects of health. There are reasons to seriously doubt both of these propositions.

What do the proponents of fluoridation argue? David Davis quoted rather old figures for fluoridation — 48 per cent and 36 per cent. In fact the Victorian government no longer claims even that fairly modest improvement in dental health. According to the most recent documents it claims a 36 per cent reduction in caries for children who are six years old and a 22 per cent reduction in caries for children who are — —

Mr D. Davis — It was a 2006 document I quoted from.

Mr KAVANAGH — This refers to the figures Mr Davis gave and says they are basically obsolete. They are from Dental Health Services Victoria's school dental service for 2002. The better figures, it says, are 36 and 22 per cent respectively. For 12-year-olds — a more important sample group because it includes children who have been six years old and includes a study of permanent teeth, not baby teeth — it claims that fluoridation reduces caries by 22 per cent. These claims are much lower than the claims made in the recent past, including those of 60 per cent put around not very long ago by the Victorian government. It is a big decrease from 60 to 22 per cent. Even these modified claims, however, are at the higher end of estimates.

According to an article in the *British Medical Journal*, or *BMJ*, of October 2007, 3200 studies of the effects of fluoridation claim on average that the proportion of children in fluoridated areas with no caries is 15 per cent higher than the proportion of children in non-fluoridated areas. Even this modest claim is doubted by the authors, because in the studies reviewed 'potential confounders were poorly adjusted for', and I have an academic reference for that. In this context the confounders they refer to are factors besides fluoridation that contribute to the average dental standards in fluoridated and non-fluoridated areas. This claim is undoubtedly true. It is often claimed that the prevalence of caries in Victoria is higher in unfluoridated areas — that is, there is more decay in unfluoridated areas. That is undoubtedly true. It is also true that confounding factors may well explain this.

These confounding factors include higher average incomes in areas that have long been fluoridated, principally Melbourne, which has a higher average standard of living than areas that have not yet been fluoridated. Along with income disparity of course come differences in nutrition and different abilities to pay for dental services. Furthermore, it is also obvious that dental services are less widely available and accessible in many parts of Victoria outside Melbourne — that is, those areas that are largely, though not entirely, unfluoridated. If, for example, fluoridated areas tend to be wealthier areas of a country, state or province, then this claim of 15 per cent is very dubious indeed. It is reasonable to believe that the 15 per cent so-called improvement is even more dubious if dental services are more plentiful and if nutrition tends to be better in fluoridated areas. In the case of Victoria all of these factors are true.

It is relatively easy to compare average standards of health in any two populations. It is much more difficult to account for these confounding factors. The *BMJ* refers to reviews of the effectiveness of fluoridation by the Medical Research Council and the Scottish intercollegiate guidelines, which were based on the York study to which David Davis also referred. It says of those findings that along with many other supporters of fluoridation, it used the York review's findings selectively to give an overoptimistic assessment of the evidence in favour of fluoridation. Studies concluded that the efficacy of fluoride in preventing dental decay in preschool children could not be determined because

of factors such as the use of fluoride toothpaste, socioeconomic status and sugar consumption.

The *BMJ* authors added:

> We know of no subsequent evidence that reduces the uncertainty.

In Warrnambool it takes at best two weeks to see a dentist if you are in pain. If you are not in pain and you go to a private dental practice, it takes about six to nine months. The situation in Ballarat is not much better and David Davis referred to many areas in Victoria where the wait for public dental services is not of the order of weeks or months but years.

Regardless of fluoridation, would it be any wonder if the standards of dental health were found to be lower in Warrnambool and Ballarat than they are in Melbourne? It would not be, would it? If you have to wait nine months to see a dentist, even if you are paying, and five years if you are not in a position to pay, it would not be surprising if dental standards were not very high!

Dental health has improved dramatically in fluoridated areas in recent decades. Dental health has also improved dramatically in unfluoridated areas. Some studies have shown that in every fluoridated capital city of Australia the incidence of caries among children has declined to a fraction of what it was decades ago. In Brisbane the incidence of caries in children declined by around 65 per cent between 1977 and 1987, an improvement of the same order as the improvement in every other large Australian city. Brisbane's water has never been fluoridated, yet in one 10-year period dental cavities decreased by 65 per cent.

Even this field study on a mass scale is superseded by studies in the United States. Comparisons in American states, some of which are fluoridated and some of which are not, showed no discernible difference in the rates of improvement in dental health. The same is true of the European Union. The dental health of children in European Union countries has increased very sharply over the last 30 years. These improvements have occurred in countries that are or have been largely fluoridated, such as Germany, and those which are not fluoridated, such as Sweden. I have academic references for that proposition.

Fluoride can be beneficial to teeth, but its effect, it now seems quite clear, is topical — that is, its benefits are achieved like an antiseptic, by contact with affected body parts, in this case teeth. Fluoride in toothpaste is extremely effective at avoiding or preventing dental caries. Little benefit is achieved from drinking it, however, because the prevalence of fluorides in saliva is only about one-sixtieth to one-hundredth of the ratio that is in the water that is consumed. As Mr Vogels said, you would not drink iodine or something like that, but that is what is happening with fluoride. The benefits are topical, achieved by contact, but the method of dispensing it is by drinking it.

The proponents of fluoride claim there is no proven case of fluoride doing harm. This depends on what is meant by proof. It is true that even in pro-fluoride publications, the government admits to dental fluorosis, a very common condition of discoloration of the teeth, staining of the teeth, and in severe cases pitting and mottling of teeth.

General practitioners and patients in western Victoria have told me of people who react very badly to fluoride, even at very low levels. They break out in rashes and asthma can follow. Indeed some people moved to Geelong from Melbourne decades ago to avoid fluoridation in Melbourne's water. They tell me that if they ever come to Melbourne they bring their own water with them so that if they want a cup of tea they can have one without breaking out in an adverse reaction.

In some parts of the world, particularly China and India, high levels of fluoride occur naturally in water, not by addition but because rocks have fluoride in them. Those levels are admittedly much higher than the levels the Victorian government intends to fluoridate our water. In those places skeletal fluorosis, which is a deforming condition something like arthritis throughout the body, is common, and not just dental fluorosis which occurs at lower levels.

The PRESIDENT — Order! I advise Mr Kavanagh that he has a right of reply and is able to sum up the points raised in the second-reading debate. I refer to a passage from the *House of Representatives Practice* on speaking in reply, and I want Mr Kavanagh to think about it:

> The mover of a substantive motion of the second or third reading of a bill may speak on a second occasion in reply, but must confine any remarks to matters raised during the debate.

I have to say to Mr Kavanagh that I think he has gone beyond that on numerous occasions in extrapolating points that he has made, to the extent that in my opinion it is another crack at his initial contribution to the debate. I want Mr Kavanagh to think about that. His summary has been going for 17 minutes, which I have to say by any stretch is a long time.

Mr KAVANAGH — Many comments were made that fluoride was not harmful. Therefore, I thought it

was relevant to respond to those comments. Some of the contributions were much longer than I have been going so far.

The PRESIDENT — Order! Mr Kavanagh's contribution is a summary.

Mr KAVANAGH — I refer to a study by the American National Research Council where some of the greatest minds in the United States reviewed the evidence last year.

The PRESIDENT — Order! As an example, I am not able to remember that study being raised during the debate by any member who made a contribution to the debate. That is my point exactly.

Mr KAVANAGH — What if someone had mentioned that there was no evidence of fluoride harming people's mental capacity?

The PRESIDENT — Order! I remind Mr Kavanagh that during his contribution he had the opportunity to make reference to those very remarks that he wishes to make now. If they were not raised by anyone during their contribution, he really is on thin ice in trying to get them in now. I am reminded that he cannot introduce new material in his summary.

Mr KAVANAGH — Thank you, President. To summarise, there is considerable evidence of a decrease in IQ in fluoridated areas and, among other things, a sharp increase in osteosarcoma among young males in areas that have been fluoridated.

To refer only to the points that have been made specifically, I will say that while Mr Davis suggested there is no proven link of bone cancer resulting from fluoridation, in fact evidence of that has been printed recently in 2006 or 2007. It was pointed out that standards of dental care are very poor in Victoria and should be improved. The point of those who do not support fluoridation is that there are better and safer ways to achieve that.

To just finish on one point, there have been a lot of comments made that the bill does not provide for compulsory voting. In fact there has been no reason given for that by speakers who have reached that conclusion. It is not a conclusion that I would reach on the basis of the bill. In summary, there is good evidence that fluoride is harmful to people's health, and that it is of minimal help in avoiding or preventing tooth decay. The bill seeks to invoke our democratic principle of people deciding for themselves whether substances which are of dubious benefit should be added to their water supply.

The PRESIDENT — Order! On a further point, the last three points Mr Kavanagh raised were well within the bounds of his ability to summarise the debate which has just taken place, because he referred to contributions that people had made. The concern was that he was introducing new material. As I say, that is for future reference.

House divided on motion:

Ayes, 21

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

Noes, 19

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

Motion agreed to.

Read second time.

Committed

Committee

Clauses 1 to 3 agreed to.

Clause 4

Ms HARTLAND (Western Metropolitan) — I move:

1. Clause 4, page 3, line 8, after "on" insert "the question".

This is basically around the issue of who writes the question, because the bill does not actually have that. By doing this we believe it clarifies what the question should be.

Mr KAVANAGH (Western Victoria) — I support the amendment.

Ms BROAD (Northern Victoria) — I rise to oppose the amendment for the same reason as I opposed the bill — that is, that this bill and this amendment have no credibility. In my view the arguments put forward by the Liberal Party amount to nothing less than voodoo science and the government, scientists and policy-makers are expected to invest scarce public funds — that is, taxpayers money — in disapproving speculation about issues that there is no evidence for. No amount of focusing on process in this bill, something the Liberal Party likes to spend a great deal of time debating in the Legislative Council these days, can disguise the fact that the Liberal Party is now supporting voodoo science in order to win votes in this place.

No amount of amendments by the Greens can disguise the fact that they are complicit for entirely expedient reasons. The Liberal Party and the minor parties are going to have to do a lot better than this if they expect Victorians to support the Legislative Council as a genuine house of review in line with the Labor Party's reforms to this house.

The DEPUTY PRESIDENT — Order! I say to Ms Broad that that was skirting fairly close in terms of its relevance to the amendment and to the committee process, particularly in that it seemed to be an attack on the other parties rather than on the substance of the amendment. I have obviously allowed it and not ruled it out, but it was skirting close and I warn other members.

Amendment agreed to.

Ms HARTLAND (Western Metropolitan) — I move:

2. Clause 4, page 3, line 10, after "supply" insert "under the control of the water supply authority".

Again, this goes to the question of clarifying how the question would be made.

Amendment agreed to.

The DEPUTY PRESIDENT — Order! Ms Hartland's amendment 3, as I understand it, is also a test for amendment 4 on the substantive issue of the timing of a poll of voters.

Ms HARTLAND (Western Metropolitan) — I move:

3. Clause 4, page 3, line 27, omit 'Act.".' and insert "Act.".

That is an issue of grammar.

The DEPUTY PRESIDENT — Order! Because this amendment tests amendment 4, which is a specific proposition rather than a grammatical one, I ask Ms Hartland to comment on that in regard to the amendment she is dealing with.

Ms HARTLAND (Western Metropolitan) — Regarding amendment 4, because there is no actual provision in the bill to compel a local government area to undertake a poll at the request of the government or the water authority, we need to specify it. Under the bill in its present form a local government area which had a dispute with the government would be able to refuse to undertake a poll. The whole point of the bill is to actually bring about a poll of local people and let them determine whether fluoride should be added. The major point is that local communities have got the right to decide on this issue, which is what the Greens policy is and which is why we are moving these amendments.

Amendment agreed to.

Ms HARTLAND (Western Metropolitan) — I move:

4. Clause 4, page 3, after line 27 insert —

'(3) If the Council of a municipal district receives from a water supply authority or the Secretary a request to cause a poll of voters to be held in accordance with this section, the Council must cause the poll to be held as soon as reasonably practicable.".'.

Amendment agreed to; amended clause agreed to; clause 5 agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Motion agreed to.

Read third time.

SELECT COMMITTEE ON GAMING LICENSING

Final report

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

That the resolution of the Council of 14 February 2007 requiring the Select Committee on Gaming Licensing to present its final report to the Council no later than 28 February 2008 be amended so as to now require the committee to present its final report by 9 May 2008.

Motion agreed to.

NATIONAL ELECTRICITY (VICTORIA) AMENDMENT BILL

Statement of compatibility

For Hon. T. C. THEOPHANOUS (Minister for Industry and Trade), Mr Lenders tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the National Electricity (Victoria) Amendment Bill 2007.

In my opinion, the National Electricity (Victoria) Amendment Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The bill will facilitate further reform of the electricity sector consistent with the national energy market reform program under the Council of Australian Governments. In particular, the bill contains transitional provisions with respect to the transfer of responsibility for economic regulation of electricity distribution from the Victorian Essential Services Commission (ESC) to the Australian energy regulator (AER). Under those provisions, administration of the ESC's electricity distribution price determination 2006–10 will transfer to the AER on a specified date.

Human rights issues

The bill does not affect any human rights protected by the charter.

Conclusion

For the reasons outlined above, I consider that the bill is compatible with the Charter of Human Rights and Responsibilities.

Hon. T. C. Theophanous, MLC
Minister for Industry and Trade

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The bill will facilitate implementation in the Victorian electricity sector of the next phase of the national energy market reform program under the Council of Australian Governments (COAG). In particular, the bill contains transitional provisions with respect to the transfer of responsibility for economic regulation of electricity distribution from the Essential Services Commission (ESC) of Victoria to the Australian energy regulator (AER).

The national energy market reform program is being implemented through the COAG Ministerial Council on Energy (MCE). In 2005, in the first phase of the program, the Australian Energy Market Commission (AEMC) and the AER were established as rule-maker and regulator respectively, a new national electricity law (NEL) was enacted by South Australia as lead legislator, and new national electricity rules (NER) were made. The law and rules currently apply to the wholesale market and to transmission.

In the second phase, a bill introduced in September into the South Australian Parliament will amend the national electricity law to provide for the AER to regulate all distribution networks in the national electricity market. Amendments to the national electricity rules have also been developed in consultation with industry and other stakeholders. The law and rules, as amended, will establish a single national regulatory framework for electricity networks — distribution as well as transmission.

The COAG Australian energy market agreement requires transfer of responsibility to the AER progressively as electricity distribution price reviews become due in the various jurisdictions. The AER will therefore be responsible for the next review in Victoria, which is scheduled to commence in January 2009.

The agreement also allows for earlier transfer of responsibility for current price determinations. Accordingly, this bill provides for the ESC to continue to administer the electricity distribution price determination 2006–10 until a nominated date and for the AER to assume responsibility on and from that date. It is anticipated that the transfer will occur by 1 January 2009 so as to coincide with the commencement of the next price review.

The bill further provides, for the avoidance of doubt, that the electricity distribution price determination 2006–10 will continue to apply for its term and will do so in accordance with the current Victorian framework under the Electricity Industry Act 2000 and the Essential Services Commission Act 2001.

Victoria continues to be a leader in the national energy market reform process. This bill, together with the amendments introduced in South Australia, will streamline and improve the quality of economic regulation of the national electricity market to lower the cost and complexity of regulation facing investors, enhance regulatory certainty and lower barriers to competition.

I commend the bill to the house.

Debate adjourned on motion of Mr VOGELS (Western Victoria).

Debate adjourned until Wednesday, 28 November.

VICTORIAN ENERGY EFFICIENCY TARGET BILL

Statement of compatibility

For Hon. T. C. THEOPHANOUS (Minister for Industry and Trade), Mr Lenders tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (the charter), I make this statement of compatibility with respect to the Victorian Energy Efficiency Target Bill 2007.

In my opinion the Victorian Energy Efficiency Target Bill 2007, as introduced to the Legislative Council, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The purpose of the bill is to promote the reduction of greenhouse gas emissions by establishing the Victorian energy efficiency target (VEET) scheme. The VEET scheme operates so that individual consumers who undertake activities to abate the use of energy are entitled to create, or assign the right to create, energy efficiency certificates which can then be sold to retailers who are required to surrender a certain amount of certificates each year to the Essential Services Commission (commission).

The VEET scheme operates to promote activities that will contribute to a reduction in greenhouse gas emissions by consumers of electricity and gas and to encourage investment, employment and technology development in industries that supply goods or services which reduce the use of electricity and gas by consumers.

1. Human rights protected by the charter that are relevant to the bill

The VEET scheme will operate so that businesses, body corporates or sole traders may be accredited persons to whom entitlements to create energy efficiency certificates and obligations under the bill apply. Insofar as a natural person may, however, become an accredited person under the VEET scheme, a number of human rights issues arise.

Provision of information to the Essential Services Commission

The requirement that accredited persons provide personal information, such as their name and address, to the commission raises the right to privacy. Clauses 9 and 60 require that information be given to the commission, and clause 10 provides for the disclosure of information from another scheme prescribed by regulations. However, this information is relevant to the operation of the bill and the provision of such information under a regulated scheme such as this one, which has clear public purposes, is not arbitrary and is clearly lawful. Therefore, the right to privacy is not limited by the requirement that such information be provided to the commission. In addition, the energy efficiency certificate created under clause 21, the certificate surrender notice issued under clause 38 and the register of accredited persons and the energy efficiency certificate register under clauses 57, 58 and 59 may contain such personal information but, for similar reasons, it would not interfere with a person's right to privacy.

The bill also contains safeguards concerning the use of information obtained while exercising powers or performing functions in connection with the bill. For example, clause 60 makes it an offence to disclose confidential information except in limited circumstances. To the extent that the confidential information is also personal information, this safeguard will assist in ensuring that privacy rights are not unlawfully or arbitrarily interfered with.

Surrender of certificates

The bill requires that energy efficiency certificates be surrendered in certain circumstances (see clauses 38, 39 and 40). Insofar as a natural person may be required to surrender a certificate, which is registered and holds value under the VEET scheme, property rights under section 20 of the charter are raised. However, the deprivation of property (i.e. the surrender of the certificate) is in accordance with law. It is also not arbitrary as the bill sets out the precise and reasonable circumstances in which the surrender may occur: for example, where certificates have been improperly created or where an accredited person is in breach of an undertaking not to claim benefits under a prescribed greenhouse gas scheme. Therefore, property rights are not limited by the operation of clauses 38, 39 and 40 of the bill.

Powers of authorised officers

The requirement, under clause 42 of the bill, that an authorised officer must carry an identity card that contains their photograph and signature, is a reasonable requirement given the powers of an authorised officer and is not an unlawful or arbitrary interference with their right to privacy under section 13 of the charter.

Part 7 of the bill sets out the process for authorised officers to be appointed to monitor and inspect premises for the purpose of determining whether the bill has been complied with. That process enables the authorised officers to do the following:

enter any premises with the consent of the occupier or under a monitoring warrant (refer to clauses 44–48);

conduct a search of the premises for any thing that may relate to the creation or transfer of certificates or scheme acquisitions (refer to clause 48); as part of a search of premises, the authorised officer can examine property on the premises, take photographs, take extracts of documents or make copies, secure any thing on the premises that may be evidence of an offence against the bill, until a warrant can be obtained to seize the thing, and can operate any equipment on the premises or remove devices which contain files/information; and

where the authorised officer has authorisation to enter premises by a monitoring warrant, require that a person in or on the premises answer any questions relating to the creation or transfer of certificates, scheme acquisitions or the provision of information under this bill and produce any document that is so related (refer to clause 50).

The power of the authorised officer to enter and search premises under clauses 44–48 engages the right to privacy and home under section 13 of the charter. The right is raised

because the authorised officer may be entering private premises when conducting their duties under these clauses. It is relevant to note that the Human Rights Committee of the United Nations states, in its general comment on the right to privacy, that the term 'home' is to be understood to indicate the place where a person resides or carries out his or her usual occupation.

The powers of authorised officers under clauses 44–48 of the bill are lawful and not arbitrary for the following reasons:

> Consent must be obtained from the occupier, or the authorised officer must have a monitoring warrant that is given by court order.
>
> The bill provides numerous additional constraints around the exercise of the powers of authorised officers. Powers of search and seizure must be exercised reasonably and only in relation to the creation or transfer of certificates, scheme acquisitions or information provided under the bill. The bill also requires that in exercising powers, the authorised officer, must only enter at a 'reasonable' time of the day, must cause as little inconvenience as possible and must not remain on the premises any longer than is reasonably necessary. Where consent is obtained from the occupier, the authorised officer is also required to leave the premises if asked to do so (see clauses 43 and 44).
>
> The VEET scheme must be monitored to ensure that it operates properly. Persons who participate in the VEET scheme are subject to the regulatory requirements of the regime and have obligations and responsibilities that must be discharged. It is therefore reasonable that they be subjected to the necessary audit processes.

Therefore, the right to privacy under section 13 of the charter is not limited by clauses 44–48 of the bill.

Clause 50 of the bill requires that any person in or on the premises answer any questions or produce any documents to the authorised officer. This raises the right to privacy under section 13 of the charter. However, for the reasons previously mentioned the right to privacy is not limited.

Clauses 48 and 50 also raise property rights under section 20 of the charter. The removal of, or the requirement to, produce documents (such as certificates of value under the VEET scheme or devices containing relevant information) may amount to a deprivation of property. However, any such deprivation would be in accordance with the law and would not be arbitrary as the production or removal of documents is only permitted where it relates to the creation or transfer of certificates, scheme acquisitions or the provision of information under the bill or for determining whether the bill has been complied with. As such section 20 of the charter would not be limited. For similar reasons, the production of documents to the commission under clause 60 of the bill would not limit property rights under the charter.

The right to freedom of expression under section 15(2) of the charter is also raised by clause 50 of the bill as that provision requires individuals to answer questions put by an authorised officer. The right to freedom of expression includes the right not to express. However, the right also contains an internal exception under section 15(3) of the charter. Section 15(3) of the charter provides that the right to freedom of expression may be subject to lawful restrictions including for public order. Public order can be defined as the sum of rules that ensure the peaceful and effective functioning of society. It is considered that the requirement that persons provide certain information to an authorised officer for the purposes of administering the VEET scheme is for a public purpose and is reasonably necessary for the protection of public order. Therefore, any restriction on the right to freedom of expression by virtue of clause 50 is lawful under section 15(3) of the charter and the right is not limited.

Collection of information by the Essential Services Commission

The right to freedom of expression under section 15(2) of the charter is also raised by clause 60 of the bill as that provision requires individuals to provide certain information or produce a document either orally or in writing to the commission. For the reasons set out above it is considered that the limitation on freedom of expression is lawful as reasonably necessary for the protection of public order under section 15(3) of the charter.

Clause 60(2)(c) also enables the commission to require that a person appear before it at a time and place specified. This clause limits a person's freedom of movement under section 12 of the charter. However, such limitation is reasonable for the reasons set out below.

Clauses 63 and 64 also raise property rights under section 20 of the charter as copying of and retaining of documents may amount to a deprivation of property. However, any copying or retaining of documents would be in accordance with the law and would not be arbitrary. As such section 20 of the charter would not be limited.

2. Consideration of reasonable limitations — section 7(2)

The right to freedom of movement under section 12 of the charter is limited by the operation of clause 60(2)(c) of the bill.

(a) What is the nature of the right being limited?

The right to move freely within Victoria encompasses a right not to be forced to move to, or from, a particular location and includes freedom from physical barriers and procedural impediments.

(b) What is the importance of the purpose of the limitation?

The limitation is important because it enables the commission to interview or examine a person it reasonably believes has information or documentation that is relevant to the operation of the bill.

(c) What is the nature and extent of the limitation?

The individual is required to physically appear before the commission to give information either orally or in writing. The limitation only extends to that individual who is required to attend before the commission at the specified time and date and the limitation only operates for the period of time that the person appears before the commission.

(d) What is the relationship between the limitation and its purpose?

The limitation is rational as it is integral to the operation of the bill that the commission has the ability to make inquiries

when investigating matters under the bill. The limit is proportionate because the limitation only applies to a person that the commission has reason to believe holds information or documentation that is relevant to the operation of the bill.

(e) Are there any less restrictive means reasonably available to achieve its purpose?

A request for written information could be made before requiring attendance before the commission; however, attendance may be considered necessary in certain circumstances.

(f) Conclusion

The limitation is reasonable and necessary to achieve a legitimate aim, namely the effective operation of the VEET scheme which aims to encourage the reduction of greenhouse gas emissions within the community.

Conclusion

I consider that the bill is compatible with the charter because, even though it does limit a human right, that limitation is reasonable and proportionate.

Hon. T. C. Theophanous, MLC
Minister for Industry and Trade

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Treasurer).

Mr LENDERS (Treasurer) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Victorian government recognises that climate change is the most serious environmental problem we face. Reductions in greenhouse gas emissions, which are contributing to climate change, are necessary to mitigate the impacts of climate change.

The stationary (non-transport) energy sector accounts for over 70 per cent of the state's greenhouse gas emissions. The government's *Greenhouse Challenge for Energy* position paper proposed a comprehensive policy framework to reduce greenhouse gas emissions from the stationary energy sector while continuing to ensure that Victorians have access to a secure, efficient and affordable supply of energy.

To prepare for a carbon-constrained future, the government recognised that it would need to pursue a range of policy initiatives including support for the introduction of a national emissions trading scheme, a renewable energy strategy, an energy efficiency strategy and the energy technology innovation strategy.

This bill gives effect to the government's commitment to introduce the Victorian energy efficiency target (VEET) scheme and drive reductions in household greenhouse gas emissions.

The VEET scheme will assist in preparing Victoria for a carbon-constrained future and builds on Victoria's leadership position in sound energy policy. Initially, the VEET scheme will set a target of 2.7 million tonnes of greenhouse gas emission abatement for each year between 2009 and 2011. This target has been set at a level based on abatement costs comparable to, or lower than, those expected under a national emissions trading scheme.

The bill provides for a market-based measure to promote activities which will contribute to the reduction of greenhouse gas emissions by consumers of electricity and gas through the establishment of a scheme for the creation of energy efficiency certificates and the surrender of these certificates by relevant entities. Relevant entities are essentially sellers of electricity and gas with more than 5000 customers in Victoria.

Importantly, the VEET scheme is a market-based measure which simultaneously achieves millions of tonnes of low-cost abatement, whilst lowering household energy costs. Evidence suggests that small energy users, such as households, are relatively unresponsive to energy price increases. Consequently an upstream carbon price signal, introduced through a national emissions trading scheme, cannot be relied on to motivate households to act on the full suite of available, cost-effective energy efficiency measures. The VEET scheme will provide a mechanism which addresses barriers to the uptake of energy efficiency activities by households. By reducing energy use and power bills, the VEET scheme will help households mitigate the impacts of a national emissions trading scheme.

The objects of the bill are as follows:

(a) reduce greenhouse gas emissions;

(b) encourage the efficient use of gas and electricity; and

(c) encourage investment, employment and technology development in industries that supply goods or services which reduce the use of electricity and gas by consumers.

Part 1 of the bill provides for the VEET scheme to come into operation on or before 1 January 2009. It is proposed to commence the scheme following the making of regulations under the bill.

Part 2 of the bill provides that the Essential Services Commission will administer the VEET scheme.

Part 3 of the bill provides for the accreditation of persons that may create a certificate in relation to activities prescribed by regulations. The activities that may be prescribed by the regulations are those that will result in a reduction in greenhouse gas emissions that would not occur without the VEET scheme. Examples of activities that may be prescribed include the installation of a high-efficiency gas water heating system or retrofitting or replacing existing windows with double-glazed windows.

Only an accredited person under the VEET scheme may create a certificate. An accredited person that may create a certificate may either be the electricity or gas consumer for prescribed activities or the holder of an assignment of the right to create a certificate from the consumer.

A certificate can only be created if the activity the certificate relates to was undertaken on or after the commencement of the VEET scheme and either undertaken in Victoria or in another state or territory in which an approved energy efficiency regime is in force. An interstate energy efficiency regime can be approved if, amongst other things, the approval would complement, and not detract from, the achievement of the purpose and objects of this bill and the approval would not impose unreasonable costs on purchasers of electricity and gas in Victoria.

Each certificate created with respect to an activity will represent a tonne of greenhouse gas emissions equivalent to be abated by that activity. The regulations will determine the calculation of the abatement attributable to prescribed activities. The minister may declare factors that are to be used to calculate the abatement attributable to prescribed activities.

Certificates will be electronic and will be traceable to the point of origin by the unique identification code allocated to each certificate. Once created, certificates may be registered by the commission. Certificates that have been registered may be transferred. A certificate may be surrendered, in which case the certificate ceases to be valid. The commission must update its register to show the transfer and surrender of certificates.

I will now focus on the obligations imposed by the bill on relevant entities, covered by part 4 of the bill titled 'Energy efficiency certificate shortfall and VEET scheme target'.

The greenhouse gas reduction rates will be used to determine the number of tonnes of greenhouse gas emissions that a relevant entity is liable for in a given year. It is therefore also the basis for determining how many certificates are required to be surrendered to meet each relevant entity's liability.

The bill provides that a relevant entity must surrender sufficient certificates to cover its liability each year. A relevant entity that has not surrendered enough certificates in a year is liable to pay a shortfall penalty.

The penalty payable by a relevant entity for a year is based on the number of certificates that have not been surrendered and the penalty rate for that year. The penalty rate will be prescribed by the regulations and will be set at a level to support compliance and at the same time impose reasonable limits on the costs faced by businesses.

Part 5 of the bill establishes requirements to record and report liabilities incurred under the bill and the surrendering of certificates to meet those liabilities. For example, the bill provides that a relevant entity must lodge a statement with the commission for the year on or before 30 April in the following year.

Part 6 deals with the enforcement regime under the bill and part 7 deals with the appointment and powers of authorised officers.

Part 8 of the bill:

establishes an internal merits review process;

addresses the administration of the VEET scheme, its registers and publication of key annual data;

provides for information-gathering powers which will ensure the integrity of the VEET scheme;

provides for confidentiality; and

provides for the fixing and charging of fees, criminal offences and annual reports on the operation of the VEET scheme.

Part 8 of the bill also provides for an independent review of the operation of the VEET scheme by the end of 2011. The review will assess whether the VEET scheme is working effectively and achieving its objects. The matters to be considered in the review include whether the targets and the penalty rate are appropriate.

Part 9 of the bill provides for consequential amendments to the Essential Services Commission Act 2001 to empower the commission to administer the scheme.

I commend the bill to the house.

Debate adjourned on motion of Mr VOGELS (Western Victoria).

Debate adjourned until Wednesday, 28 November.

GRAFFITI PREVENTION BILL

Committee

Resumed from 20 November; further discussion of clause 7 and Mr DALLA-RIVA's amendment:

2. Clause 7, after line 18 —

"(a) in a public place; or".

The DEPUTY PRESIDENT — Order! The committee stage will resume after the interruption. I indicate to the Minister for Planning that when we closed last evening Mr Dalla-Riva had proposed a question to him. The question to the minister was:

… why is it that the government has excluded public places from the legislation and made it specific only to transport companies and those areas associated with their properties?

Hon. J. M. MADDEN (Minister for Planning) — Basically the acuteness of graffiti tends to occur in and around transport locations. A number of members, I think even the Deputy President, said that the critical issue about much of the graffiti that is of concern, while all graffiti is of concern, is that it occurs around public transport locations, particularly railway carriages and the like. Offences probably have an even more significant impact in those locations because of the disruption to train services or the operation of stations caused by the need to conduct maintenance in and around those locations. Recidivist graffiti artists, and I use the term 'artists very loosely, and others who engage in graffiti tend to somehow see a cultural connection to transport and the like, hence the focus of the bill is on the acute nature of graffitiing around

transport locations. That is very much the objective of this bill.

Mr DALLA-RIVA (Eastern Metropolitan) — I appreciate the comments made by the Minister for Planning as they apply to clause 7. However, under clauses 5 and 6 a person must not mark graffiti on property that is visible from a public place. The government proposes to make the offence of marking graffiti that is visible from a public place punishable by imprisonment, yet the offence of having possession of a prescribed graffiti implement in clause 7 does not apply within a public place. That seems to be a contradiction. Offences for which a penalty of imprisonment applies are those committed within a public place, yet it is not an offence under this legislation to possess prescribed a graffiti implement — in other words, the implement which creates the graffiti — in a public place. Can the minister give the chamber some idea of why he believes the marking of offensive graffiti in a public place to be an offence when he does not believe that the offence of possession of a prescribed graffiti implement should extend to a public place? It just does not make sense when the principal offences incurring imprisonment are in public places but possessing a prescribed implement in a public place is not an offence.

Hon. J. M. MADDEN (Minister for Planning) — I can understand Mr Dalla-Riva trying to see the consistency in the bill. As I mentioned before, the emphasis is in and around transport locations, rolling stock and the like where graffiti is prevalent. The intention is to try to make the bill more targeted rather than leave it relatively obtuse. Hence there is a specific focus on offences in and around transport but with an ability to highlight the undesirability of graffiti right across the community. In terms of some of the law enforcement elements, they are more targeted to in and around transport locations.

Mr DALLA-RIVA (Eastern Metropolitan) — One final comment. In that context I guess the government will be saying to the community that it is okay and is not an offence to possess a prescribed graffiti implement anywhere in the state of Victoria, but as soon as you go near or adjacent to the property of a transport company it becomes an offence. There is no clarification as to what 'adjacent' means. What is the proximity? Is it 10 metres, 15 metres, 100 metres? There is no clarity in the legislation. I gather on that basis that the government is not supporting our amendments. It just does not make sense. I make that as a mere statement.

Committee divided on amendment:

Ayes, 17

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

Noes, 23

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

Amendment negatived.

Business interrupted pursuant to standing orders.

STATE TAXATION AND ACCIDENT COMPENSATION ACTS AMENDMENT BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Treasurer).

ADJOURNMENT

The PRESIDENT — Order! The question is:

That the house do now adjourn.

Wellington: weed management

Mr HALL (Eastern Victoria) — Tonight I wish to raise a matter for the attention of the Minister for Environment and Climate Change. It concerns funding for weed facilitators with the Maffra and Districts Landcare Network. The Maffra and Districts Landcare Network wrote to me in a letter dated Friday, 9 November, expressing some concern at the loss of state government funding through the Tackling Weeds on Private Land initiative, which is a local government

weed management grants program. As I understand from the letter received from the Landcare network, Wellington shire received funding for this particular position, a part-time weed education officer within the shire, but it expired in June 2007. The council was unable to continue the position without this ongoing support.

The Landcare network advised me of all the extensive initiatives that were able to be undertaken during the course of the two-year funding for this program. I will not list them all during the course of this adjournment debate. Nevertheless, suffice to say that throughout Wellington shire, like many other rural shires, the issue of weeds is a very important one. The fact that we were able to have a funded position of weed education officer was most gratefully received and very effective for the Landcare network groups and others within Wellington shire.

The loss of the funding has placed pressure on Wellington shire and our local Landcare networks to provide this ongoing service. The Wellington shire has been prepared to contribute $35 000 towards pests, plant and animal control projects in their local area each year. The Landcare network has made a request of me via this letter to at least see some matching funding provided by the state government to what Wellington shire is already putting in.

In view of the fact that weeds are an important issue in country Victoria, particularly in a large rural shire like Wellington which has experienced floods in the last 12 months which exacerbate the spread of weed problems in those areas, I think it is a more than reasonable request that the state government again contribute to funding an education officer within the Wellington shire to assist organisations like the Maffra and Districts Landcare Network and others that may be involved in fighting this weed problem.

Planning: Cardinia land

Mr O'DONOHUE (Eastern Victoria) — My adjournment matter this evening is for the Minister for Planning. I have been contacted by my constituents Mr and Mrs de Jong of Cardinia, who are the joint owners of West Gippsland Fertilisers. In 1995 they decided, for the benefit of both their community and their business, to relocate from Dixon Road, Cardinia, to Koo Wee Rup. This culminated in 1999 with a section 173 agreement between Mr and Mrs de Jong and the Shire of Cardinia, which allowed for limited subdivision of their land in Cardinia, together with the rehabilitation of some of that land, which would be returned for agricultural use. The section 173 agreement allowed the de Jongs to commence the construction of their new facilities in Koo Wee Rup, which of course had to be completed before the rehabilitation of the Cardinia site.

By 2005 the second stage of their new facilities at Koo Wee Rup was complete, allowing them to commence the rehabilitation and subsequent subdivision of the land at Cardinia. Between the entering of the section 173 agreement with council and a recent application for a three-lot subdivision, the state government changed the zoning of the land in Cardinia to green wedge. This has consequently required the input of the Minister for Planning. With council support a request was made to Minister Madden on 31 May this year to approve and sign off on the three-lot subdivision.

Since that time there has been much dithering and toing and froing between the minister's office, the de Jongs and the Shire of Cardinia, and recently the minister has sought legal advice on the matter. The minister may not understand or appreciate the impact that this delay in approval is having on Mr and Mrs de Jong. He may not understand that they have been acting and continue to act in good faith pursuant to an agreement that had the support of the Shire of Cardinia and is in the best interests of the township of Cardinia and the economic health of West Gippsland.

The action I seek, therefore, is for the minister to expedite the request made to him by Mr and Mrs de Jong and the Shire of Cardinia on 31 May this year. A six-month delay on a relatively straightforward planning issue is too long and not good enough.

Penguins: St Kilda colony

Ms PENNICUIK (Southern Metropolitan) — My adjournment matter is for the Minister for Environment and Climate Change, and it concerns the protection of the little penguin colony on the St Kilda breakwater. Since the construction of the St Kilda breakwater in 1956 for the Melbourne Olympics, it has become home to a colony of little penguins, a protected species. There are now up to 1000 individual penguins on the breakwater, some of whom have lived there for well over a decade. It is rare to have such a colony of wildlife so close to a large city. The colony has been studied and monitored for 21 years by the volunteer penguin study group under the auspices of Earthcare St Kilda, a group that I have been a member of for 17 years.

The main threats to the health and welfare of St Kilda's little penguins are human interference, dog attacks and

pollutants in the water, such as oil spills and plastics, especially plastic bags, other rubbish and fishing lines. Channel deepening also threatens the penguins through the impacts of turbidity on the birds themselves and on anchovies, their chief source of food.

As a result of human interference, adult penguins and even chicks can suffer injury and in some cases death. Cases have been reported of their legs becoming tangled in six-pack beer yokes and nylon fishing line, which can restrict blood supply causing loss of their legs or flippers or death due to strangulation. Penguins have on occasions been deliberately injured or killed by people. The most recent report I heard this week was of a woman carrying a penguin which was wrapped in a blanket down the pier from the breakwater. She was reportedly also walking a dog. Apparently when questioned by people she said she was a wildlife carer, but when asked to produce some identification she ran off down the pier. It is possible that this is not a one-off incident as people may not always see or report such incidents.

This incident highlights the lack of security on the breakwater and the urgent need to upgrade the management of this area. St Kilda is now being publicised as the place to see penguins, and it is not designed to handle this sort of thing in the way that an area like Phillip Island is. One member of the penguin study group described this 'penguin poaching' as the last straw. Immediate action is needed now — not 12 months down the track. This is only the start of the silly season in St Kilda.

Parks Victoria is in the process of erecting signs, lighting and fencing for the safety of people and the little penguin colony. A much-needed further protection is the installation of security cameras, which have been proposed for some time but for which funding appears to be lacking. My office has contacted Parks Victoria and it appears it does not have funding for the installation of security cameras and has been approaching private organisations. I urgently request the minister to provide funding to Parks Victoria for the installation of these cameras without delay, so that no more penguins will be killed, injured or abducted from the St Kilda breakwater.

Working Families Council: role

Ms TIERNEY (Western Victoria) — I raise a matter for the Deputy Premier and Minister for Industrial Relations in the other place. On 26 August the Deputy Premier announced the inaugural meeting of Victoria's first Working Families Council. The council will work with industry and community groups to champion the issues of working families in their efforts to strike the right work and family balance.

When making this announcement the Deputy Premier said:

> The establishment of the Working Families Council recognises the importance of making work and family balance a reality for all Victorian workers.

This council is a great initiative by the Brumby government. During the Howard government's tenure it has become increasingly difficult for working families to get by. There have been six straight interest rate rises, there has been a 21.4 per cent increase in the cost of essentials like food and a 41.8 per cent increase in petrol costs in the last five years. WorkChoices has stripped away workers rights, reduced pay packets and extended working hours without consultation or overtime pay. This unfair legislation has resulted in many Victorian employees working on weekends and public holidays rather than spending time with their families.

I congratulate the Deputy Premier and the Brumby government on the Working Families Council, an initiative which will be welcomed by families in Victoria who are struggling with WorkChoices, rising petrol and food costs, interest rate rises and a Prime Minister who has no idea what they are going through. I ask the Deputy Premier to provide me with the process and time lines that will apply to the Working Families Council in developing and recommending work-family balance strategies.

Bushfires: roadside vegetation

Mrs PETROVICH (Northern Victoria) — My adjournment matter is for the Minister for Environment and Climate Change. It relates to roadside clearing. There is a growing concern amongst rural constituents about the preparation of country roadsides for the oncoming fire season which, because of the dry season, could be quite drastic. While land-holders are doing everything they can to prepare their properties for this season, the real threat is on the other side of the fence. With some 19 different sets of legislation governing roadside areas, it is a balancing act between the environment, in particular our precious fauna and flora, and clearing roadsides so that in the event of fires there is not enough fuel to burn to sustain them.

The current restrictions that are in place severely limit the clearing of fallen trees and dried-out vegetation, particularly in roadside areas of significance. This is an attempt to protect our wildlife. However, as it stands, the roadside areas are corridors for destruction waiting

to happen. If we cannot manage this better, the potential for fires to rapidly spread down roadsides is enormous, wiping out the animals and plants that we are hoping to protect and endangering the life and property of residents.

I congratulate the Mitchell Shire Council as one local government that has recently developed a roadside code of practice for its region. However, while the code takes into account the need to reduce the fuel load so that fire risk to life and property is minimised and the conservation of indigenous flora and fauna is enhanced, it restricts the amount of work that can be done on roadsides. For example, it suggests that, where possible, existing firebreaks be relocated on private land and roadsides not be used for firebreaks. It suggests also that where possible existing firebreaks be relocated from high conservation significant roadsides to low conservation significant roadsides. That would be too bad for a landowner whose property adjoined the area of significance. So it goes on, and as the minister can see, a lot of what is proposed is impractical and explains why, particularly away from the main roads, not a lot of fire prevention is actually carried out. The action I seek from the minister is that he address the issue of the management of our dangerously high levels of roadside grasses, in particular those between private and public land.

Scoresby Primary School: upgrade

Mr LEANE (Eastern Metropolitan) — My adjournment matter is for the Minister for Education in the other place, Bronwyn Pike. The Brumby government has clearly demonstrated that education is its no. 1 priority by committing to the $1.9 billion Victorian schools plan over the next four years to rebuild, renovate or extend 500 government schools. I also commend the minister on the announcement in the 2007–08 budget that up to 40 additional schools requiring smaller modernisations and upgrades costing between $300 000 and $500 000 will be identified for future works under the Better Schools Today program. The action I seek is that the minister consider Scoresby Primary School for inclusion in this program.

Nigretta Road–Glenelg Highway, Hamilton: safety

Mr KOCH (Western Victoria) — My matter is for the Minister for Roads and Ports in the other place and concerns the need to improve safety at the Nigretta Road–Glenelg Highway intersection, 5 kilometres west of Hamilton. This matter was raised in the other place in mid-2005, after which VicRoads advised that a proposal was being prepared to install a turning lane at this intersection. However, as there had not been an accident there in the previous five years, it was given a low priority. It is now 18 months later and still the intersection has not been improved. Both local and non-local road users constantly express frustration about the level of safety at this intersection.

The Glenelg Highway is a main westerly thoroughfare to South Australia and carries around 2000 vehicles daily past the Nigretta Road intersection. Many of these vehicles are heavy trucks and buses travelling at highway speeds. Nigretta Road is the main easterly route to the popular Nigretta Falls and carries an average of at least 150 local and visitor vehicles each day, including a school bus and several tourist buses visiting those falls. The intersection does not have a turning or passing lane, and it will be only a matter of time before a tragic accident happens. There are major sighting problems in wet weather and motorists travelling west are hit by late afternoon sun glare, particularly in summer. A fatal accident should not have to occur before safety improvements are made at this dangerous intersection.

Locals living along Nigretta Road have seen or been involved in numerous near misses as they turn off the highway into Nigretta Road. There is general agreement that there are two or three near misses on a weekly basis. This danger is a direct result of there being no turning or passing lanes. Motorists following vehicles turning right into Nigretta Road cannot easily pass on the left and they suddenly become aware they must slow down to avoid a rear-end collision. Right-turning traffic must stop to give way to oncoming traffic. Adding to the danger is a culvert just 20 metres before the intersection, that essentially prevents larger trucks and buses from getting past turning vehicles on the left-hand side.

While we are fortunate there has not been a recent serious accident at the Nigretta Road intersection, every effort should be made to prevent such accidents by installing a dedicated turning lane and greater road signage to warn motorists of the intersection. My request is for the minister to urge VicRoads to lift the priority of improving safety at the Nigretta Road–Glenelg Highway intersection before a fatality occurs.

Drugs: regional and rural education programs

Ms DARVENIZA (Northern Victoria) — I wish to raise a matter for the attention of the Minister for Mental Health in the other place, Lisa Neville. The matter I wish to raise concerns the very addictive drug known as ice or methamphetamine. We know that around 1 in 10 young people aged between 16 and 25

have tried methamphetamine in the past 12 months. There is a very real need to equip parents as well as teenagers with the information they need to know about the harmful effects of the drug and, even more importantly, to equip parents and other family members with the ability to spot or identify that their teenage or young adult child might be using methamphetamine.

Ice is a very dangerous drug. Its use has long-term consequences such as depression and anxiety and, in more extreme instances, paranoia and hallucinations. The drug is mixed with a very toxic blend of all sorts of things, from drain cleaner to battery acid, so it is very dangerous. I know that recently the minister has launched a brochure as part of the government's $230 000 package of measures that are designed to help parents of teenagers be better informed about the dangers of ice.

I specifically request that the minister take action to ensure that the important information regarding the harmful effects of this drug is made available to parents and teenagers in rural and regional Victoria. Often it is thought that this sort of drug is a problem only in the city and is not really that much of a problem in rural and regional areas. That is not correct. Anybody who spends any time in the country knows that there is a drug problem in rural and regional areas. You have only to visit an emergency centre at a hospital in a regional area to see the staff having to deal with people under the effects of ice. I ask the minister to take action to ensure that parents and teenagers in rural and regional Victoria are made aware of the dangers of this drug.

Consumer affairs: multiple business names

Mr ATKINSON (Eastern Metropolitan) — My matter is for the Minister for Consumer Affairs in another place, Tony Robinson. It concerns the conduct of companies engaged in selling services or products by using and advertising a range of business names to encourage people to do business with their company. In other words, there are organisations — they might be supplying security doors or security alarms, for instance; I think some motor panel beaters do the same thing — that will advertise in the *Yellow Pages* or similar publications under a number of different business names to give the impression that there is more than one business that is able to provide a quote on a service or product. In many cases the consumer is not aware when they put down the phone from talking to one person at a particular business name and pick up the phone to dial another one to get a competitive quote that in fact they are ringing the same office.

I believe there is a need for some investigation of consumer protection in this regard to ensure that people know they are getting competitive quotes, or that if a business uses multiple business names and advertises and promotes multiple business names to generate leads for its products or services, that it has an obligation to indicate to consumers that they are not receiving a competitive price from an alternate supplier but in fact are dealing with the same company under a different business name.

My request to the minister is that he initiate an investigation of this situation — I do not mean a lengthy investigation; I think it should not take him too long to get his mind around this one — and to take action to afford better consumer protection. In my view that might well require legislation, but I am aware of course that in the adjournment debate I cannot actually ask for that. So I hope that the minister might well take some appropriate action.

Cranbourne: public hall

Mrs PEULICH (South Eastern Metropolitan) — I wish to raise a matter also for the attention of the Minister for Environment and Climate Change, who is very much in demand tonight. We are certainly very grateful that he is in the chamber and able to answer all of these matters.

It is actually a very simple matter. It relates to a motion that was passed unanimously by the City of Casey at its meeting last week in response, I think, to a motion moved by Cr Beardon, who is councillor for the Cranbourne area. The council is calling on the Department of Sustainability and Environment to arrange for the removal of all asbestos from the Cranbourne public hall.

I was a bit perplexed by this but I understand that the Cranbourne public hall, which was built in the 1950s, is actually located on Crown land and is unique. It is fairly widely used by the community and the intention of course is for it to be even more widely used, given that it is in a growth area that does not quite have sufficient facilities.

It is run by a committee of management, which I understand is approved by the state minister, but council has a responsibility for the provision of certain basic things like toilets and so forth. Apart from that I understand the council has no responsibility for the building. The problem is that the council would like to install toilets for the disabled and also some air conditioning and so forth; however, I understand that there is a very serious asbestos problem and that the

cost of having the asbestos removed will be approximately $30 000.

I know that there are probably many of these similar facilities around. The city of Casey is the fastest growing municipality in Victoria; I think it is the third fastest in Australia. There is a real stress on the council in terms of the provision of infrastructure. It is trying to do the right thing here, and I know that the council assists the hall committee with the allocation of funds to carry out fairly small capital works, but the presence of asbestos in the fibrocement walls means that some of these projects, such as the replacement of windows and, as I said, the creation of a disabled toilet and installation of air conditioning, have not been able to proceed. I ask the minister to see what he can do to have the asbestos removed so that those small projects can proceed.

Sustainability and Environment: firefighting contracts

Mr P. DAVIS (Eastern Victoria) — I am delighted to join the adjournment debate this evening and direct a matter to the attention of the Minister for Environment and Climate Change. The minister will recall that recently I raised a matter for his attention in question time concerning the failure of his department to deal with payments to Gillicks Bus Lines in Bairnsdale. I do not wish to reprise that issue but I note that I am still waiting after some weeks — —

Mr Jennings — I raised it with you the following day, as you well know.

Mr P. DAVIS — Indeed, Minister, you did. We were at Lakes Entrance; you raised it with me and as a matter of fact you said you would get back to me. Well, I am still waiting.

However, tonight I want to talk about another case in point — that is, the case of Mr Philip Strickland. Mr Strickland was, again, associated with the Great Dividing Range southern fire complex last summer and indeed he is, like the Gillicks, awaiting payment of a materially significant outstanding sum of money — $26 900, in fact, by the latest estimate — plus there is the question of who is going to cover the costs of Mr Strickland and his crew being trapped at Dargo for three days because the road was closed. The point is that this is a result of the department creating a dispute by, again, declining to acknowledge that it had booked his crew to be on stand-by, and then reneging on the payment of stand-by rates.

This seems to have become a common theme in the way that the department has been dealing with private contractors. In this case he is a primary contracted firefighter and has been doing this work for more than 20 years, including firefighting and rehabilitation. He has been a primary contracted firefighter for the past eight years, operating a D7 dozer, a truck and float, several other escort vehicles and four-wheel-drive firefighting vehicles. The crew is eight in total. Of course he moves other vehicles around at the direction of the department.

The problem now arises that the government's department has failed to honour a significant financial liability to this contractor, and as a result he has lost between $200 000 and $300 000 of opportunity work, which would have kept his crew going this year. Will the minister deal with resolving this outstanding issue for somebody who has made a great contribution to Victoria's firefighting effort over the years?

Responses

Mr JENNINGS (Minister for Environment and Climate Change) — President, thank you for the opportunity to respond to the various matters that have been raised in the adjournment tonight, and given that I have not got my glasses with me, I might ask the Clerk to hold this pad.

Mr P. Davis — I'll hold it over here.

Mr JENNINGS — With a bit of luck, I will be able to struggle through!

Mr Hall raised a matter for my attention, and I will be very happy to see what can be done about it. It seemed to me from his and Mrs Petrovich's contributions that I might need to do some public relations work in relation to the relative responsibility for weed management programs in the state of Victoria. Whilst I might want to duck the question, I continue to fund weed programs through catchment management authorities, which in some cases fund Landcare projects such as the one at Maffra that Mr Hall has referred to.

There has been significant funding shifted within the last month from the Department of Sustainability and Environment to the Department of Primary Industries, which will be the custodian for the vast majority of weed funding applying to private land into the future. That in fact may straddle both sets of issues, and certainly roadsides and private land. I think there might need to be some explanation to the community about the various roles and responsibilities of the Minister for Agriculture in the other place, Mr Helper, and me in this regard, but if there is anything I can do in relation to Maffra and Districts Landcare Network, I would be

very happy to see what might be possible through the auspices of the catchment management authority.

Mr O'Donohue raised a matter for the attention of the Minister for Planning on behalf of the de Jong family in Cardinia, seeking the minister's intervention to speedily resolve a subdivision matter within the green wedge.

Sue Pennicuik raised a matter for my attention highlighting her longstanding interest in the wellbeing of the colony of little penguins at St Kilda. I share her concern that some people may be giving the impression that this is a tourism-based opportunity at St Kilda. I clearly understand that it should not be unregulated and that we need to provide some certainty for the ongoing security of the penguins. I am happy to engage in conversations with Parks Victoria about the appropriate security arrangements for the penguin colony, to protect it from untrammelled visitation by our citizens.

Gayle Tierney raised a matter for the attention of the Minister for Industrial Relations in the other place wanting information from him about the Working Families Council that he established earlier this year and to understand its work program in relation to supporting an appropriate work-family balance for Victorian families in the state of Victoria.

Donna Petrovich raised a matter for me, which I have already referred to in passing. I am grateful that she acknowledged our mutual obligation to try to provide appropriate fire protection for roadside vegetation and to preserve precious flora and fauna. I appreciate that that comment was made, and I will do what I can in conjunction with local councils and VicRoads to try to provide appropriate protection in a timely fashion. I know that is a challenge for us.

Mr Leane raised a matter for the Minister for Education in the other place, seeking her support to include Scoresby Primary School in the Better Schools Today rebuilding program.

David Koch raised a matter for the attention of the Minister for Roads and Ports in the other place, seeking his support to provide safety at the intersection of the Glenelg Highway and Nigretta Road.

Kaye Darveniza raised a matter for the attention of the Minister for Mental Health in the other place, seeking the minister's support to ensure that parents and teenagers in rural and regional Victoria are well informed about the dangers of the drug ice and to prevent its proliferation throughout rural and regional communities.

Bruce Atkinson raised a matter for the Minister for Consumer Affairs in the other place, seeking his intervention to prevent the proliferation of businesses that use multiple names as a ruse to give the impression that there is competition where no competition exists and to try to eliminate that practice.

Inga Peulich raised a matter for my attention relating to the Cranbourne public hall and seeking support, if possible, from the Department of Sustainability and Environment, the holder of Crown land on which this public hall sits, to provide for asbestos eradication so that Casey council can undertake some work on that site. As the member mentioned, there is a committee of management charged with responsibility for that public hall. I will have to examine its standing, its financial capacity and what the appropriate arrangements may be, but I well and truly note the issue. Can I say as recently as the beginning of this week, through the auspices of the Environment Protection Authority, we have embarked upon a million-dollar program to support local councils to safely secure and remove asbestos within those municipalities. We anticipate that program rolling out through at least 20 municipalities across Victoria in the near future.

Philip Davis raised a matter for my attention and perhaps possibly did not indicate to the house that he was well apprised of the situation of Gillick's Buslines that we discussed the following day after he raised it with me.

Mr P. Davis — On a point of order, President, I would not like in the adjournment to suggest that a minister is misleading the house — —

Mr JENNINGS — I am certainly not, and the member knows it.

Mr P. Davis — No. But I make the point to the minister that all the minister said was that he would get a detailed briefing and come back to me. I am still waiting.

The PRESIDENT — Order! That is not a point of order, and Mr Davis should know better.

Mr P. Davis — Sorry.

Mr JENNINGS — I think probably at this time of the day it may be appropriate, President, that I take the matter that the member has raised with me in an extremely formal fashion and respond to him in an extremely formal way.

The PRESIDENT — Order! The house now stands adjourned.

House adjourned 10.37 p.m.